



# **CMO & EMFF – Frequently asked questions - update**

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**European Commission**

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Unit A4 - Economic Analysis, Markets and Impact Assessment

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*Only the Court of Justice of the European Union is entitled to provide an authoritative interpretation of EU law. Therefore, the information provided here is a Commission services interpretation and is intended as a tool to assist those concerned (national authorities / stakeholders) to form a common understanding on the provisions of the CMO and PMPs under EMFF.*

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# FAQs

## ACRONYMS & DEFINITIONS USED

**CMO:** *Common organisation of the markets*

**FIC:** *Food Information for Consumers*

**PO:** *Producer organisation*

**APO:** *Association of producer organisations*

**IBO:** *Inter-branch organisation*

**EMFF:** *European Maritime & Fisheries Fund*

**PMP:** *Production & marketing plan*

**NUTS:** *Common classification of territorial units for statistics*

**FAP:** *Fishery & aquaculture products*

**CPR:** *Common Provisions Regulation*

## 1. PRODUCER ORGANISATIONS, ASSOCIATION OF PRODUCERS ORGANISATIONS AND INTER-BRANCH ORGANISATIONS

### 1.1. Representativeness

#### Question

*What percentage of members or production volume (Article 14(1)(b) of the CMO regulation) would make a group of producers eligible for recognition as a producer organisation?*

#### Answer

The CMO regulation does not specify percentages for this. It is up to the national authorities to define this criterion.

### 1.2. Notification to the Commission

#### Question

*Will national authorities still be required to use the FIDES electronic data transmission system to notify the Commission of their decisions to grant or withdraw recognition of professional organisations (Article 4)?*

#### Answer

NO - These notifications must now be e-mailed as described in Article 4(3) of regulation 1419/2013. They must also follow the format described in Annex II to that regulation.



## Question

*For notifying professional organisations of their decisions about recognition (Article 2 of regulation 1419/2013), does "in writing" include other possibilities such as e-mail?*

## Answer

YES - "in writing" can mean e-mail or other kinds of communication, depending on the practices in each country.

### 1.3. Functioning

#### Question

*Will POs recognized before 29 December 2013 that wish to develop new tasks in accordance with the CMO regulation have to adapt their rules of internal functioning accordingly?*

#### Answer

NO - The principles of internal functioning laid down in Article 17 of the CMO regulation concern aspects related to running the PO, such as members' duties, financing, decision-making and penalties.

These are equivalent to the principles under the previous CMO regulation 104/2000 and do not require any adaptation.

#### Question

*If POs join members from other EU countries and so become transnational organisations – as the CMO regulation now allows – will they have to apply for new recognition?*

#### Answer

NO – because even if producers from different countries join an existing PO, the PO itself will remain the same. However, this may affect the conditions for recognition, in particular as regards the economic representativeness of the PO in the area of activity. So the authorities in the recognising country should check whether the PO in question will continue to meet the conditions for recognition after adding new members as provided for in Article 18 of the CMO regulation.

They should also establish administrative cooperation with the new members' countries of origin.

## 1.4. Payments and EMFF support

### Question

*Can the EMFF support financially the creation and restructuring of POs, APOs and IBOs? What are the conditions?*

### Answer

YES – The EMFF may support the creation of POs, APOs and IBOs (article 68.1), not their restructuring. To use this measure, a Member State must plan it in the Operational Programme it submits under the EMFF.

This support must be granted also if the project does not achieve the goal of creating the organisation. In that regard, the operators have an obligation regarding the means, and not regarding the result.

## 2. PRODUCTION AND MARKETING PLANS

### 2.1. Submission of PMPs and of the annual implementation reports

#### Question

*What are the deadlines for POs to submit their PMPs to their competent national authorities?*

#### Answer

- For newly recognised POs, 8 weeks after their recognition (article 2(1), regulation 1418/2013).
- For subsequent plans – 8 weeks before the plans in place expire.

#### Question

*Is there a specific format that EU countries must use for approval of PMPs?*

#### Answer

NO - It is up to each country to choose the most adequate method.

### **Question**

*What are the deadlines for POs to submit their PMP implementation reports?*

### **Answer**

POs will have to submit the report each year (even if the PMP runs for more than one year).

