



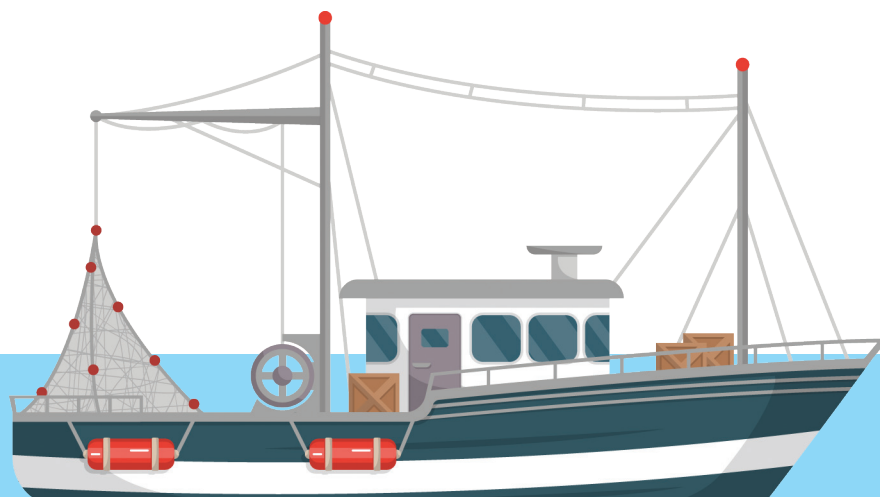
PRODUCTION & MARKETING PLANS GUIDELINES & GOOD PRACTICES

MARKET ADVISORY COUNCIL 2018 - REVISED 2022



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A / EXECUTIVE SUMMARY

The Market Advisory Council (MAC) is a stakeholder organisation composed of more than 60 members from 12 Member States.

Its main objective is to contribute to the development of the EU Market of fishery and aquaculture products. This objective is achieved by preparing and providing advice on subjects and issues related to the abovementioned topics on behalf of the whole value chain (primary producers - catching, aquaculture-, traders, exporters, importers to/from third countries, processors, wholesalers, distributors, retailers), and consumers as well as other interest groups affected by the CFP and CMO (environmental or development non-governmental organisations, consumer organisations, etc.) to the EU Institutions, including, as could not be otherwise, the European Parliament.

In this context, the MAC organised an event on the production and marketing plans (PMPs)¹ foreseen in the Common Markets Organisation (CMO)², Common Fisheries Policy (CFP)³ and supported by the European Maritime Fisheries Fund (EMFF)⁴. The event took place on the 27 September 2017 in Brussels and aimed at bringing together Member States (MS), Producer Organisations (POs), the European Commission (EC), relevant stakeholders and members of the MAC to build the basis, through discussion, of a set of guidelines and good practices in the implementation of the PMPs.

The above-mentioned guidelines are presented in this document, together with a brief overview of the nature of the PMPs and the conditions for their financing. The guidelines and good practices aim at facilitating the drafting and implementation of the PMPs, both by POs and competent authorities in the Member States. Since the first version of the guidelines were published, the EMFF has been replaced by the European Maritime, Fisheries and Aquaculture Fund (EMFAF)⁵ which is of relevance for the financing of the PMPs and the measures they contain.

The MAC hopes that these guidelines help in the drafting and implementation of the plans and assist, to the extent possible, in addressing the problems encountered since the entry into force of the CMO regulation.

¹ <https://marketac.eu/events/production-and-marketing-plans-pmps-september-2017-3/>

² Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products

³ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy

⁴ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund

⁵ Regulation (EU) 2021/1139 of the European Parliament and of the Council of 7 July 2021 establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004



B / PRODUCTION AND MARKETING PLANS: STRENGTHENING THE ROLE OF THE PO

INTRODUCTION

The 2013 reform of the CFP and the CMO resulted in an enhanced role for fisheries and aquaculture Producer Organisations in the development of a market-oriented approach to the activities of their members.

In this regard, article 28 of the CMO compels POs to elaborate production and marketing plans for at least their main marketed species. These plans, which have to be submitted to the competent national authorities for their approval, have the aim of achieving the objectives laid down in articles 3 and 7 of the CMO Regulation.

PMPs may cover a wide range of measures providing they correspond to PO's objectives and are thus a new central tool for the sector, with the involvement of Member States and the Commission, in implementing the CFP.

PMPs foster and support fishermen and fish farmers to implement the sustainable management of their activities and to channel more efficiently EU fisheries and aquaculture production to market requirements and take advantage of market opportunities.

The content, validation and decision on the level of funding to PMPs is a Member State competency: MS should approve the proposed PMPs and establish the level of financing. PMPs are framed within the EMF(A)F Operational Programmes prepared by the Member States, but as opposed to the EMFF, addressing the marketing dimension of fisheries and aquaculture activities is no longer mandatory. It is up to each Member State to decide whether it wishes to include it in its EMFAF OP.

In view of the above, the 2013 CFP has made POs the focal point in the value chain by developing modern markets and improving the marketing of fishery and aquaculture products through promotion in cooperation with the other members of the chain. The CMO has given POs the tools they need to plan the market of products, and EMFF provided the funds. The new EMFAF Regulation, by removing the mandate on PMP funding, risks increasing existing discrepancies between Member States on PO's funding and reduces the PO's capacity in fulfilling the objectives of the CFP and of the CMO.

STRUCTURE, FORMAT OF PMP

MANDATORY MEASURES

The CMO regulation is complemented by an implementing regulation⁶ concerning production and marketing plans. Together with these, the Commission released its Recommendations⁷ of 2014 intended to provide an extensive, but not exhaustive, list of possible measures which could serve as a common source of inspiration in the establishment of PMPs. The Recommendations aim at fostering a homogeneous implementation of PMPs, helping POs in reaching the objectives of the CMO providing examples of measures illustrating how they could concretely contribute to these, facilitating the monitoring of the PMPs and helping national authorities in assessing the implementation of the plans.

The implementing regulation foresees, in its ANNEX, five mandatory sections for all PMPs, namely:

1. general information on the PO;
2. a production programme for caught or farmed species and a global strategy to match the quantity, quality and presentation of supply to market requirements;

3. measures to be taken by the producer organisation in order to contribute to the objectives laid down in Article 7;
4. special anticipatory measures to adjust the supply of species which habitually present marketing difficulties during the year;
5. penalties applicable to members who infringe decisions adopted to implement the plan concerned.

