

www.food.gov.uk

FINAL BUSINESS AND REGULATORY IMPACT ASSESSMENT

1. TITLE OF THE PROPOSAL

The Fish Labelling (Scotland) Regulations 2013

2. PURPOSE AND INTENDED EFFECTS

(i) Objectives

The Fish Labelling (Scotland) Regulations 2013 will introduce new consumer information and traceability requirements as set out in the EU Common Fisheries Policy (CFP) Control Regulations (EC) 1224/2009 and (EU) 404/2011, and will continue to provide for the consumer information and traceability requirements of the Common Organisation of the Markets in Fishery and Aquaculture Products (CMO) Regulations (EC) 104/2000 and (EC) 2065/2001 (as currently provided for in the Fish Labelling (Scotland) Regulations 2010 which will be revoked). The aim of the 2013 Regulations is to set out the new requirements in the clearest possible way and incorporate all the rules relating to consumer information under one set of Regulations.

(ii) Background

New requirements to provide the consumer with additional information on fish and fishery products at the retail stage have been introduced throughout the EU. These requirements are set out in two separate pieces of EU Regulation: the Common Fisheries Policy (CFP) Control Regulation, which has been agreed and is now in the implementation phase; and a proposal to update the Common Organisation of the Markets in Fishery and Aquaculture Products Regulation (CMO), which is still being negotiated within the EU. Additional background information on these two Regulations can be found in Annex C of this document.

The new requirements are set out in the Fish Labelling (Scotland) Regulations 2013 as follows:

- regulation 3(2)(b) relating to consumer information requirements specified in Article 58(6) of Regulation (EC) 1224/2009 as read with Articles 67(13) and 68 of Regulation 68 of Regulation (EU) 404/2011; and
- regulation 3(3) relating to traceability requirements specified in Article 58(2), (3) and (5) of Regulation (EC) 1224/2009 as read with Article 58(7) of that Regulation and Article 67(1) to (3) and (5) to (13) of Regulation (EU) 404/2011.

Legislative framework

Common Fisheries Policy (CFP) Control Regulation

(EC) 1224/2009 – Establishing a community control system for ensuring compliance within the rules of the common fisheries policy

(EU) 404/2011 – Sets out detailed rules for the implementation of 1224/2009

Common Organisation of the Markets in Fishery and Aquaculture Products (CMO)

(EC) 104/2000 – Base Regulation

(EC) 2065/2001 – Detailed rules for the application of 104/2000

Scottish Statutory Instrument (SSI)

The Fish Labelling (Scotland) Regulations 2010 (SSI 2010 No 90)

Current situation

Common Organisation of the Markets in Fishery Products (CMO)

(EC) 104/2000 The review of the CMO is still underway but the current document contains the following requirements:

Chapter IV Consumer Information

Fishery and aquaculture products.....may only be offered for retail to the final consumer where appropriate marking or labelling indicates:

- *The commercial designation of the species, and scientific name*
- *The production method, in particular by the following words 'caught' or 'caught in freshwater' or 'farmed'*
- *The area where the product was caught or farmed*
- *Whether the product has been defrosted*

Description of the new requirements

The new consumer information requirements for fishery products include requirements to provide the scientific name at the point of retail and to indicate on the label whether or not a fishery product has previously been frozen. Please note there are derogations/exemptions and these are explained in more detail later.

Scope of application

The CFP Control Regulation '*Information to the Consumer*' requirements apply to fishery products falling under Chapter 3 of the Combined Nomenclature established by Council Regulation (EEC) No 2658/87.

Information on Lots

Control Regulations (No 1224/2009 Article 58(1)&(2)) also require that labels on fisheries and aquaculture products that are placed on the market in the EU are required to be adequately labelled to ensure the traceability of the lots.

A 'lot' is defined as a 'quantity of fisheries and aquaculture products of a given species or the same presentation and coming from the same relevant geographical area and the same fishing vessel or group of fishing vessels, or the same aquaculture production unit'.

Lots of fisheries and aquaculture products can be merged or split after first sale as long as it is possible to trace them back. Operators must be able to identify who has supplied lots of fisheries or aquaculture products to them and to whom products have subsequently been supplied by means of an identification number. Control Regulations (No 1224/2009 Article 58(4)) and Detailed rules (No 404/2011 Article 67(4)).

Traceability and consumer information

The Control Regulation extends along the whole chain of production and marketing. Within the supply chain it fits within the existing food traceability system contained in Regulation (EC) No 178/2002 laying down the general principles and requirements of food law.

Traceability and consumer information requirements such as *the commercial designation, the scientific name, the relevant geographical area, the production method and whether or not the product has been previously frozen* will need to be available to the consumer in retail outlets.

If part of a product has been defrosted then for the purpose of customer information it can be said that the whole product has been defrosted. The absence of the word 'defrosted' can be taken to indicate that the product has not been defrosted. The costs associated with the need to provide information on whether the product has been defrosted are likely to be minimal. Exemptions are allowed for fisheries and aquaculture products previously frozen for health safety purposes and when such products have been defrosted prior to smoking, salting, cooking, pickling, drying or a combination of these processes. Therefore, a sizeable proportion of fish will fall under one of these categories.

In addition, by way of derogation, information on the scientific name of the fish species can be provided on posters or billboards in the retail outlet to help minimise costs.

Commercial Designation

Regulations (EC) Nos 104/2000 and 2065/2001 require that certain fish and fish products are labelled for retail with an accepted name of the species, and that Member States establish commercial designations for fish species that must then be used in the labelling of fish.

The Fish Labelling (Scotland) Regulations 2010 currently provide for the enforcement of Article 4 of Council Regulation (EC) No 104/2000 and Commission Regulation (EC) No 2065/2001 in Scotland. Under this legislation, Member States are required to draw up a list of commercial designations (name of the fish e.g. Cod, Haddock etc.).

Sources of information

The species name (UN Food and Agriculture Organization (FAO) code not scientific name), geographical area, size, weight, grade, presentation, freshness and the place and date of the sale are required. The intended effect is to improve the monitoring and control of landings of fish taken from EU and other waters and to ensure that such landings are properly recorded and capable of verification. The measures will also assist consumers and those involved in secondary processing or distribution of fish to be satisfied about the provenance of fish and that it has been legitimately caught.

It is this information from sales notes that when linked with the fishery products and passed along the supply chain will satisfy a number of the consumer information requirements.

It is important that fish are labelled correctly and consistently at the point of sale so that purchasers know exactly what they are buying. Commercial designations help consumers by ensuring fish are labelled in a way that is accurate, consistent and not misleading and ensure that the fish industry can readily comply with its statutory duties to label fish correctly.