But neither the CMO regulation nor the PMP implementing regulation set any deadline for this – so national authorities will set their own.

### **Question**

*What are the possible consequences for a PO if it fails to submit a production and marketing plan to its national authority, or if its PMP is not approved?*

### **Answer**

POs must submit a production and marketing plan. If a PO fails to meet this requirement, the national government concerned may ultimately withdraw recognition of the PO, in line with Article 28(7) of regulation No 1379/2013. However, this should be regarded as a last resort action.

## 2.2. Content and structure of a PMP

### Question

*How are the main species covered by a PMP determined?*

### Answer

Each country must set its own rules, at either national level or the most appropriate regional/local level – in the form of limits for the value (turnover) or volume of catches or farmed species (or both).

The rules must allow a PMP to cover the activities that constitute the main part of the POs' turnover and catch volume.

A PO's PMP can also include measures for other species. This is particularly relevant to the objectives of limiting by-catch and seeking opportunities for unwanted catches.

National authorities are free to model their national rules on the previous rules for determining the main species, used in operational programmes under Article 2 of regulation 2508/2000 (under the previous CMO regulation).

### Question

*Are there minimum or maximum running periods for PMPs?*

### Answer

At least one calendar year – but the running period cannot go beyond the programming period and the eligibility period which ends at 2023.

## Question

*Can an annual PMP cover any given 12-month period?*

## Answer

Neither the CMO regulation nor the PMP implementing regulation set a specific timeframe for the PMPs. However, given that the sources of financing for the PMPs operate on the basis of calendar years (1st January – 31 December), it is suggested that annual PMPs cover the same period.

## 2.3. Eligibility of costs

### 2.3.1. Nature of eligible costs

#### Question

*What types of costs would be eligible for EMFF funding? Which ones would not? Are there any clear guidelines about this?*

#### Answer

As a general rule, the eligibility of expenditure should be determined on the basis of national rules pursuant to Article 65(1) of Regulation (EU) No 1303/2013 (CPR).

The eligibility of the costs incurred for the preparation and implementation of the PMPs must be assessed with regard to their destination, not to their nature. It means that related expenditures are potentially eligible from the moment it can be demonstrated and verified that they were necessary for the preparation and implementation of the duly approved PMP.

Concretely, it means that a wide range of expenditures can be covered. The Commission Recommendations of 3 March 2014 (2014/117/EU) provides many examples of measures that can be deployed to implement the objectives of PMPs. All costs incurred in order to implement these measures are potentially eligible.

#### Question

*Can a PO's traditional management & information activities be included in PMP?*

#### Answer

YES – but only if they:

- contribute to the objectives in Articles 3 and 7 of the CMO regulation and
- are approved by the competent national authority.



### *2.3.2. Costs for the preparation and implementation of PMPs*

#### **Question**

*May the national competent authority decide to only finance certain preparation costs but not the implementation costs of a PMP?*

#### **Answer**

In accordance with Article 28 of Regulation (EU) No 1379/2013 (CMO Regulation), Article 66(1) of the EMFF regulation provides for an obligation to support the preparation and implementation of the PMPs.

### *2.3.3. Measures deployable*

#### **Question**

*Are the mandatory measures as set out in article 28 of the CMO regulation which must be included in the PMPs eligible to be supported financially under article 66 of the EMFF?*

#### **Answer**

All expenditures incurred to implement Article 28(2) of the CMO regulation are eligible provided they are included in a duly approved PMP. However, although Article 28(2) of the CMO regulation prescribes the content of PMPs to be set up by producer organisations, part of this content does offer a broad range of possibilities, the choice of which ultimately depends on the national context. National competent authorities are therefore responsible for judging the adequacy of the PMPs and therefore their approval.

## Question

*Can a PO include a measure for which aid is not available under another EMFF article in a PMP, and then receive aid for it under the EMFF article that grants aid for PMPs?*

## Answer

YES - If a PO thinks a measure helps achieve the goals laid down in articles 3 and 7 of the CMO regulation, but would not be granted aid under any other article of the EMFF regulation, they can put that measure in their PMP.

Any preparation or follow-up action taken for that measure can then receive aid under the EMFF in the same way as other measures to prepare and implement PMPs.