The measures suggested regarding each one of these five sections are addressed in the Commission recommendation.

General information on the producer organisation

Including the turnover in the last three years, volume of catches and harvests and main marketed species.

Production programme and marketing strategy

The plan should include a production programme addressing among others a plan of production activities, coordination with other producers, management of fishing rights (if applicable) and

sustainable aquaculture practices (if applicable). The marketing strategy should address how the PO intends to ensure the adequacy of supply in terms of quality, quantity and presentation.

Measures to achieve the objectives laid down in article 7 of CMO Regulation

The list of suggested measures is extensive and comprises measures related to:

- promotion of sustainable fishing activities;
- avoidance and reduction of unwanted catches;
- contribution to the traceability of fishery products and access to clear and comprehensive information for consumers;
- contribution towards the elimination of IUU fishing practices;
- improvement of the conditions for the placing on the market of their members' fisheries products;
- improvement of economic returns;
- stabilisation of the markets;
- contribution to food supply and promotion of high food quality and safety standards, whilst contributing to employment in coastal and rural areas;
- reduction of environmental impact of fishing, including through measures to improve the selectivity of fishing gears, and any other actions improving the sustainability of fishing/farming operations;
- promotion of sustainable aquaculture activities;
- to ascertain that the activities of their members are consistent with the national strategic plans ;
- endeavouring to ensure that aquaculture feed products of fishery origin come from fisheries that are sustainably managed;
- improvement of the conditions for the placing on the market of their members' aquaculture products.

Measures to adjust the supply of certain species

Under this Section, the plans should include one or more of the following measures: identification of fishery products with marketing difficulties at certain periods of the year or development of dedicated production and marketing strategies and tools.

Penalties and control measures

These sanctions describe the penalties applicable to members for not complying with the plans. Some of the measures recommended are the development

of a system of proportionated sanctions, strategies for the enforcements of the rules adopted by the PO, training of observers and controllers and guidelines for the implementation of the plans.

OPTIONAL MEASURES

At the same time, the recommendation document also foresees three more sections to be included in the PMPs with the correspondent suggested measures.

Expenditures to be considered

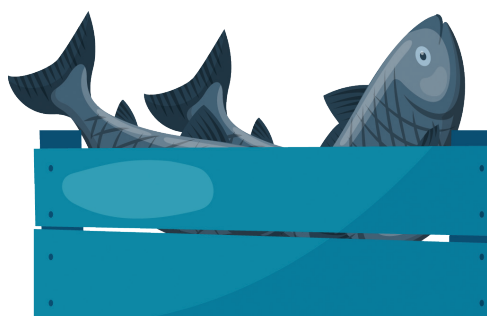
These include a financial plan detailing for each measure the different costs, expenditures and expected financial resources; project owner activities (all expenses necessary for the execution of the measures) including market studies, own or contracted personnel, assessment studies, project design, etc; project management activities (all expenses that are subcontracted) including expenditures for elements of the measures that are not properly linked to the project-owner activities (i.e. to the members' daily or routine activities).

Implementing schedule

The plans should contain a timetable of the planned measures and related expenses, broken down into yearly instalments for multiannual plans.

Indicators

The PMP should include Output indicators for the implementation of the planned measures and Result indicators for assessing the contribution of the measures deployed to achieving the objectives of the production and marketing plans.



⁶ Commission Implementing Regulation (EU) No 1418/2013 of 17 December 2013 concerning production and marketing plans

⁷ Commission Recommendation of 3 March 2014 on the establishment and implementation of the Production and Marketing Plans

ANNUAL REPORT REQUIREMENTS ASSESSMENT OF PMPS AND DEVELOPMENT OF QUANTIFIABLE CRITERIA

Effectiveness and actual implementation of measures included in the plans are monitored and reported through annual reports (article 28.5 of the CMO Regulation) that have to be approved by the national authorities.

The recommendations from the Commission include an extensive list of output and result indicators for each measure addressed in the plans, allowing the control of their implementation by both producer organisations and national authorities. These indicators seek to assess the level of achievement of the strategic objectives of the plans in relation to the initial situation described in the plan and identify possible shortcomings.

POs are free to derive from the list of indicators recommended or identify more appropriate indicators.

Expenditure related to production and marketing plans may be eligible for support from the EMF(A)F only after approval by the competent authorities in the Member State of the annual report, but it is important to stress here that the payments are not directly linked to achievements of targets. POs have an obligation regarding the means, but the actual achievements may be negatively impacted by external factors. Whether or not an AR reflects the realization of objectives through KPIs is not the criterion on the basis of which the PMPs will be funded.

MEMBER STATES REQUIREMENTS

The new EMFAF regulation no longer mandates Member States to integrate and support the market dimension of the fisheries policy in the elaboration of their EMFAF operational programmes (OPs). Each Member state, in its OP can choose to allocate the funds between four priorities:

- fostering sustainable fisheries and the restoration and conservation of aquatic biological resources;
- fostering sustainable aquaculture activities, and processing and marketing of fisheries and aquaculture products, thus contributing to food security in the Union;
- enabling a sustainable blue economy in coastal, island and inland areas, and fostering the development of fishing and aquaculture communities;
- strengthening international ocean governance and fostering the development of fishing and aquaculture communities.

If the Member State chooses to allocate some of its budget in priority 2 in its OP, through the specific objective dedicated to “promoting marketing, quality and added value of fishery and aquaculture products, as well as processing of those products”, it can finance PMPs.

Each PO selects for their plans the applicable useful measures available. The PMPs are then presented to the competent national authorities. A PMP should be presented eight weeks before expiry of the plan in place.

The content, validation and decision on the level of funding to PMPs is a Member State competency: MS should approve the proposed PMPs and ensure an appropriate level of financial support.

Member States are supported by the Commission in interpreting the regulatory framework.

DIFFERENCES BETWEEN FISHERIES AND AQUACULTURE PMPS

For the aquaculture sector, PMPs can also represent an essential element for the sustainable development of aquaculture in the EU. But as it happens with the fisheries plans, the aquaculture PMPs suffer the delays in the funding, which discourages companies to work together through their POs and puts the viability of the PMP at risk.

Aquaculture POs must pursue objectives related to the sustainability of the activities of their members, make sure that the activities of their members are consistent with the national multiannual national aquaculture strategic plans and ensure that aquaculture feed products of fishery origin come from fisheries that are sustainably managed.