Fish Labelling (Scotland) Regulations 2010

Currently, fish labelling and consumer information requirements are contained within the Fish Labelling (Scotland) Regulations 2010. These Regulations contain the list of approved commercial designations permitted for use when marketing fish in the UK. The current process for amending the commercial designation List of Fish in the UK is time consuming and burdensome and does not give us the flexibility to make changes quickly enough in response to market demands. Granting new designations involves drafting a new SSI (and equivalent instruments in England, Northern Ireland and Wales) each time and the intention is to simplify this process. Separating the commercial designation list from the SSI and maintaining a live, up to date list of accepted names on the internet would remove the need to grant temporary designations while a new SSI is prepared. It would also prevent the existence of an incomplete list which occurs at present as temporary designations do not feature in the list attached to the SSI. In future, and with input from the devolved administrations, the list for the UK will be maintained administratively by Defra and be available on the internet.

(iii) Rationale for Government Intervention

Provision must be made within domestic legislation to implement the new consumer information requirements such as providing the scientific name of fish at the point of retail. Intervention is required to ensure that the market supplies the consumer with the relevant information that is now required, and to maintain consistency in how this is applied throughout the industry.

In the absence of Government intervention, industry may not label these goods or may use inconsistent terminology. Increased information to consumers at the point of purchase on the type of fish and whether it has previously been frozen will enable consumers to make more informed choices, they are expected to benefit from the greater certainty and clarity of the commercial designation of the fish, and have increased confidence in the quality of the product they are purchasing. Government intervention is needed as the new EU consumer information requirements introduce rules on compliance and modify existing offences. Only the Scottish Government can amend or update legislation which is required to implement these rules which also fit with the Scottish Government's aims for a healthier and greener Scotland.

3. CONSULTATION

(i) Within Government

Scottish Government officials from Marine Scotland have been involved throughout the development of Council Regulation (EC) No 1224/2009 (Control Regulation) and associated Commission Implementing Regulation (EC) No 404/2011. The development of the Fish Labelling (Scotland) Regulations 2013 has been also been discussed with the same officials as well as with officials from the Scottish Government Food and Drink Division.

(ii) Public Consultation

A 12 week public consultation took place in Scotland between 3 October 2012 and 31 December 2012 with similar consultations carried out in England, Wales and Northern Ireland.

There were six responses received in Scotland, including Local Authorities/Enforcement bodies, Industry representative organisations and the Government Chemist. Five of the respondents made substantive comments.

The consultation asked the following questions:

Question 1 - *Stakeholders are invited to comment on whether we have captured all firms in the market that might be affected by the proposal?*

There was limited information received on this point although one respondent felt that the circulation list was appropriate as far as it related to their area.

Question 2 - *Stakeholders are invited to comment on whether the time saving benefits listed seem reasonable.*

One respondent felt that the time saving was reasonable, but that the financial benefit had been underestimated.

Question 3 - Commercial Designation list - *On average, how often do you consult the existing SSI to check Commercial Designations per year? What time saving do you estimate as a result of placing a 'live' Commercial Designation list on a webpage?*

The stakeholders broadly welcomed the intention to separate the list of commercial designations from the Statutory Instrument and place this on a webpage.

Question 4 - *Do the hours listed seem reasonable?*

While there was no specific information on costs provided, one stakeholder considered it is reasonable to expect cost savings through having the information on one place.

Question 5 - *Stakeholders are invited to comment on whether the assumption of 1 hour for micro and small businesses and 2 hours for medium and large businesses is reasonable.*

Industry has not commented directly on the figures, but has not raised concerns about the impact.

Question 6 - *Stakeholders are invited to comment on whether the assumptions in relation to traceability costs are realistic.*

Stakeholders have not commented directly on the figures, but did not raise concerns about the impact.

Question 7 - *We are keen to seek views from micro business on the degree of impact of any labelling changes.*

Discussions with a selection of businesses revealed that they already provide (or have available) the scientific name and information on whether or not the fishery products have been previously frozen.

Question 8 - Stakeholders are invited to comment on whether the assumptions regarding familiarisation costs are reasonable.

Industry has not raised concerns about the assumptions, the change to the internet based list of commercial designations or the new EU consumer information requirements. Local Authorities and the Government Chemist support the increase in information becoming available to consumers, while one Local Authority felt that the time needed for enforcement officers to become familiar with the new requirements had been underestimated.

Responses across the rest of the UK

In the rest of the UK responses received from stakeholders did not raise any major objections to the requirements being introduced (including new improvement notice procedures) and the comments backed the estimates used in the Impact Assessment. The proposal to separate the list of commercial designations from the statutory instrument and maintain this as a standalone internet based list was supported as being a clear improvement. There were also a number of suggestions for additions to the list of commercial designations which will be assessed with advice from the fish experts group.

(iii) Business

Marine Scotland officials have consulted with fishing industry representatives during the negotiation/development and implementation stages of the Control Regulation and related Commission Implementing Regulation. As part of the consultation process officials from the Food Standards Agency in Scotland engaged with three Scottish businesses to discuss the impact of the EU Regulation and SSI on their business. No major concerns were raised. The businesses already have available the information on the scientific name and dates of freezing (if carried out) for direct sales to consumers and business to business trade. There were no issues raised with the change to the way the list of commercial designations will be maintained in future.

Conclusion

When viewed in conjunction with the EU Food Information to Consumers Regulation (FIC), which introduces a number of measures within the food manufacturing sector, the additional costs associated with changes to fish labelling should not prove to be an unmanageable burden for those operating in the fish industry. There will be costs associated with labelling changes that arise as a result of the requirement to provide the scientific name of species and in some cases, additional information about whether the product or fish has been previously frozen. These changes should only require a text change to product labels rather than a whole scale redesign. It should also be possible in many cases to incorporate any text changes within general product design refreshes negating the need to change labels solely for the purpose of the fish labelling regulations. The option to make use of a poster or billboard to display the scientific name allows retailers some flexibility in how they provide the consumer with this mandatory information.

Changing the way the list of commercial designations is maintained and updated will provide benefits to the industry and enforcement bodies. It will allow Government to respond quickly to shifts in the market and grant new commercial designations in a more timely fashion. There will be a benefit realised in the fact that by having an internet based list of designations, this list will contain the total of all current approved names. This is preferable over the current situation where any temporary commercial designations will not feature in the schedule to the existing Scottish Statutory Instrument which could lead to them being overlooked.

4. OPTIONS

'Doing nothing' is the baseline option, considered here to assess the costs and benefits against. If no change is made to the way the commercial designation List is maintained there will be no benefits delivered in terms of making it easier and quicker to grant new designations. The UK will not be meeting its obligations under EU law if we do not implement the consumer information elements from the Control Regulation and anticipated requirements from the revised CMO, still being negotiated at EU level.