It is then up to the competent national authorities to obtain assurances from the PO that this measure does indeed help achieve the goals of the PMP.

## Question

*Who can benefit from financial support for preparing and implementing PMPs provided under Article 66 of the EMFF regulation?*

## Answer

Only POs and APOs recognised by the appropriate national authority can benefit from such support.

## Question

*Can an APO and one of its member POs submit separate PMPs of their own?*

## Answer

YES – but only if the measures are different (even if a link exists between them). The same measure cannot be included in two PMPs and thus be subject to double funding.

### *2.3.4. Investments – plants and equipment*

#### **Question**

*Les investissements matériels (par ex. convoyeurs, informatique de vente, logiciels de traçabilité, salles d'expédition réfrigérée, viviers, interconnexion des criées) préalables et nécessaires pour mettre en œuvre des actions visant à l'amélioration de la compétitivité des entreprises de pêche sont-ils éligibles aux PPCs?*

#### **Réponse**

Les investissements matériels pour améliorer la qualité, le contrôle et la traçabilité des produits débarqués et donc pour améliorer les conditions de mise sur le marché des produits de la pêche et de l'aquaculture sont éligibles au soutien du FEAMP, au titre de

- l'article 43 du FEAMP pour ce qui concerne la modernisation des infrastructures de commercialisation dans les ports et les criées (halles à marées);
- l'article 68 du FEAMP pour les investissements matériels, hors infrastructures couvertes par l'article 43, correspondants aux mesures de première mise en marché couvertes par cet article;
- l'article 66 du FEAMP pour les investissements réalisés par des Organisations de Producteurs dans le cadre de leurs plans de production et de commercialisation (PPC). Les actions prévues par ces plans peuvent correspondre à des investissements couverts par les articles 43 et 68 et bénéficier ainsi des conditions d'aide propres à l'article 66, mais dans les limites imposées par ce même article.

### *2.3.5 Investments – vehicles (and related operating costs)*

#### **Question**

*Are acquisitions of means of transport for persons or fish transport (or rental) and related operating costs eligible to a Production and Marketing Plan?*

#### **Answer**

As a general rule, the eligibility of expenditure should be determined on the basis of national rules pursuant to Article 65(1) of Regulation (EU) No 1303/2013 (CPR).

The eligibility of the costs incurred for the preparation and implementation of the PMPs must be assessed with regard to their destination, not to their nature. Although a wide range of expenditures can be covered, the purchase of a vehicle for business use or fish transport seems to be part of the standard activities of an organisation, and not to fall under specific actions linked to the objectives of Art.7 of the CMO Regulation.

PMPs may not cover expenditures that relate to the usual operating activity of the PO, that is to say activities that are not specifically related to the PMP (of which means of transport are a common example). Thus, unless the PMP can duly justify this expenditure on the basis of Articles 7 and 28 of the CMO Regulation, purchase of a car may not be financed under Article 66 of the EMFF.

As far as passenger transport is concerned, the same reasoning applies. Occasional renting of a means of transport considered necessary for the implementation of an action of the PMP may be eligible to the PMP. But apart from these specific cases, a long-term rental of a car and, a fortiori, the purchase of a car is very unlikely to be necessary for the achievements of the objectives of a PMP.

For all those reasons, the risk of misappropriation of funds is high and should be considered accordingly.

### 2.3.6. Operating expenses – office supplies

#### Question

*(Dépenses de fournitures et petit matériel)*

*Les coûts de petit matériel directement liés à l'action, indispensables à sa bonne exécution et n'existant pas sans elle (ex dans une opération de promotion : brochures, affiches, site internet spécifique de vente ou de promotion) sont-ils éligibles aux PPC? La prise en compte de ces coûts est-elle conditionnée à l'existence d'un lien entre action et coût spécifique clairement indentifiable (en l'absence de ces dépenses l'action ne pourrait pas être menée), impératif et exclusif (ne pas concerner d'autres actions) et limité dans le temps (création et démarrage pour les sites internet)?*

#### Réponse

Oui. Il n'y a pas dans le FEAMP de clause d'inéligibilité de certains types de coûts pour les actions de préparation et de mise en œuvre des PPC, comme les types de couts repris dans la question (ex brochures, affiches, site internet spécifique de vente ou de promotion), pour autant que ces coûts soient spécifiquement et impérativement liés à ces actions et limités dans le temps à la durée de ces actions.