FUNDING OF PMPs AND WHAT IS COVERED

EMF(A)F support covers all the actions planned for preparing and implementing the measures foreseen in the PMPs (Article 66 of the EMFF and Article 26 of the EMFAF).

The actions planned may take the form of:

- outsourcing and subcontracting;
- purchase of goods and services;
- hiring of staff.

After the planning and programming stage, the continuation of actions may be supported by the EMF(A)F through the implementation of marketing measures as well as certain other compatible provisions such as conservation measures.

Actions eligible to the PMPs are of a preparatory or pilot nature. A difference can be drawn between actions which fall under the objectives of planning production and management of activities, and those relating to the day-to-day operations of members of POs.

Expenditure related to production and marketing plans shall be eligible for a contribution from the EMF(A)F only after approval by the competent authorities in the

Member State of the annual report. 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. This 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.

A wide range of expenditures can be covered. The Commission recommendations provide many examples of measures that can be deployed to implement the objectives of PMPs. All costs incurred in order to implement these are potentially eligible.

For the PMPs supported by the EMFF, once their PMPs are approved, POs can immediately ask for an advance ranging between 50% and 100% of the expenditure budgeted for the implementation of the corresponding plan (over its first year in case of multiannual plan). 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 EMF(A)F regulation, they can put that measure in their PMPs.

TRANSNATIONAL DIMENSION OF POs AND THEIR ASSOCIATIONS

The CMO Regulation 1379/2013 includes the possibility for POs to be transnational. This option also exists for Associations of POs (APOs)⁸. Transnational POs are recognised and financed by individual Member States. The European Commission has provided guidance to Member States on the recognition of

transnational organisations under the CMO as well as on the establishment and support of their PMPs⁹.

⁸ On 24 May 2022, the MAC adopted advice to the European Commission on transnationality of fishery and aquaculture POs and IBOs: <https://marketac.eu/transnationality-of-fishery-and-aquaculture-producer-organisations-and-of-inter-branch-organisations/>

⁹ The guidance was issued in 2021: <https://marketac.eu/wp-content/uploads/2022/10/Letter-to-MTFAP-on-Transnational-organisations.docx.pdf>. It is also made available in the Annex.



C / GUIDELINES AND BEST PRACTICES IN DEVELOPING PMP

As stated above, the MAC organised an event on the PMPs on the 27 of September 2017. Participants included Member States, Producer Organisations, the European Commission and relevant stakeholders in an exchange of views of the implementation of the PMPs.

The original guidelines and best practices document was published in 2018. In 2022, four years after this document was published, the MAC has updated it to reflect the changes to the funding rules and to add, when necessary, new guidance.

The intention of this document remains the same: to outline the problems encountered in the implementation of the PMPs, particularly regarding their content and funding, and offer a basis to identify and share best practices among the relevant actors to avoid the deficiencies detected. POs with extensive experience on the matter have contributed widely with their learnt lessons during the process. Their contributions, together with the expertise of Member States and the Commission, have fed the guidelines proposed hereunder.

CONTENT AND FORMAT OF PMPs

The nature, diversity, size and operating environment of POs vary enormously throughout the EU. It is for this reason that a single format of the plans for all POs would not be adequate to allow POs to draw an efficient strategy taking into consideration their particularities. The content of the plans must be appropriate for the individual PO and reflect a specific operating environment.

The MAC proposes a tool box of voluntary measures, inspired in the tool box the [European Association of Fish Producers Organisations \(EAPo\)](#) drafted in 2013.

POs can choose from these measures and action items the ones that best suit their circumstances in producing and implementing their PMPs.

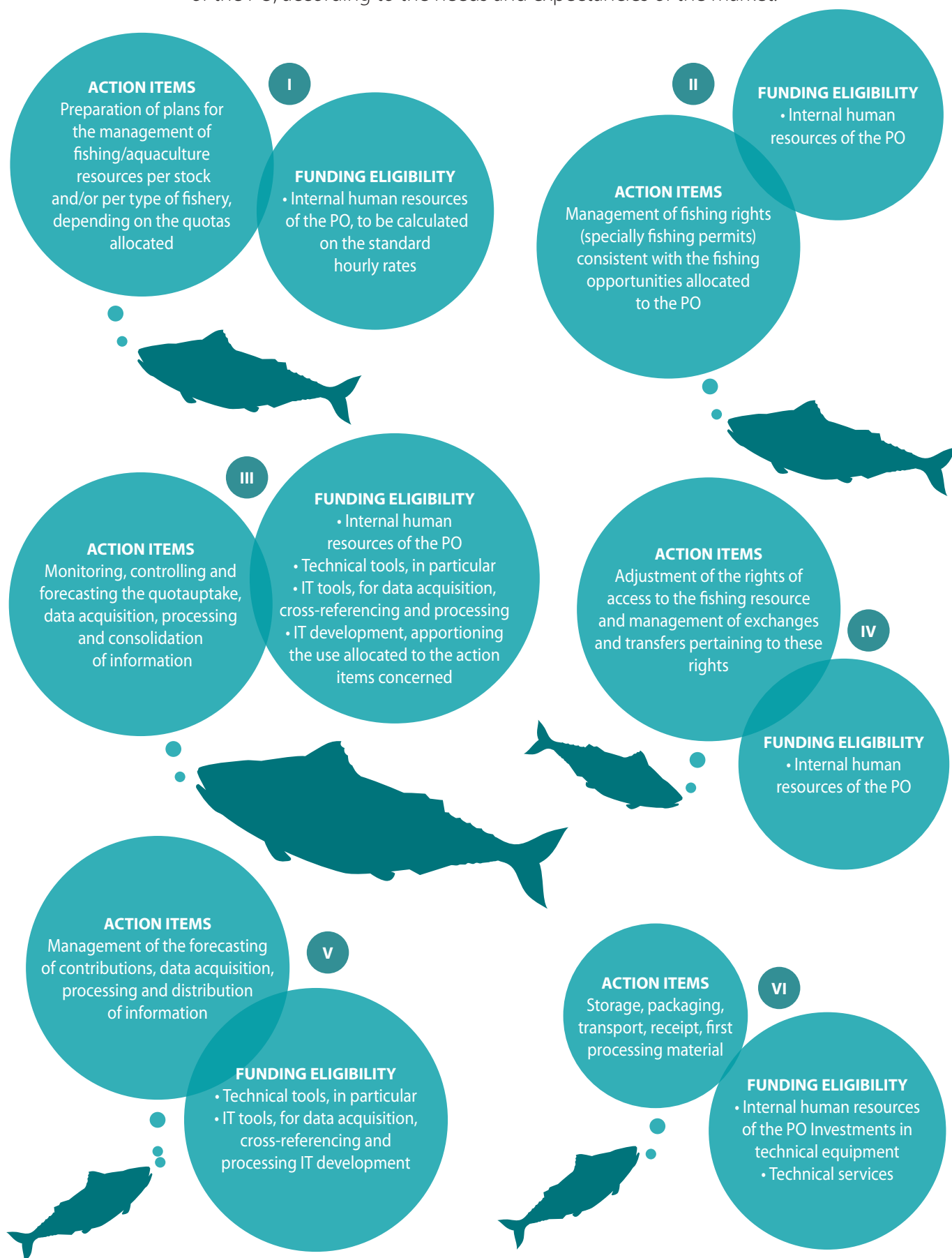
The measures are proposed notwithstanding the measures laid out on the Recommendations from the Commission. The relation between these measures (or the action items) and the mandatory objectives of the PO (articles 3 and 7 of the CMO Regulation) should be specified. POs must be able to demonstrate that each action is necessary for the achievement of one (or several) of these objectives.