Option 1: Requirements to be set out under one domestic statutory instrument. This presents a simpler and more straightforward way of setting out the domestic legislation as all requirements for the labelling of fishery products will be captured under the same piece of legislation. This will ensure that it is easier for those who operate in the fishery sector to understand all the relevant labelling requirements and not have to piece together requirements from multiple SSIs. This option also implements the proposed changes to improve the process for amending the UK commercial designations list. It will also ensure that the UK will meet its obligation to implement the agreed EU Regulation.

Option 2: Requirements to be set out in more than one domestic statutory instrument. This option would allow for the various requirements set out under the separate pieces of EU legislation to be implemented at the different times they come into operation. This would, however, not present such a clear and easy to understand legal regime as the rules on information to the consumer relating to fish labelling would be contained in more than one domestic SSI. This has the potential to cause confusion as operators have to piece together the various elements of fish labelling requirements to ensure they meet all of their obligations. This option also implements the proposed changes to improve the process for amending the UK commercial designations list. It will also ensure that the UK will meet its obligations to implement agreed EU legislation.

(i) Sectors and Groups affected

Consumers

The Regulation will provide consumers with more information about the fish species with the inclusion of the scientific name. It will also introduce the need to declare whether the product was previously frozen. This additional information should help boost consumer confidence when purchasing fishery products as they become aware of the extra information that is now available to them. Whilst the legislation is not expected to place costs directly on consumers, it is possible that where costs arise along the supply chain (e.g. to processors, wholesalers, retailers) these costs could be passed along the chain and ultimately be reflected (partially or wholly) in higher prices for those products on sale to consumers. However, as the changes are relatively small, it is assumed that these would be negligible.

Enforcement

It will be the responsibility of Local Authority Authorised Officers to familiarise themselves with the new requirements in order to make sure that businesses adhere to the new rules. As with any new or amended regime there may be some additional checks to begin with to test the level of compliance but it is anticipated that there will be no significant additional costs on an ongoing basis.

Industry

The rules apply to labelling of fish and providing information at the retail stage, therefore those parties who sell directly to the consumer will have to make sure that what they sell complies with the law. Retailers will need to work with their suppliers to make sure that they agree on the approach for making the information available, whether this is on the packaging or making use of the derogation to use posters/billboards (see Annex C for more details).

Seafood processors and preservers

Although processors and wholesalers are unlikely to be selling products directly to the consumer they will be affected by any labelling changes requested by their buyers. Retailers may decide not to make use of the derogation for communicating scientific name through a poster or billboard and request that processors incorporate this into the product label. This will very much depend on the commercial situation of each business and what suits them best.

Data from the Inter Departmental Business Register (IDBR) estimates that there were 400 firms that process and preserve seafood in the UK in 2010, the majority of which are micro and small size businesses. Of the total number of processors and preservers in the UK, 175 are located in Scotland.

Table 1: Seafood processors and preservers in the UK, by regional breakdown

	Micro	Small	Medium	Large	Total
Scotland	98	51	21	5	175
England	109	57	23	6	195
Wales	3	1	1	0	5
Northern Ireland	14	7	3	1	25
UK	224	116	48	12	400

Data from the latest 2010 Seafish Report¹ suggests that the geographical distribution of the industry has remained relatively unchanged since 2004. In Scotland, Grampian is still the most significant area in terms of employment and the number of processing units. Grampian provides 23% of total UK industry employment in the sector. Several large processing companies are based in this traditional seafood processing area.

The 2010 Seafish Report estimates that total sales of fish and fish products from the UK seafood processing sector were estimated at around £2.84 billion in 2010. This includes sales made to other seafood processors and sales to seafood merchants, but does not include sales of salmon processors. Mixed species processors generate the greatest proportion of sales value at an estimated £1.8 billion followed by primary processors (£480 million) then secondary processors (£330 million).

The largest customer group for the industry as a whole is retail which attracts 57% of sales value. Multiple retailers are particularly important as they attract 54% of total industry sales value.

¹ 2010 survey of the UK seafood processing industry – summary report [Seafish August 2011]

Wholesalers are the second most important customer group with 15% and the export markets attract 12%.

Seafood wholesalers

IDBR data (2010) estimates that there are 1,680 seafood wholesalers in the UK, of which 97 per cent are micro and small sized businesses. Of the total number of seafood wholesalers, 250 of the establishments operate in Scotland.

Table 2: Seafood wholesalers in the UK, by regional breakdown

	Micro	Small	Medium	Large	Total
Scotland	199	44	8	0	250
England	1,037	228	39	0	1,305
Wales	40	9	2	0	50
Northern Ireland	60	13	2	0	75
UK	1,336	294	50	0	1,680

Retailers

Ultimate responsibility will lay with those who sell directly to the consumer as this is where the rules apply. Retailers will need to work closely with their suppliers and processors to ensure that the products are sold in compliance with the rules. There may be work required in order to ensure that the relevant information flows along the supply chain so all mandatory information is provided to the customer. Retailers will be able to decide how they address the scientific name element which can be communicated via the use of a poster or billboard.

IDBR data (2010) estimates that there are 53,070 UK food and drink retailers, of which 99 per cent are micro and small sized businesses. Of the total number of retailers, over 4,800 of the businesses operate in Scotland.

Table 3: Retailers in the UK, by regional breakdown

	Micro	Small	Medium	Large	Total
Scotland	4,423	354	25	8	4,810
England	40,387	3,236	232	70	43,925
Wales	2,294	184	13	4	2,495
Northern Ireland	1,692	136	10	3	1,840
UK	48,795	3,910	280	85	53,070

The Seafood sector is worth an estimated £5.84bn in total spend split between £2.84bn in retail and £3.0bn for the food service sector. Supermarkets dominate the seafood retail market with over 87% share of spend.

(ii) Benefits

Baseline - Do Nothing

This option would mean continuing with the current rules and would not implement the changes to fish labelling that have been agreed amongst EU Members as part of the CFP Control Regulation. There are no costs to change the current regime. This is the baseline against which all other options are appraised.

Option 1

This option would see the various requirements for fish labelling set out and introduced within one SSI for Scotland. This makes for a clearer legislative environment, reduces the burden of laying multiple SSIs and provides clarity for industry as the rules are set out in one place. This option would also see the implementation of the proposed changes to how the Commercial Designation List is maintained going forward by maintaining the list on a web page as opposed to an annex to an SSI.

Separating the Commercial Designation List from the SSI will remove the need to lay a new SSI every time the list needs updating. This was becoming a more frequent occurrence as the market for fishery products diversifies and new species are introduced into the UK market. A new SSI for Fish Labelling was on average having to be laid approximately every 3 years.