### *2.3.7. Operating expenses – salaries and wages, overheads*

#### **Question**

*(Dépenses de personnel et frais généraux)*

*Les coûts de personnel directement impliqué dans la préparation et la mise en œuvre des plans sont-ils éligibles aux plans?*

#### **Réponse**

Pour l'ensemble des opérations d'élaboration des PPC et de mise en œuvre des actions contribuant à l'atteinte de leurs objectifs, qu'elles soient mises en œuvre chaque année par l'OP de façon permanente ou élaborées, suivies et/ou mises en œuvre par l'OP de façon ponctuelle, les coûts de personnel pourront être retenus au prorata du temps consacré par les agents à la préparation, au suivi et à la mise en œuvre des PPC. Ces dépenses devront être justifiées par l'OP par les moyens appropriés adoptés au niveau national.

Peuvent également être retenus les coûts indirects tels que les frais de déplacement, certaines prestations externes, les petites fournitures et autres frais généraux de l'OP. Ces coûts seront calculés sur la base d'un taux forfaitaire établi selon la méthodologie indiquée par le règlement 1303/2013, article 68.1.b). Ce taux représentera 15% des frais de personnel directs éligibles.

### 2.3.8. Flat-rate costs

#### Question

*Is it possible to use flat-rate compensations for the preparation and implementation of PMPs based either on the number of fishing vessels (flat rate per vessel) for fisheries POs, a fixed amount for the species listed in Annexe I of the CMO Regulation or a fixed amount dependent on the volume of marketed production of that PO, in the recognition area for aquaculture POs. These were the methods used in the previous programming period (Art.10(2)(a)(b) of Council Regulation (EC) no 104/2000).*

#### Answer

With regard to the preparation and implementation of production and marketing plans (PMPs), the Commission recommends that producer organisations (POs) should adopt financial plans "detailing for each measure they intend to implement, the different costs, expenditures and expected financial resources" (see Art.6.1 of Commission recommendation N° 2014/117/EU of 3 March 2014). The amount budgeted by a Managing Authority to support a duly approved PMP should thus be consistent with the expected costs to be borne by that PO for that purpose, even if part or all of these costs are compensated on a flat-rate basis. The calculation method should not be based on the elements that were used under the previous CMO Regulation, since this would lead to a level of financing proportionate to the size of a PO rather than to the level of expenditures incurred for the elaboration and implementation of its PMP.

Article 67(1) of the CPR determines the conditions under which MS may apply "*flat-rate financing, determined by the application of a percentage to one or more defined categories of costs.*" Although it also provides that "*fund specific rules may limit the form of grants [...] applicable to certain operations*", the EMFF regulation introduces no such limitations. However, paragraph 5 of the same article stipulates the ways under which the responsible authorities must establish the amounts for flat rate financing.



### *2.3.9. Costs related to a certification scheme (maintenance and renewal)*

#### **Question**

*Are the costs incurred for the renewal and/or maintenance of a certification scheme (such as MSC) eligible to a PMP?*

#### **Answer**

Initial or new certification provides for added value to the product, therefore, these activities may be eligible for funding under Article 66 of the EMFF Regulation.

A PMP does not aim at covering the running costs of a PO. Therefore the yearly costs of maintenance or renewal of a certification, which would qualify as operational costs, are not eligible. However, if the renewal of a certification necessitates the adaptation to modified or new requirements of the certification scheme, in such cases the renewal may imply added value, therefore its costs may be eligible for funding under Article 66 of the EMFF.

### *2.3.10. Costs related to marketing campaigns*

#### **Question**

*Are large scale marketing campaigns that Producer Organisations undertake covered under Article 66 or Article 68 of the EMFF?*

#### **Answer**

Both are possible. To make support to producer organisations more visible and consistent, or to make it easier to assess how PMPs are being implemented, national authorities may decide to channel support to marketing through PMPs under Article 66 of the EMFF regulation. They may also decide that such measures will be delivered through different channels, i.e. schemes under Article 68 if considered more consistent with the national strategy for the EMFF. In any case, the necessary measures have to be taken to avoid funding the same operation twice.