THE MEASURES ARE DIVIDED IN EIGHT DIFFERENT AREAS

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|---|----|
| 1 / ACTIONS UNDERTAKEN WITH A VIEW TO PLANNING PRODUCTION | 9 |
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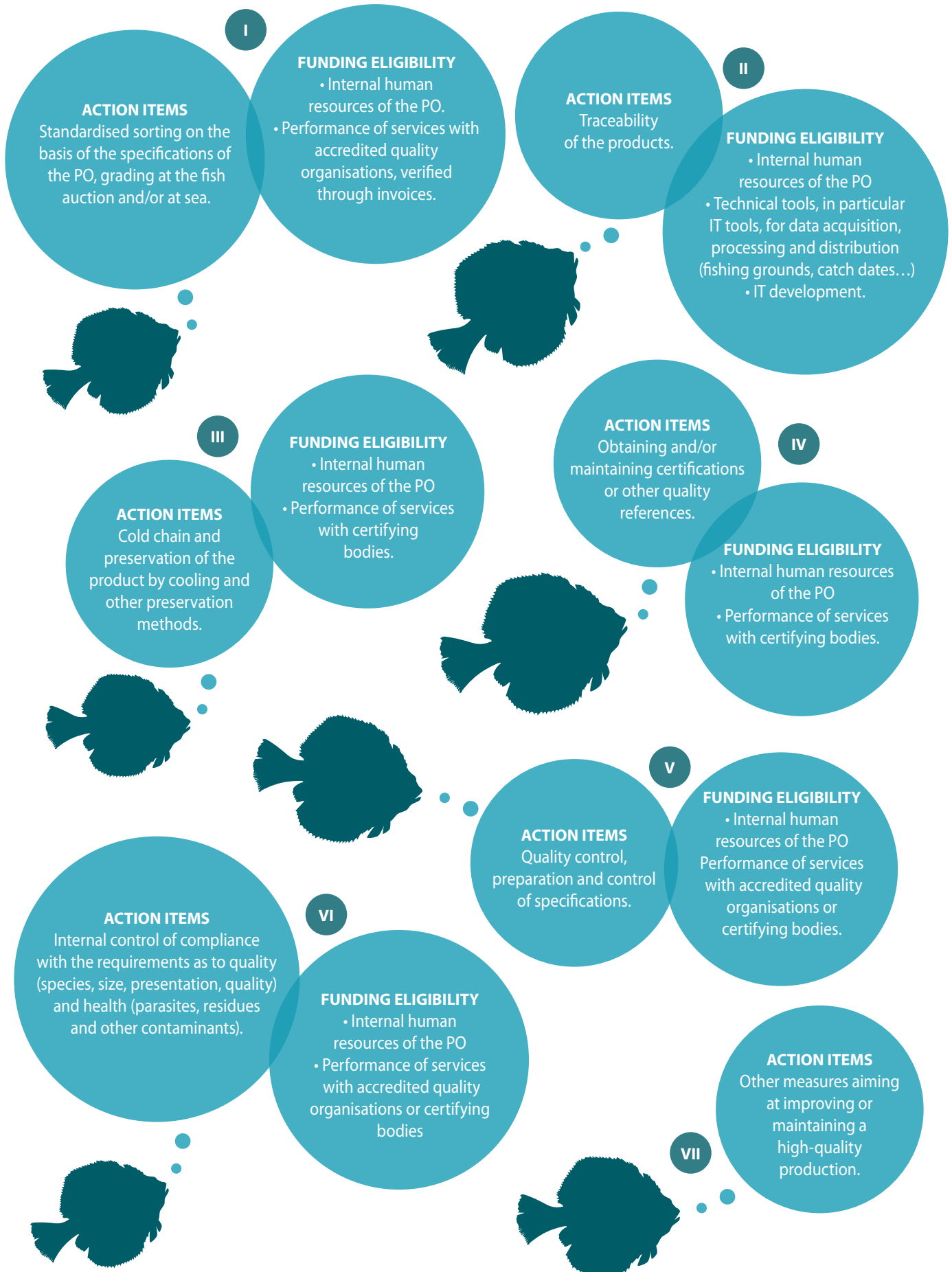
1. Actions undertaken with a view to planning production

These actions must be put in place taking into account the existing principles in each Member State respecting the role and the tasks delegated to the POs. Generally, the objective is to enable the POs to obtain expertise in the production of their members in order to achieve adequate and coherent production capacities and possibilities of access to the resources at the disposal of the PO, according to the needs and expectancies of the market.



2 / ACTIONS UNDERTAKEN WITH A VIEW TO MAINTAINING HIGH-QUALITY PRODUCTION

These actions aim at improving the quality and the traceability of the products from catch to first sale. The purpose is to guarantee collectively the required respect throughout the operations of standards or objectives that can be designated individually to each member vessel of the PO.



3 / MEASURES RELATING TO THE ENVIRONMENT

The actions covered under this headline must be adapted to the context of each PO, must be in respect of fishery matters concerned, operating areas used by the members, gears, etc.