Industry

Time saving benefits from SSI consolidation

Using the wage rates as for the familiarisation costs (see Annex A), we assume a 0.5 hour of time saved for micro and small businesses, whilst medium and large businesses are assumed to save 1 hour per business. Under these assumptions, the 5,235 businesses in Scotland (processors, wholesalers and retailers) are estimated to save £42,836 for every update which could occur approximately every 3 years if no change was made.

Table 4: Time saving benefits from SI consolidation

	Number of processors, wholesalers & retailers	Total time saving benefit
Scotland	5,235	£42,836
England	45,425	£373,272
Wales	2,550	£21,003
Northern Ireland	1,940	£15,904
UK	55,150	£453,015

Setting out the current changes relating to fish labelling within one domestic SSI will deliver a clearer legislative environment for those in the industry who market fish at the retail level.

Although traceability has improved over recent years, these additional requirements will further increase traceability throughout the supply chain making it easier to check the authenticity of source material, a non-monetised benefit. There may be some additional benefit to the seafood industry as a result of implementing these changes as consumers may feel reassured that the product they are consuming has an improved production history.

Enforcement

Publishing the Commercial Designation List separately in its own right will make it more accessible to those in the industry compared to it being an annex within a Regulation. This will also benefit enforcement authorities as there will always be a live definitive list available on-line that will not require any checks to be made for possible temporary designations, a non-monetised benefit.

Assuming that Local Authority Authorised Officers save 0.5 hours due to having one SSI rather than two SSIs, this aggregates to £288 per SSI revision which would occur approximately every 3 years if no change is made.

Table 5: Time saving benefits from SI consolidation, regional breakdown

	Number of Local Authorities	Median average hourly rate (uprated by 30% for overheads)	Total time saving benefit
Scotland	32	£18.01	£288
England	433		£3,899
Wales	22		£198
Northern Ireland	26		£234
UK	513		£4,620

Consumers

There will be non-monetised benefits to the consumer as a result of the additional information that is required at the point of retail. The extra information will allow them to make a more informed choice about the fish they purchase and increase confidence in the product as they will know more about how the fish was processed and its origin. The extra information is intended to increase consumer knowledge as the information required as part of making a sustainable choice will be evident at the point of retail.

Commercial Designation List

The changes to how the Commercial Designation List will be maintained will provide a recurring time saving benefit. When changes to the list are agreed it will be much quicker to publish the results and therefore a more accurate list will be held reflecting the current agreed designations. At present, temporary designations have to be granted while the process of amending the SSI is carried out.

The change will benefit those operating in this sector as they can be assured that the published list reflects the most recent position and they will not have to check the status of any temporary designations that may have been granted. This benefit has not been monetised at present as additional information is required from the industry to accurately estimate the savings to be delivered from this change.

There will be benefits to Government and our Legal services as they will not be required to amend the domestic SSI every time a new designation is granted. This will generate cost savings in terms of administrative time that is currently required for policy officials and lawyers when drafting revisions to SSIs and any activity associated with laying the SSI in Parliament.

Given the time taken to complete the current SSI process versus the new proposed SSI process, this generates a saving of £7,891² per SSI update (see Table 6).

Table 6: Saving benefits from change to commercial designation list process

Current process for updating the Commercial Designation List				
	Activity	Time taken in hours (days)	Median average hourly pay (uprated by 30% for overheads)	Total administrative cost
Policy Official	Consulting DEFRA and Fish Expert Group. Issue of temporary Commercial Designation. Drafting instructions to Lawyer. Clearance and comments on new SSI. Submission to Minister and SG Legal Directorate. Publish consultation note on amending the SSI.	420 hrs (60 days)	£13.09	£5,498
Drafting Lawyer	Drafting updated SSI. Validation of SSI. Legal input to any Submission to Minister, BRIA or Explanatory Memorandum.	70 hrs (10 days)	£29.45	£2,062
SG Legal Directorate SSI Unit	Review of SSI, making, obtaining signatures. Laying before Parliament. Registration process and publishing.	105 hrs (15 days)	£13.09	£1,374
			Total Cost	£8,934
Proposed process for updating the Commercial Designation List				
	Activity	Time taken in hours	Median average hourly pay (uprated by 30% for	Total administrative

² Wage rates are obtained from ASHE 2011 and uprated as per the standard cost model

		(days)	overheads)	cost
Policy Official	Consulting DEFRA and Fish Expert Group. Submission to Minister to inform of additions. Updated list sent to E Communications	70 hrs (10 days)	£13.09	£916
E Communications Officer	Website amended to incorporate updated list. Checking and uploading material.	7 hrs (1 day)	£18.11	£127
			Total Cost	£1,043
			Total Saving	£7,891

Option 2

This option would see implementation of the requirements for information to the consumer being contained within a separate SSI to the general fish labelling rules. The proposed changes to the Commercial Designation List would be implemented as part of the updated Fish Labelling Regulation. The requirements stemming from the fisheries Control Regulation would be introduced by a separate SSI to cover the 'information to the consumer' elements.

Industry

Option 2 no longer provides SSI consolidation time saving benefit. It does still however contain the benefit of separating the Commercial Designation List from the SSI so it can be maintained more effectively. This will improve visibility for those in the industry when checking the list of current and approved designations.

Enforcement

Option 2 no longer provides an SSI consolidation time saving benefit. The non-monetised benefit of Option 1 still remains true under Option 2.

Consumers

The non-monetised benefit of Option 1 still remains true under Option 2.

Commercial Designation List

Assumptions remain the same for Option 2 as for Option 1. Therefore, there is no further difference compared to Option 1.

(iii) Costs

Baseline - Do Nothing

The UK would not be fully implementing an EU Regulation and would be at risk of infraction proceedings, and therefore at risk of fines in the order of 9.6 million Euros for non-compliance with Regulations This option would mean that the proposed improvements to the way the Commercial Designation List are managed in the UK would not be realised and we would continue with the current procedure of having to lay a new SSI every time the list required updating. This is the baseline to which all other options are compared.

Option 1

Industry

One-Off Familiarisation Costs

There will be a one-off cost to industry for reading and familiarising themselves with the new Regulation. Familiarisation costs are measured in terms of time costs and are therefore quantified by multiplying the time it takes for an official to read and familiarise him/herself with the Regulation by their wage rate.

Time will be spent acquiring, reading and understanding the legislation, seeking external advice where necessary. Across the supply chain, it is assumed that micro and small businesses will require 1 hour to familiarise themselves with the changes. This is also the case for medium and large businesses with an additional hour to disseminate to other colleagues. The average hourly rate is up rated by 30% to take account of overheads in line with standard cost model methodology.

Annex A outlines the assumptions used and provides a business breakdown throughout the supply chain. The total one off familiarisation costs for industry in Scotland are estimated at £85,672.