### *2.3.11. Costs related to the support to commercial brands*

#### **Question**

*Is it possible to support the promotion of commercial brands related to a PO or its members through a production and marketing plan?*

#### **Answer**

Measures aiming at promoting commercial brands of members of a PO may be included in the PO's production and marketing plans as it can be considered as a measure that contributes to the objective of Article 7 of the CMO regulation, and more particularly to the objective of improving economic returns of the PO's members (Article 7(3)(b) of the CMO regulation). The restriction related to commercial brands refers only within the context of Article 68(1)(g).

## 2.4. Payments and EMFF support

### 2.4.1. Public financial support

#### Question

*Must national authorities support production and marketing plans?*

#### Answer

YES - National authorities must support the preparation and implementation of production and marketing plans with EMFF funding (Article 66) as long as such plans have been approved by the appropriate national authority and this support falls within the limit of 3% of the average annual value of the goods placed on the market by the PO or by its members over the preceding 3 calendar years.

#### Question

*Which sources can provide the public counterpart to the EMFF funding?*

#### Answer

As for all European Structural and Investment Funds governed by the Common Provision Regulation No 1303/2013, support from the EMFF complements national, regional and local intervention. EMFF co-funding can thus come from the public sphere at any geographical level, providing the EMFF rules on co-financing rates and intensity of public aid are respected.

## Question

*How is the 3% ceiling on public support for a PMP provided for in the EMFF regulation calculated?*

## Answer

The "annual value of production" means the entire annual production placed on the market at first sale by the PO or its members (and reported by the PO), regardless the place or country where the products are sold.

The 3% is based on the average of this production over 3 years.

For newly recognised PO, the 3 % ceiling applies to the average annual value of the production placed on the market by the members of that new organisation during the preceding 3 calendar years.

The 3% ceiling applies to the entire public aid (EMFF part + national counterpart funding, as defined in the EMFF regulation).

## Question

*Are operations planned in a PMP entitled to the 25% increase in the intensity of public aid (annex 1 of the EMFF regulation)?*

## Answer

YES – Member States may decide to take advantage of the possibility to increase the intensity of public aid for operations implemented by a PO or an APO under a PMP.

## Question

*Can all the measures planned in a PMP be funded exclusively under Article 66 of the EMFF regulation, even if some of them are eligible under another article of the regulation?*

## Answer

YES – To make support to producer organisations more visible and consistent, or to make it easier to assess how PMPs are being implemented, national authorities may decide to focus on funding the measures planned under the specific article of the EMFF Regulation (Article 66). However, it is up to individual national authorities to put in place systems for avoiding double financing.

### *2.4.2. Reimbursement to MS*

#### **Question**

How will the reimbursement of support to the Producer Organisations for the implementation of their Production and Marketing Plans be calculated?

#### **Answer**

For Production and Marketing Plans (PMPs), as for all other operations, the Commission will reimburse Member States (MS), not the POs concerned, upon presentation of the corresponding certified costs (in accordance with the provisions of Article 130-131 of R(EU) 1303/2013 (CPR) for interim payments).

As per EMFF Art.66, POs may therefore receive from the authority responsible for the implementation of the Operational Programme, first an advance of 50% of the financial support to their PMPs (the amount of which cannot be certified until the annual report of the corresponding PO is approved by the competent authorities) and later the complement of the support. In case (which could only be exceptional) of an advance payment to the PO in excess of the justified financial support, the competent national authority will recover the overpaid public support and certify only the amount actually incurred.

### ***2.4.3. Payment of advances***

#### **Question**

*According to Article 66(4) of the EMFF, MS may grant an advance of 50% of the financial support to Production and Marketing Plans. Can this provision be interpreted as the possibility to grant advances of maximum 50%, or can it only be strictly 50% of the expenditures envisaged?*

#### **Answer**

As EMFF Article 66(4) indicates that Member State may grant a Producer Organisations (POs) an advance of 50% of the EMFF support for the implementation of its approved Production and Marketing Plan (PMP), without specifying that this is a maximum, it should be inferred that either an advance of 50% is paid or none at all.