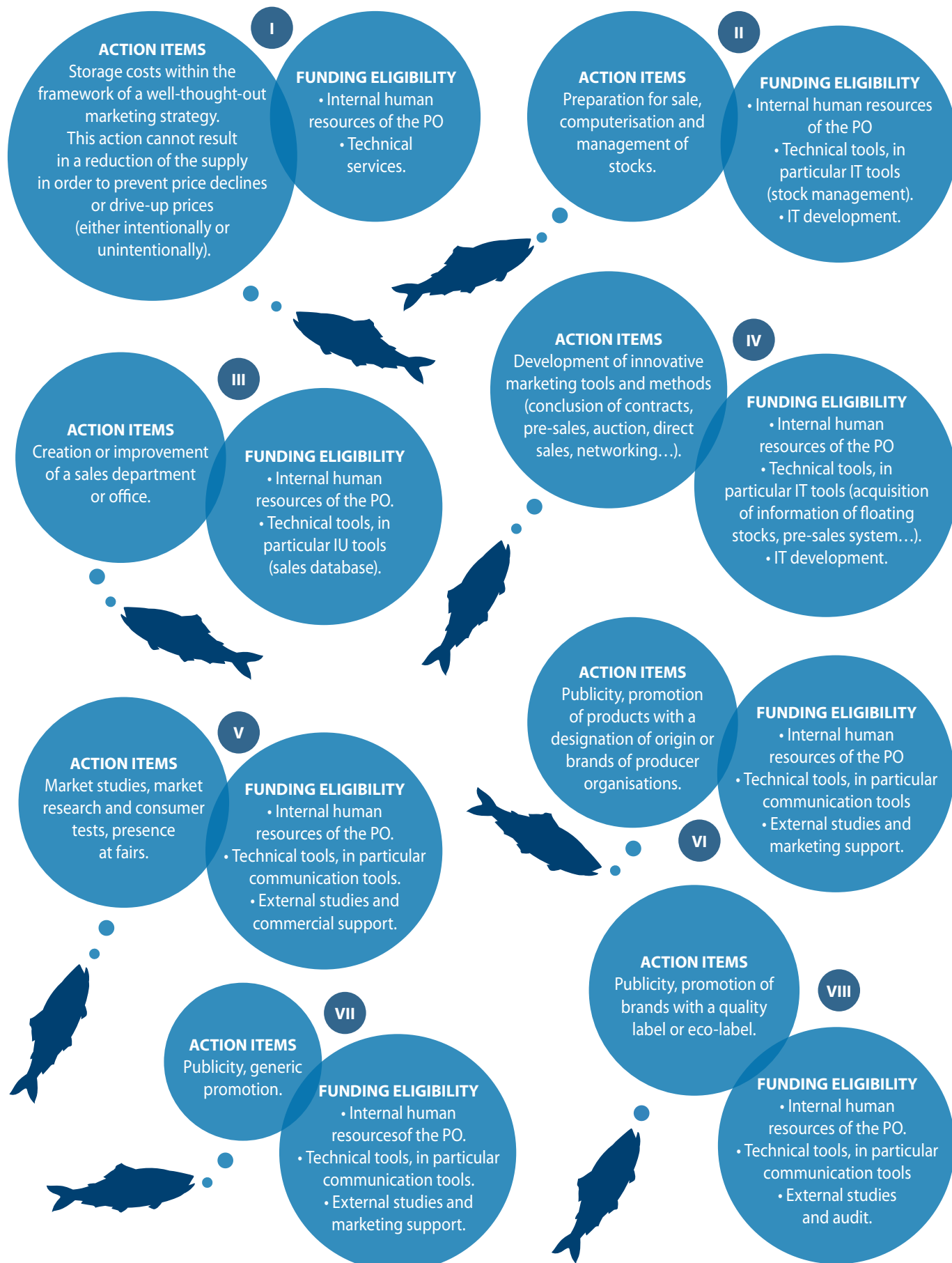
The objective is to allow an adequate management of direct and indirect impacts of the activity by the member vessels of the PO in order to sustain the resource and to maintain a good environmental status.