Table 7: Total familiarisation costs to business, by regional breakdown and Equivalent Annual Cost to Industry by Country

	Number of processors, wholesalers & retailers	Total familiarisation cost	EAC
Scotland	5,235	£85,672	£9,953
England	45,425	£746,545	£86,730
Wales	2,550	£42,006	£4,880
Northern Ireland	1,940	£31,807	£3,695
UK	55,150	£905,031	£105,128

In order for one-off costs to be compared to annual costs on an equivalent basis across the time span of the policy, one-off costs are converted into Equivalent Annual Costs (EACs) by dividing the one-off cost by an annuity factor. The total one-off familiarisation cost to businesses in Scotland translates to an equivalent annual cost of £9,953 over a ten year period.

One-Off Traceability Costs

Although the traceability information as required by the Control Regulation is in existence through Buyers and Sellers and the use of sales notes which will provide the main source of information, this isn't universally made available throughout the supply chain at present. Larger companies in general have well established and defined supply chains where product information flows down the chain so that this is available at the point of retail or can be made available without significant additional search costs. Some smaller companies may have to establish and facilitate this information flow and make some changes to their supply chain to ensure that the information they require is made available throughout their supply chain so it will be available for the consumer.

Some operators may need to review and make changes to their operational procedures in order that they obtain the information that must now be passed on to the consumer. In the vast majority of cases, information on traceability will be in place that allows for the relevant information to flow down the chain. Most large retailers and their suppliers are generally sophisticated businesses with robust traceability systems already in place and have well established mechanisms for supplying information along the supply chain and it should be relatively easy to incorporate additional information fields. Ensuring key information flows down the chain may prove more of a challenge for small operators who may need to establish an improved system for information handling and communicating this along their supply chain. The degree of work required will depend heavily from company to company and any associated costs will be quite specific according to current operational set up.

Assumptions have been made that medium and large processors, wholesalers and retailers are likely to have this information already or are likely negotiate this information when agreeing contracts with suppliers so will bear no additional cost. It is assumed that micro/small processors can acquire the scientific name information from sales notes and will not have to review their processes. They will, however, have to translate the FAO name to the full name. Micro and small wholesalers and retailers will have to review operational procedures as well as verify the scientific name once acquiring the FAO name.

It is assumed that processors will take 30 minutes to verify the FAO name, whilst a further assumption is made that retailers and wholesalers will also need to review their operational procedures, an additional 30 minutes.

The total one-off traceability cost to businesses in Scotland translates to an equivalent annual cost of £9,463 over a ten year period.

Table 8: One off traceability costs and Equivalent Annual Cost to Industry by Country

	Number of processors, wholesalers & retailers	Total traceability cost	EAC
Scotland	5,235	£81,458	£9,463
England	45,425	£726,816	£84,438
Wales	2,550	£40,997	£4,763
Northern Ireland	1,940	£30,743	£3,572
UK	55,150	£880,013	£102,236

One off labelling costs

To provide an estimate of the labelling costs, we use the Kantar dataset³, which provides us with an estimate of the number of fishery products that are being purchased in the UK. This stands at 2,775 for 2011 which is multiplied by the trimmed mean cost of re-labelling per stock-keeping unit (SKU) for minor changes £1,800 (table below). The total cost estimate for re-labelling is equivalent to £4,995,000. The EAC to industry is £580,295 across the UK.

³ Source: Kantar Worldpanel The Kantar world panel (25,000 UK household panel) are asked to record every item purchased and brought into the household over a 52 week period. So this number reflects the number of different products purchased in the 52 weeks up to April 2011

Extent of change	Average cost (£/SKU)	Trimmed Mean (£/SKU)
Minor change	£1,810	£1,800
Major change	£3,800	£3,330

Source: Developing a framework for assessing the costs of labelling changes in the UK

The study states that a change was considered as minor when only the text was changed on a single face of the label and no packaging size modification was required to accommodate this.

For the purposes of this BRIA, the cost estimates are established with a baseline that assumes that the EU Food Information to Consumers Regulation (FIC) is already in place. The FIC will be coming into force so the purpose in this assessment is to capture those costs that can be directly attributed to fish labelling legislation that is not introduced by other regulatory means.

The costs of making changes to product labels are estimated in this impact assessment using the methodology in the Defra and Campden BRI study 2010; Developing a Framework for Assessing the costs of Labelling Changes in the UK.

However, the evidence in the study shows that commercial factors were the cause of most label changes; regulatory requirements accounted for a relatively small minority. The nature of the labelling changes that may be required as a result of these regulatory requirements are expected to be minor. This is based on the fact that any additional wording or description will be text only and should not necessitate the need for a packaging re-size.

There may be implications for products that are small in size as there would be a greater risk that any additional information could not be accommodated without increasing the size or shape of the packaging and therefore increasing costs.

Enforcement

Local authorities will also need to become familiar with the updated Regulations. It is estimated that it would take one Authorised Officer, one hour to read and become familiar with the Regulations and disseminate them to key staff. The average hourly pay rate for *Inspectors of standards and regulations*⁴ up-rated by 30% to account for overheads to £18.01, in accordance with the standard cost model⁵.

The total one-off familiarisation cost to enforcement bodies in Scotland translates to £576 and an equivalent annual cost of £67 over a ten year period.

We envisage no incremental costs for enforcement authorities as we assume the impact on Local Authorities and the Competent Authority (FSA) would be negligible.

⁴ 2011 Annual survey of Hours and Earnings

⁵ <http://www.berr.gov.uk/files/file44503.pdf> http://www.statistics.gov.uk/downloads/theme_labour/ASHE-2009/2009_occ4.pdf

Table 9: Familiarisation costs for trading standards/environmental health officers, by regional breakdown and as Equivalent Annual Cost to Enforcement by Country

	Number of Local Authorities	Median average hourly rate (uprated by 30% for overheads)	Total Familiarisation Cost	EAC
Scotland	32	£18.01	£576	£67
England	433		£7,798	£906
Wales	22		£396	£46
Northern Ireland	26		£468	£54
UK	513		£9,239	£1,073

Consumers

Under policy Option 1 we envisage no incremental costs for consumers. Whilst the legislation is not expected to place costs directly on consumers, it is possible that where costs arise along the supply chain (e.g. to processors, wholesalers, retailers) these costs could be passed along the chain and ultimately be reflected (partially or wholly) in higher prices for those products on sale to consumers. However, as the changes are relatively small, it is assumed that these would be negligible.

Option 2

Industry

One-off Familiarisation Costs

Assumptions remain the same for Option 2 as Option 1. Therefore, there is no further difference when compared to Option 1.