However, given that the actual level of this support will be determined and paid on the basis of the annual report of the PO (Article 66(2) of the EMFF), this advance should be calculated on the basis of the annual level of support to the implementation of the relevant PMP, even if the latter is multiannual.

In case of multiannual PMPs, the advance of 50% is calculated on the basis of each yearly amount, with the balance being paid upon approval of the annual report.

#### ***2.4.4. Eligibility period for newly created POs***

##### **Question**

*For a newly created Producer Organisation, what is the date from which costs for the preparation and implementation of its Production and Marketing Plan are eligible to this plan (date of recognition, date of submission of the draft plan to the competent authority or date of approval of the plan)?*

##### **Answer**

As regards the eligibility period of expenditures, the general rule is laid down in Article 65(2) of the Common Provisions Regulation: "*an expenditure shall be eligible for contribution from the ESI Funds if it has been incurred by and paid between the date of submission of the programme to the Commission or from 1 January 2014, whichever is earlier, and 31 December 2023.*"

With due respect to the general rule and within the period defined therein, the following specific rules apply for the measure on financing PMPs:

Article 66(2) of the EMFF provides that all expenditures related to a PMP (i.e. for its preparation and for its implementation) are eligible once the competent authorities have approved the related annual report.

Concretely, subject to this condition, in the case of a newly created PO, expenditures that were incurred for the preparation of a PMP prior to the recognition may be regarded as eligible under Article 68(1)(a) of the EMFF. Once a PO is recognised, expenditures incurred for the preparation of a duly approved PMP are eligible under Article 66(1) of the EMFF, whatever the date on which they were borne.

And all expenditures incurred for the implementation of a duly approved PMP are eligible provided the related chargeable event falls within the period of validity of the plan.



#### *2.4.5. Eligibility period of PMPs*

##### **Question**

*If Producer Organisations are submitting annual PMPs, is the financing of same to be made each year separately by the Member State or is it a once off payment?*

##### **Answer**

According to Article 66 of the EMFF regulation, payments to Producer Organisations related to the preparation and implementation of a PMP are made annually on condition that the annual report referred to in Article 28(5) of the CMO regulation is approved by the national competent authority, irrespective of the annual or multiannual character of the concerned plan.

##### **Question**

*Is expenditure on preparing and implementing PMPs eligible for reimbursement from 1 January 2014, if the national operational programme is only submitted and adopted in 2015?*

##### **Answer**

YES – this expenditure is eligible from 1 January 2014.

This is because POs have been required to draw up PMPs since 1 January 2014 and Member States must finance PMPs once they are approved by the competent national authorities.

However, Member States can only recover PMP-related expenditure once the competent national authority has approved the annual report on the PMP.

## Question

*Doesn't the requirement that EMFF support for a PMP be paid out on approval of the annual report conflict with Article 65(6) of the CPR (which states that operations completed or fully implemented before the beneficiary submits an application for funding are ineligible for support)?*

## Answer

NO – to ensure that expenditure on preparing and implementing a PMP can be financed under the EMFF, national authorities should allow an 'operation' (as defined in Article 2(9) of the CPR) to:

- start on 1 January 2014
- last until the end of the programming period
- consist of several projects lasting one year or more.

For each of these projects, the PO must produce an annual report (see Article 28(5) of the CMO Regulation).

The relevant EMFF managing authority should select suitable performance indicators (based on the number of projects completed) and milestones (for 2018) to be included in the 'performance framework' (table for monitoring progress on meeting operational programme objectives and targets).

## Question

*Can a Member State provide financial support for preparing or implementing a PMP in a given year, even if applications for support will not be submitted until the following year?*

## Answer

YES – they can grant an advance of 50% of the financial support for an approved PMP, regardless of when they submit or adopt their operational programme.

The EU will reimburse this advance to the Member State once the national authority has approved the annual report on the PMP and the Commission has approved that MSs' operational programme.

### 3. STORAGE MECHANISM AND STORAGE AID

#### 3.1. Trigger price and minimum price

##### Question

*Are POs allowed to apply minimum prices at the first sale of their members' products?*

##### Answer

NO - Although EU competition rules (Articles 101-106, Treaty on the Functioning of the European Union) apply to the production and marketing of fishery and aquaculture products, POs may be exempted from them in certain cases (Article 41(1) of the CMO regulation) provided that there is no "obligation to charge identical prices". So POs cannot oblige their members to observe a minimum price, and by extension cannot prevent them selling their products below a minimum price.