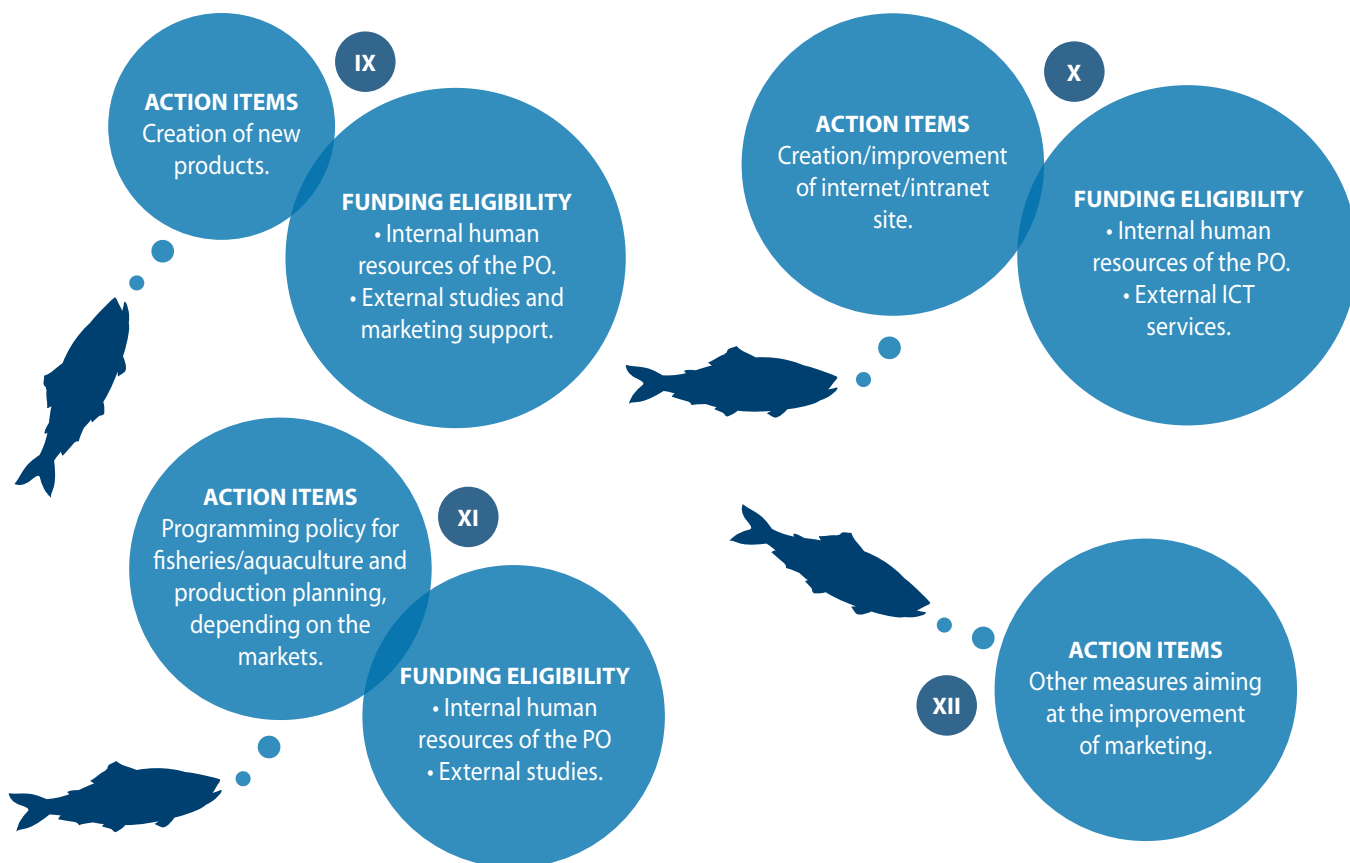


4 / ACTIONS RELATING TO THE IMPROVEMENT OF MARKETING

This chapter contains the actions aiming at knowledge and understanding of the market and at anticipating the market situation of the products landed by the PO members.

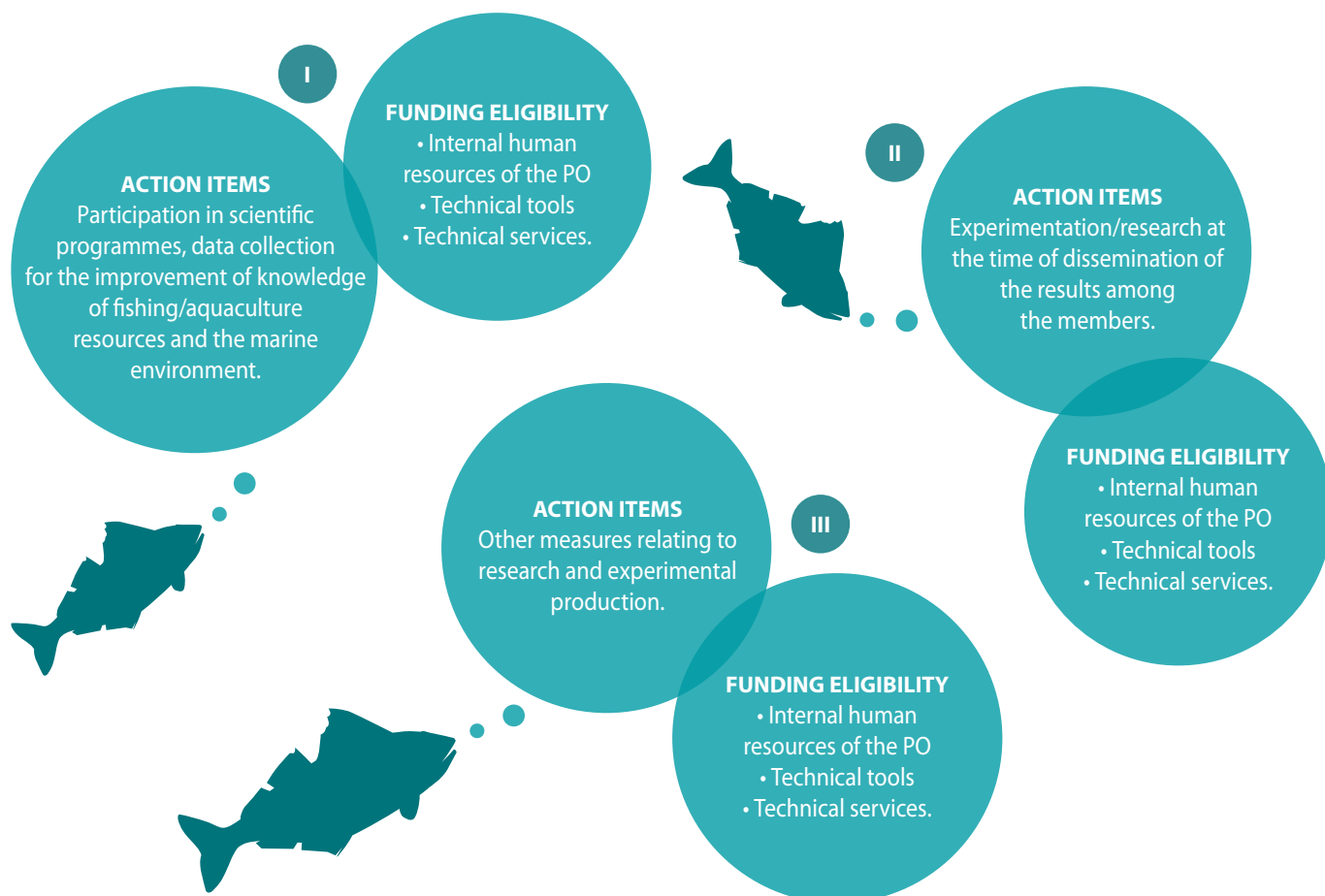
These actions prepare the commercial operations targeting a better positioning of the products based on the expectancies of the consumers.