One-off Traceability Costs

Assumptions remain the same for Option 2 as Option 1. Therefore, there is no further difference when compared to Option 1.

One-off labelling costs

Assumptions remain the same for Option 2 as Option 1. Therefore, there is no further difference when compared to Option 1.

Enforcement

One-Off Familiarisation Costs

Assumptions remain the same for Option 2 as Option 1. Therefore, there is no further difference when compared to Option 1.

Under policy Option 2 we envisage no incremental costs for enforcement authorities as we assume the impact on Local Authorities and the Competent Authority (FSA) would be negligible.

Consumers

Under policy Option 2 we envisage no incremental costs for consumers.

Summary Costs and Benefits

Table 10 provides a summary of the monetised costs and benefits for Option 1 across the UK. The net present value is -£5.15 million over 10 years.

Table 11 provides a summary of the monetised costs and benefits for Option 2 across the UK. The net present value is -£6.45 million over 10 years.

Table 10: Summary of Costs and Benefits for Policy Option 1

Option 2	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total	Average p.a./EAC	Present Value
COSTS													
Industry													
Familiarisation (one off)	£746,545	£0	£0	£0	£0	£0	£0	£0	£0	£0	£746,545	£86,730	£746,545
Traceability (one off)	£726,816	£0	£0	£0	£0	£0	£0	£0	£0	£0	£726,816	£84,438	£726,816
Labelling (one off)	£4,995,000	£0	£0	£0	£0	£0	£0	£0	£0	£0	£4,995,000	£580,295	£4,995,000
Total Industry Costs	£6,468,360	£0	£0	£0	£0	£0	£0	£0	£0	£0	£6,468,360	£751,463	£6,468,360
Government													
Familiarisation (one off)	£7,798	£0	£0	£0	£0	£0	£0	£0	£0	£0	£7,798	£906	£7,798
Total Government Costs	£7,798	£0	£0	£0	£0	£0	£0	£0	£0	£0	£7,798	£906	£7,798
TOTAL COSTS	£6,476,159	£0	£0	£0	£0	£0	£0	£0	£0	£0	£6,476,159	£752,369	£6,476,159
BENEFITS													
Industry													
SI consolidation (recurring)	£373,272	£0	£0	£373,272	£0	£0	£373,272	£0	£0	£0	£373,272	£149,309	£1,287,481
Total Industry Benefits	£373,272	£0	£0	£373,272	£0	£0	£373,272	£0	£0	£0	£1,493,089	£149,309	£1,287,481
Government													
SI consolidation (recurring)	£3,899	£0	£0	£3,899	£0	£0	£3,899	£0	£0	£0	£15,597	£1,560	£13,449
Commercial Designation (recurring)	£7,891	£0	£0	£7,891	£0	£0	£7,891	£0	£0	£0	£31,563	£3,156	£27,216
Total Government Benefits	£11,790	£0	£0	£11,790	£0	£0	£11,790	£0	£0	£0	£47,159	£4,716	£40,665
TOTAL BENEFITS	£385,062	£0	£0	£385,062	£0	£0	£385,062	£0	£0	£0	£1,540,249	£154,025	£1,328,147
NET BENEFIT													
Total Net (Benefit)	-£6,091,096	£0	£0	£385,062	£0	£0	£385,062	£0	£0	£385,062	-£4,935,910	-£598,344	-£5,148,012
Total Net Business (Benefit)	-£6,095,088	£0	£0	£373,272	£0	£0	£373,272	£0	£0	£373,272	-£4,975,271	-£602,154	-£5,180,879

Table 11: Summary of Costs and Benefits for Policy Option 2

Option 3	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total	Average p.a./EAC	Present Value
COSTS													
Industry													
Familiarisation (one off)	£746,545	£0	£0	£0	£0	£0	£0	£0	£0	£0	£746,545	£86,730	£746,545
Traceability (one off)	£726,816	£0	£0	£0	£0	£0	£0	£0	£0	£0	£726,816	£84,438	£726,816
Labelling (one off)	£4,995,000	£0	£0	£0	£0	£0	£0	£0	£0	£0	£4,995,000	£580,295	£4,995,000
Total Industry Costs	£6,468,360	£0	£0	£0	£0	£0	£0	£0	£0	£0	£6,468,360	£751,463	£6,468,360
Government													
Familiarisation (one off)	£7,798	£0	£0	£0	£0	£0	£0	£0	£0	£0	£7,798	£906	£7,798
Total Government Costs	£7,798	£0	£0	£0	£0	£0	£0	£0	£0	£0	£7,798	£906	£7,798
TOTAL COSTS	£1,481,159	£0	£0	£0	£0	£0	£0	£0	£0	£0	£6,476,159	£752,369	£6,476,159
BENEFITS													
Government													
Commercial Designation (recurring)	£7,891	£0	£0	£7,891	£0	£0	£7,891	£0	£0	£7,891	£31,563	£3,156	£27,216
Total Government Benefits	£7,891	£0	£0	£7,891	£0	£0	£7,891	£0	£0	£7,891	£31,563	£3,156	£27,216
TOTAL BENEFITS	£7,891	£0	£0	£7,891	£0	£0	£7,891	£0	£0	£7,891	£31,563	£3,156	£27,216
NET BENEFIT													
Total Net (Benefit)	-£1,473,268	£0	£0	£7,891	£0	£0	£7,891	£0	£0	£7,891	-£6,444,596	-£749,213	-£6,448,942
Total Net Business (Benefit)	-£6,468,360	£0	£0	£0	£0	£0	£0	£0	£0	£0	-£6,468,360	-£751,463	-£6,468,360

Taking into account the fact that some of the changes will be in place once the EU Food Information to Consumers Regulation comes into force, the additional costs associated with changes to fish labelling should not prove to be an unmanageable burden for those operating in the fish industry. There will be costs associated with labelling changes that arise as a result of the requirement to provide the scientific name of species and in some cases, additional information about whether the product or fish has previously been frozen. These changes should only require a textual change to product labels rather than any whole scale redesign. It should also be possible in many cases to incorporate textual changes within general product design refreshes negating the need to change labels solely for the purpose of the fish labelling regulations. The option to make use of a poster or billboard to display the scientific name allows retailers some flexibility in how they provide the consumer with this mandatory information.

Changing the way the commercial designation list is maintained and updated will provide benefits to the industry and enforcement bodies. It will allow the Government to respond quickly to shifts in the market and grant new commercial designations in a more timely fashion. There will be a benefit realised in the fact that by having an internet based list of designations, this list will contain the total of all current approved names. This is preferable over the current situation where any temporary commercial designations will not feature in the Schedule to the existing SSI which could lead to them being overlooked.