The trigger prices in Article 31 of the CMO regulation are intended only to activate the storage mechanism laid down in Article 30 of that regulation. POs making use of storage can receive financial aid under the EMFF. So the trigger prices are not regarded as minimum prices in terms of competition rules.

##### Question

*Can national authorities set different trigger prices for a given product category depending on the fishing area? Does each country have to set a single trigger price for a given species, or can the price be different in different NUTS zones?*

##### Answer

YES - For each species listed in Annex II of the CMO regulation, a country can set a single trigger price for its entire territory, or several prices (to take account of specific features of its regions).

However, this should not lead to the fragmentation of the internal market and must be controllable. Moreover, each trigger price must meet the criteria in Article 31 of the CMO regulation.

### **Question**

*Do conversion factors have to be used to determine the trigger price for each category of products (size, quality and presentation)?*

### **Answer**

NO - A country can fix different prices for each category of product, taking into account the Article 31 criteria. But to do so, they do not have to use the conversion factors used until the end of 2013 for fixing withdrawal prices.

### **Question**

*Will POs be able to apply a tolerance margin of  $\pm 10\%$  to the trigger price set in each country?*

### **Answer**

NO – there is no provision for this in the CMO regulation, so the prices set by the national authorities will apply for the relevant period.

### **Question**

*Are POs obliged to propose a price triggering the storage mechanism?*

### **Answer**

NO - POs are not obliged but may make a proposal for trigger prices. It is up to the competent national authority to take a final decision on the price triggering the storage aid.

## Question

*Can a country approve trigger prices without granting financial support for the storage mechanism from the EMFF? Can POs finance storage with their own resources and without public aid?*

## Answer

YES – to both questions.

Article 30 of CMO regulation sets the conditions for granting financial support for storage and, for that purpose, refers to the EMFF. Any country that wants to use the storage mechanism must set a trigger price, even if there is no public aid for storage – see Article 31(4) of the CMO regulation.

## Question

*Does the CMO regulation set a maximum level for trigger price?*

## Answer

YES – 80% of the weighted average price recorded for each product in the PO's area of activity. This can be adjusted (see Article 31(3)). It will be up to national authorities to set those prices, after consulting their PO.

## Question

*Does the CMO regulation lay down a minimum level for the trigger price?*

## Answer

NO.

### **Question**

*Can a PO buy products from its members at its own expense, at a price that is fixed in advance and has been made public? And can it then market those products for human consumption?*

### **Answer**

YES - But if the PO prevented its members from selling their products at a given price, that price would be regarded as a minimum price, and so in conflict with EU competition rules. Even if the prices are made public, this cannot justify setting minimum prices.

### **Question**

*Can a PO decide to use the storage mechanism at a lower price than the trigger price published by the national authorities?*

### **Answer**

YES - The trigger price set by national authorities determines the price level starting from which the storage mechanism can be resorted to. This means that POs can use the mechanism also after unsuccessful attempts to sell their products provided their market prices are lower or equal to the trigger prices.

### **Question**

*Can a PO choose not to use the storage mechanism if the market price is lower than the trigger price?*

### **Answer**

YES - POs may opt for placing the production of their members on the market also in case the market price is lower than the trigger price.

### **Question**

*Once a PO has used the storage mechanism, could it sell products below the trigger price?*

### **Answer**

YES - After storage, POs are free to sell the products reintroduced on the market at whatever price.

## **3.2. Eligible POs**

### **Question**

*Do national authorities have to specify in their operational programmes the names of individual fisheries POs and the amount of aid they will receive?*

### **Answer**

NO - At the programming stage, if a country plans to allocate resources to storage aid, it must state the share of its overall budget it will use for this aid.

This is enough to make possible related expenditures eligible for EU aid (under the EMFF regulation and the Common Provisions Regulation 1303/2013).

It is then up to the Commission to verify – on the basis of the payment requests submitted by each country – that amounts actually allocated to storage aid do not exceed the budget provided for each country.