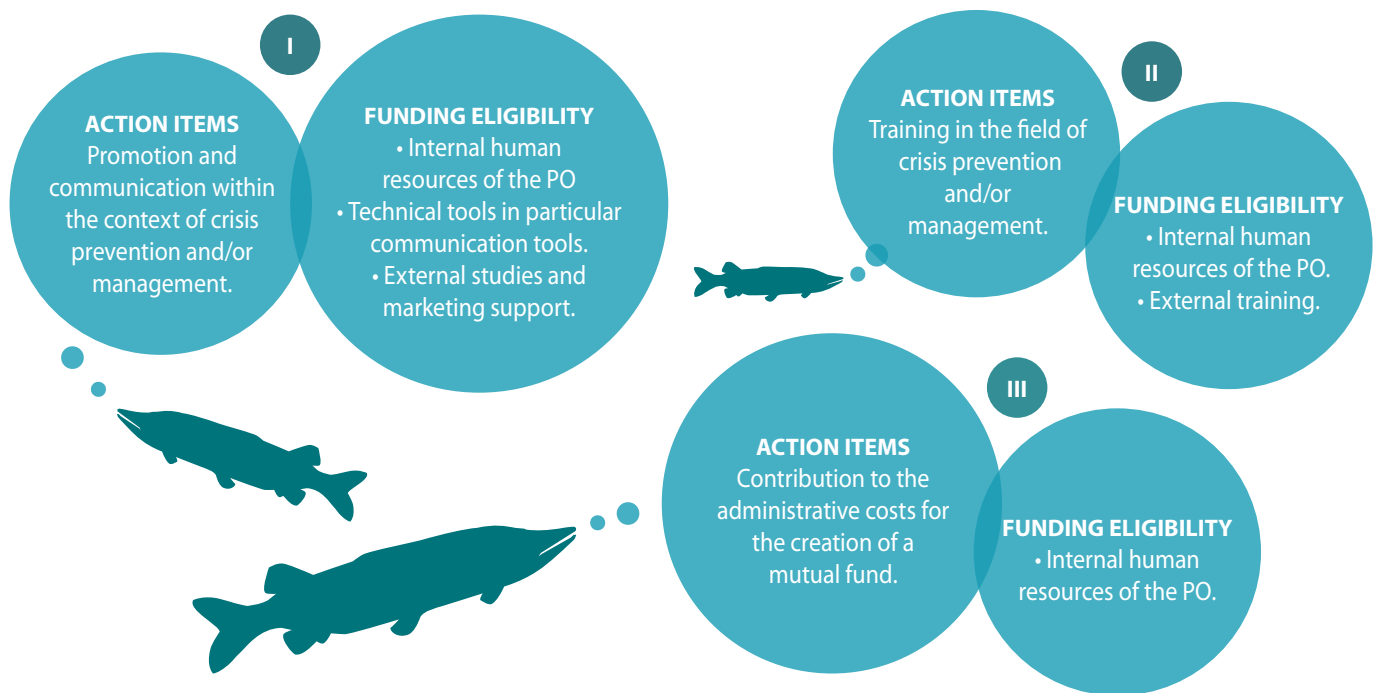
5 / MEASURES RELATING TO RESEARCH AND EXPERIMENTATION

The involvement of the fishermen in the technical and scientific programmes results in a sharing of knowledge and expertise and can complement the sampling and other research information. Such collaboration leads to decisions about more appropriate management measures.