5. SCOTTISH FIRMS IMPACT TEST

FSA in Scotland contacted several businesses to discuss the proposals and the cost assumptions made. Three businesses responded and advised that they already provide consumers with information on the scientific name. One business queried the requirements regarding date of freezing because they freeze all fish prior to processing. Another business tended to supply final consumers with only fresh fish, but declare to customers in the event the fish had been previously frozen. The third business sold only fresh fish direct to consumers and supplied frozen fish to other businesses, using a code for the date of freezing. Due to their familiarity with the species of fish handled, the businesses tended to check the list of commercial designations infrequently or not at all, therefore costs involved were minimal. Two businesses mentioned that they have received help from their Environmental Health Officers regarding understanding legislation and again this reduces familiarisation time and costs to the companies concerned.

The businesses contacted were:

Associated Seafoods, Buckie

Downie's of Whitehills

Eat Mair Fish, Buckie

(i) Competition Assessment

The proposed legislation applies to all relevant UK fish industry businesses equally, allowing them to trade across EU Member States, if appropriate. It should not limit the number or range of suppliers either directly or indirectly or reduce the ability of, or incentives to, suppliers to compete. Therefore, it is not expected to significantly impact on competition.

Using the Office of Fair Trading competition assessment framework⁶, it has been established that the preferred policy option (Option 1) is unlikely to have any material negative impact on competition. We assert that this policy will not limit the number or range of suppliers directly or indirectly nor will it limit the ability or reduce incentives of suppliers to compete vigorously.

⁶ http://www.offt.gov.uk/shared_offt/reports/comp_policy/oft876.pdf

(ii) Test Run of Business Forms

No new or additional forms will be introduced by this proposal therefore no test run need be completed.

6. LEGAL AID IMPACT TEST

The Fish Labelling (Scotland) Regulations will modify the current offence regime to take account of the new consumer information requirements set out in Regulation (EU) 1224/2009 as read with Regulation (EU) 404/2001 i.e. the requirement to give the scientific name at the point of retail and an indication on the label to indicate whether or not the products have previously been frozen. They will not introduce any new criminal sanctions or civil penalties.

7. ENFORCEMENT, SANCTIONS AND MONITORING

The regulations will be enforced in Scotland by Local Authority Environmental Health Departments.

Sanctions for Non-Compliance

Whilst there is a slight modification to the offences to reflect the new EU requirements, no changes are being proposed to the criminal sanctions contained in the existing 2010 legislation.

Offences are detailed in regulation 5 of the Fish Labelling (Scotland) Regulations 2013 as follows:

- For failure to comply with a consumer information requirement or, a traceability requirement - a fine not exceeding level 5 on the standard scale.

‘consumer information requirement’ means a requirement referred to in regulation 3 paragraph (1) (a) of the 2013 Regulations, except where disapplied or modified by virtue of paragraph (4), (5), (6) or (7); and

‘traceability requirement’ means a requirement referred to in regulation 3 paragraph (1) (b), except where disapplied by virtue of paragraph (7)

- For failure to keep for three years records of the information referred to in Article 58(4) of Regulation 1224/2009 as read with Article 67(4) of Regulation 404/2011 – a fine not exceeding level 5 on the standard scale.
- For failure, at any stage of marketing, to comply with Article 8 of Regulation 2065/2001 (traceability and control) – a fine not exceeding level 3 on the standard scale.

Monitoring

The effectiveness and impact of the regulations will be monitored via feedback from stakeholders, including Enforcement Agencies, as part of the ongoing policy process. Agency mechanisms for monitoring and review include; open fora, stakeholder meetings, surveys and general enquiries.

DECLARATION

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

Minister's Name, Title & Department:

Michael Matheson, Minister for Public Health

Contact point for enquiries and comments

Stephen Hendry
Food Standards Agency in Scotland
St Magnus House
25 Guild Street
Aberdeen
AB11 6NJ

Telephone: 01224 285153
E-mail: Stephen.Hendry@foodstandards.gsi.gov.uk

Annex A – Familiarisation Costs

To calculate the familiarisation costs to industry, the following assumptions have been made:

1. Relevant wage rates represent median gross hourly pay including overtime from the Annual Survey of Hours and Earnings, 2011, All Employees. Following standard cost model assumptions, the following wages are then uprated by 30% to take account of non-wage costs:

Shopkeepers and proprietors (proxy for micro and small retailers) £16.32 per hour

Agricultural and fishing trades (proxy for micro and smaller processors and wholesalers) £11.04 per hour

Regulatory affairs/production manager (proxy for medium and large processors, wholesalers and retailers) £25.39 per hour

2. Number of familiarisation hours:

The number of hours required by affected **micro and small** organisations to become familiar with SSI, and to ensure compliance = 1 hour;

The number of hours required by affected **medium and large** organisations to become familiar with SSI, to ensure compliance and disseminate information = 2 hours;

The number of hours required by Authorised Officers to become familiar with SSI = 1 hour;

Using the standard cost model approach, familiarisation costs are calculated by using the number of hours to familiarise and multiplied by the number of businesses affected by the hourly cost (wage and non-wage costs). Costs are disaggregated by seafood processors, seafood wholesalers and retailers.

Processors and preserving of fish, crustaceans and molluscs					
	Micro	Small	Medium	Large	Total
Scotland	£1,082	£560	£1,066	£267	£2,975
England	£1,206	£624	£1,188	£297	£3,315
Wales	£31	£16	£30	£8	£85
NI	£155	£80	£152	£38	£425
UK	£2,473	£1,281	£2,437	£609	£6,800
Wholesalers of fish, crustaceans and molluscs					
	Micro	Small	Medium	Large	Total
Scotland	£2,194	£483	£381	£0	£3,058
England	£11,454	£2,521	£1,988	£0	£15,963
Wales	£439	£97	£76	£0	£612
NI	£658	£145	£114	£0	£917
UK	£14,745	£3,246	£2,559	£0	£20,550
Food and Drink Retailers					
	Micro	Small	Medium	Large	Total
Scotland	£72,176	£5,784	£1,289	£391	£79,639
England	£659,110	£52,815	£11,768	£3,573	£727,266
Wales	£37,438	£3,000	£668	£203	£41,310
NI	£27,610	£2,212	£493	£150	£30,465
UK	£796,334	£63,811	£14,218	£4,316	£878,680

Annex B – Traceability costs

To calculate the traceability costs to industry, the following assumptions have been made:

1. Relevant wage rates represent median gross hourly pay including overtime from the Annual Survey of Household Earnings, 2011, All Employees. Following standard cost model assumptions, the following wages are then uprated by 30% to account for non-wage costs:

Shopkeepers and proprietors (proxy for micro and small retailers) - £16.32 per hour

Agricultural and fishing trades (proxy for micro and smaller processors and wholesalers) - £11.04 per hour

2. Number of familiarisation hours:

The number of hours required by affected **micro and small** processors to become familiar with SSI and to ensure compliance = 0.5 hours;

The number of hours required by affected **micro and small** wholesalers and retailers to become familiar with SSI and to ensure compliance = 1 hour.