### 3.3. Eligible products

#### Question

*Which are the products covered by storage aid and which POs may benefit from it?*

#### Answer

Storage mechanism is only available for fishery products listed under Annex II of CMO Regulation. Storage aid is therefore only available to recognised fishery POs.

#### Question

*Is there any specific procedure for triggering the mechanism in the case of chilled or frozen products?*

#### Answer

NO - The CMO regulation does not distinguish between fresh, chilled or frozen products that are eligible to storage aid. The possible methods for the stabilisation of the products are described in Article 30(d) and are applicable to all eligible products.

The technical costs to be taken into consideration for compensation are those costs incurred after the unsuccessful placing on the market of the products. Accordingly, costs incurred for storage operations that take place before first sale (such as on-board freezing) may not be included in the calculation of technical costs and may not benefit from the EMFF support to storage aid.

### Question

*How many attempts must a PO make to sell products in order to qualify for the storage mechanism? Is it enough to put a given batch of products on sale once only, without finding a buyer at the trigger price?*

### Answer

The CMO regulation does not specify the number of times a product must be put on sale. The condition is that the products must have been placed on the market without finding a buyer at the trigger price.

### Question

*Is a minimum volume of products needed to qualify for storage?*

### Answer

NO.

### Question

*To activate the storage mechanism, must a PO buy products from its members at the trigger price?*

### Answer

NO - There is no obligation for POs to buy their members' products when the trigger price is reached. They may do so, provided that they do not prevent their members from selling the products at a price that is lower than the trigger price.

### 3.4. Eligibility period

#### Question

*If fishery products are stored under the mechanism, does this mean that after storage they have to be placed on the market as a first sale?*

#### Answer

NO.

#### Question

*Is it possible to grant aid under the storage mechanism for quantities stored and released to the market in a given year if applications for support are submitted the following year?*

#### Answer

YES - POs may receive storage aid once the products are released for human consumption, regardless of when the application for aid is submitted, under two conditions:

- The Member State must foresee a share of its EMFF budget for storage aid in its operational programme, and
- The provisions of articles 30 and 31 of Regulation 1379/2013 are respected, in particular regarding the adoption and publication of trigger prices.

### 3.5. Payments and EMFF support

#### Question

*Are POs eligible for advances for storage aid?*

#### Answer

The EMFF reimburses expenditure incurred by beneficiaries in accordance with the relevant provisions of the CMO and the EMFF regulations. However, since storage aid under the EMFF can only be granted once the products stored are released for human consumption, POs can only receive advances for storage aid under national budgets.

### 3.6. Technical and financial costs

#### Question

*What type of technical and financial costs arising from storage and stabilising operations are eligible for support under Article 67(4) of the EMFF regulation?*

#### Answer

Technical costs are calculated on the basis of expenses related to labour, energy, transport and other operational costs arising from storage (i.e. live storage, freezing, salting, drying, marinating and boiling). It is up to individual national authorities to determine the costs to be assigned to each of these storage operations.

The national authorities add the financial costs – e.g. an amount resulting from the application of the national interest rate - to these technical costs.

### Question

*Should the technical costs and financial costs be fixed as two separate amounts?*

### Answer

YES - For clarity and transparency purposes, the description and justification of the methods used for calculating compensations under Article 67 of the EMFF should allow distinguishing the two components.

### Question

*Should national authorities calculate the technical costs for each species separately?*

### Answer

National authorities may determine the technical costs on the basis of one or more of the following criteria:

- type of stabilising operation (e.g. freezing)
- presentation (e.g. fillets)
- species.

### **Question**

*How are technical costs calculated?*

### **Answer**

It is up to each EU country to choose the most adequate method of calculation, on the basis of real costs or historical data, under the condition that it does not lead to any overcompensation.

### **Question**

*Should technical and financial costs be made publicly available ahead of providing the aid?*

### **Answer**

NO. EU countries have to make technical and financial costs public, but there is no obligation to do so prior to the actual granting of the aid. Prior publication of these costs would nonetheless contribute to providing more transparency, to the benefit of all market actors.

### **Question**

*Can Eurozone Member States use the interest rate set annually by ECB to calculate financial costs?*

### **Answer**

NO - The interest rate used for calculation of the financial costs must be the interest rate set annually in the Member State.