Processors and preserving of fish, crustaceans and molluscs			
	Micro	Small	Total
Scotland	£541	£280	£821
England	£603	£312	£915
Wales	£15	£8	£23
NI	£77	£40	£117
UK	£1,236	£640	£1,877
Wholesalers of fish, crustaceans and molluscs			
	Micro	Small	Total
Scotland	£2,194	£483	£2,677
England	£11,454	£2,521	£13,975
Wales	£439	£97	£535
NI	£658	£145	£803
UK	£14,745	£3,246	£17,991
Food and Drink Retailers			
	Micro	Small	Total
Scotland	£72,176	£5,784	£77,959
England	£659,110	£52,815	£711,926
Wales	£37,438	£3,000	£40,328
NI	£27,610	£2,212	£29,822
UK	£796,334	£63,811	£860,146

SSI Consolidation benefits

To calculate the SSI consolidation time benefits to industry, the following assumptions have been made:

- Relevant wage rates represent median gross hourly pay including overtime from the Annual Survey of Household Earnings, 2011, All Employees. Following standard cost model assumptions, the following wages are then uprated by 30% to account non-wage costs:

Shopkeepers and proprietors (proxy for micro and small retailers) - £16.32 per hour

Agricultural and fishing trades (proxy for micro and smaller processors and wholesalers) - £11.04 per hour

Regulatory affairs/production manager (proxy for medium and large processors, wholesalers and retailers) - £25.39 per hour

- Number of familiarisation hours:

The number of hours required by affected **micro and small** organisations to become familiar with SSI and to ensure compliance = 0.5 hours;

The number of hours required by affected **medium and large** organisations to become familiar with SSI to ensure compliance and disseminate information = 1 hour;

The number of hours required by Authorised Officers to become familiar with SSI = 0.5 hours;

Processors and preserving of fish, crustaceans and molluscs					
	Micro	Small	Medium	Large	Total
Scotland	£541	£280	£533	£133	£1,488
England	£603	£312	£594	£149	£1,658
Wales	£15	£8	£15	£4	£43
NI	£77	£40	£76	£19	£213
UK	£1,236	£640	£1,219	£305	£3,400
Wholesalers of fish, crustaceans and molluscs					
	Micro	Small	Medium	Large	Total
Scotland	£1,097	£242	£190	£0	£1,529
England	£5,727	£1,261	£994	£0	£7,982
Wales	£219	£48	£38	£0	£306
NI	£329	£72	£57	£0	£459
UK	£7,373	£1,623	£1,280	£0	£10,275
Food and Drink Retailers					
	Micro	Small	Medium	Large	Total
Scotland	£36,088	£2,892	£644	£196	£39,820
England	£329,555	£26,408	£5,884	£1,786	£363,633
Wales	£18,719	£1,500	£334	£101	£20,655
NI	£13,805	£1,106	£246	£75	£15,232
UK	£398,167	£31,906	£7,109	£2,158	£439,340

Annex C

Common Fisheries Policy Control Regulation

European fisheries control measures were reviewed following shortcomings identified in the system that had been in operation for a number of years. There was a need to update the system for the inspection, monitoring, control, surveillance and enforcement of the Common Fisheries Policy (CFP) rules.

The Control Regulation (EC) No 1224/2009 and its more detailed implementing rules (Regulation (EU) 404/2011) introduce requirements on traceability and information to the consumer that must be provided at the retail stage. It is these specific elements that will be incorporated within the updated Scottish Fish Labelling Regulations. The new control system extends throughout the whole chain of production and marketing. It takes account of the interests of consumers through the requirement to provide at the retail stage, information on the commercial designation, the scientific name, the relevant geographical area, the production method and whether the fisheries products have been previously frozen or not.

The Control Regulation introduces a number of requirements stemming from the objective of improving traceability within the fisheries trade as a means of improving control and regulation to deliver a more sustainable sector. Article 58 *Traceability* sets out the requirements for information that must be made available to the consumer at the retail stage. These are:

(g) the information to consumers provided for in Article 8 of Regulation (EC) No 2065/2001: the commercial designation, the scientific name, the relevant geographical area and the production method;

(h) whether the fisheries products have been previously frozen or not.

Control Regulation implementing rules – Regulation (EC) No 404/2011

The implementing rules explain in more detail how the requirements should be provided. They provide a derogation concerning how the information is provided to consumers. Article 68 *Information to the consumer* under point 2 states that:

By derogation from paragraph 1, the scientific name of the species may be provided to the consumers at retail level by means of commercial information such as bill boards or posters.

Further detail is given on the issue of defrosted fish under point 3 which states:

Where a fisheries or aquaculture product has been previously frozen the word ‘defrosted’ shall also be indicated on the label or appropriate mark referred to in paragraph 1. The absence of this wording at retail level shall be considered as meaning that the fisheries and aquaculture products have not been frozen beforehand and later defrosted.

There are exemptions under the defrosted requirements where the word ‘defrosted’ shall not have to appear. These are:

- Fisheries and aquaculture products previously frozen for food safety purposes.
- Fisheries and aquaculture products which have been defrosted before the process of smoking, salting, cooking, pickling, drying or a combination of those processes.

The provision of the exemptions for defrosted on the grounds of food safety which must be in accordance with Annex III, Section VIII of Regulation (EC) No 853/2004, may exempt a large number of fish which will require freezing in order for them to be preserved at sea until the vessel reaches port.

Common Organisation of the Markets in Fishery and Aquaculture Products Regulation (CMO)

The CMO is one of the pillars of the CFP along with conservation of fish stocks, structural policy and third country agreements. The CMO is designed to contribute to the CFP's general objective of seeking to guarantee sustainable fisheries and to secure the future of the fisheries sector. The CMO has four well defined objectives:

To stabilise the market

To ensure a stable supply of high quality product

To ensure that supplies reach consumers at reasonable price

To ensure a fair standard of living for fisherman

The existing CMO Regulation (EC) No 104/2000 is currently under revision and a new proposal is being discussed that would introduce consumer information provisions (labelling with commercial designation, provenance and production method). These provisions are justified and relevant as they satisfy:

- A need for information by the various operators and consumers, namely a better knowledge of fishery products, awareness of the choice of products they consume and assurance of the provenance of products;
- A need for uniform and standard information at European level, useful for common and shared management of the fisheries policy;
- A need for product identification (commercial designations) and traceability, in particular in terms of the geographic provenance of production and production method.