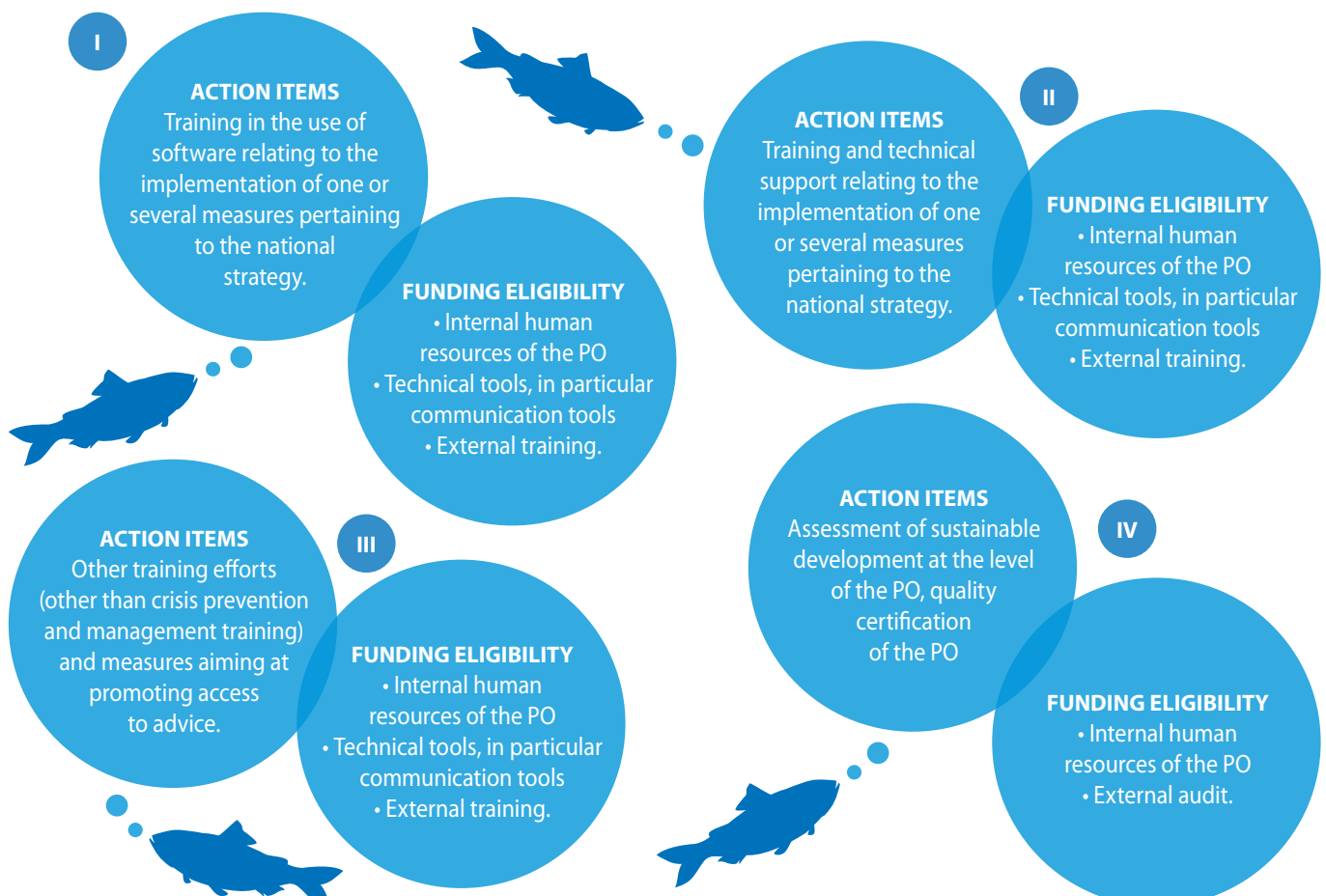


6 / MEASURES FOR THE PREVENTION AND MANAGEMENT OF CRISES

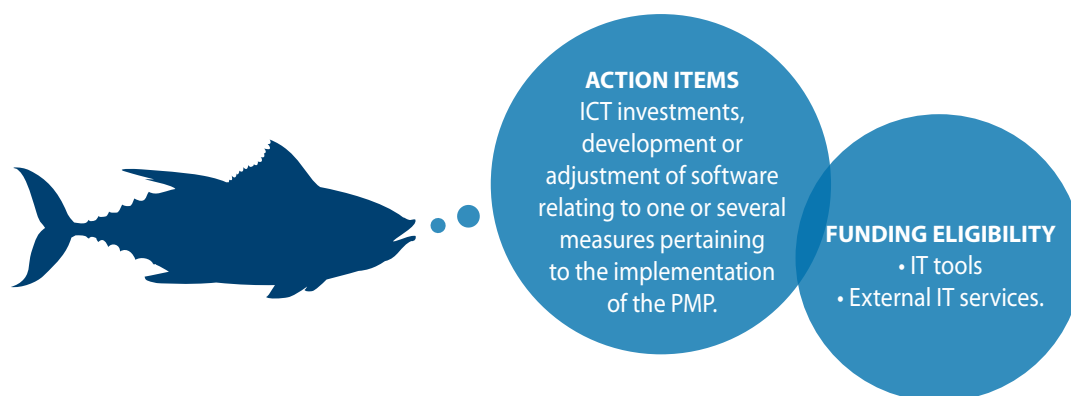
Fishery is a hunting activity and is as such subject to natural fluctuations. As the untreated product is highly perishable the balance between supply and demand is not always optimal. In case of cyclical weaknesses of the market or the hunting production, exceptional commercial operations can be activated in all levels of the value chain. Such activation should be planned and programmed before a crisis situation is appearing.



7 / TRAINING EFFORTS (other than crisis prevention and management training) and measures aiming at promotion access to advice.



8 / OTHER MEASURES



Together with these measures, and as an example for inspiration, the French POs have developed a set of measures common to all production and marketing plans. These could be addressed at POs discretion, together with the ones suggested above, and be established on a national basis depending on the needs of the POs.

MEASURES IN FAVOUR OF THE MANAGEMENT OF THE FISHERY RESOURCE

- Management of national and European fishing authorizations
- Control of declarative obligations of members (log sheets, fishing logs, declarations of landing).
- Monitoring of subscribers' consumption of sub-quotas allocated to the PO and sub-quota exchanges.
- Establishment of annual management plans for sub-quotas of sensitive species.
- Contribution to a better knowledge of the resource by providing data on species and fishing areas to scientific organizations.
- Search for selective devices (fishing techniques and gear), which capture marketable species and filter out unwanted species.
- Legal watch on developments in national and Community law on marine fisheries. Information of members by mail, website, meetings.

MEASURES DEVOTED TO MARKET MANAGEMENT AND RECOVERY OF CATCHES

- Implementation or improvement of an input forecasting device.
- Accompanying members in their certification and labelling process (MSC, Label Rouge) designed to enhance the value of certain species or to guarantee the quality and freshness of production (Filière Opale).
- Research of traditional commercial outlets in the direction of fishmongers' workshops, regional manufacturers for the production of soup or various processed fishery products, local restaurant owners via a charter. Research more innovative markets such as business restaurants, school canteens, animal nutrition or cosmetics.
- Promoting seafood products to the general public: participation of POs in thematic events, dissemination of leaflets informing about the seasonality of species, the origin of products and fishing techniques

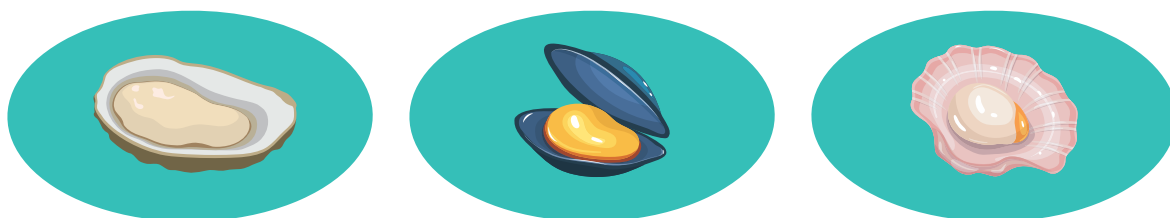
MEASURES RELATED TO ENVIRONMENTAL PROJECTS

- Monitoring projects related to marine protected areas and offshore wind turbines: the objective for the PO is to maintain fishing grounds that are both accessible to its fleet and in good ecological condition.
- Follow-up of research on ways to reduce the impact of fishing on the natural environment.

The measures included in the PMPs should adapt to the circumstances at the time. In this sense, the last PMPs drafted in 2017 include new measures such as those referring to Brexit costs, projects for developing code of conducts and apps aiming at facilitating the access of data for POs.

Key performance indicators are recommended in order to facilitate the evaluation of the implementation of the plan in the annual report. These indicators constitute a good practice that enables close monitoring of implementation and identification of shortcomings. The use of these indicators does not condition the financial support.

The MAC proposes a list of KPIs, based on the [ones proposed by EAPO](#). As it happens with the measures, POs should be free to pick and choose the appropriate KPIs.



MARKET RELATED ACTIVITIES

1. Production.
 - 1.1. Number of stock/fishery plans produced.
 - 1.2. Number of special licenses allocated.
 - 1.3. Number of quota transfers facilitated.
 - 1.4. Quantity Produced.
 - 1.4.1. Quantity produced from fisheries at or above MSY.
 - 1.4.2. Quantity produced from fisheries subject to analytical TAC.
 - 1.4.3. Quantity produced from certified product.
 - 1.4.3.1. Environmental certification.
 - 1.4.3.2. Quality certification.
 - 1.4.4. Quantity produced chilled.
 - 1.4.5. Quantity produced frozen.
 - 1.4.6. Quantity produced with other preservation measures.
 - 1.5. Quantity of production subject to intervention (%).
 - 1.6. Number of actions directly influencing production planning.

MARKET CONFIDENCE AND INFORMATION

- 2.1. Number of fisheries in assessment for or holding certification.
- 2.2. Number of fisheries involved in fisheries improvement projects.
- 2.3. Number of fully documented fisheries.
- 2.4. Number of market events or studies.
- 2.5. Number of generic promotions.
- 2.6. Number of promotions of product with a quality or eco-label.
- 2.7. Number of promotions of products with designation of origin or PO brand.

FUNDING OF PMPS

In the previous iteration of PMP funding, the EMFF presented several difficulties in its implementation process:

- The late adoption of the 2014-2020 MFF;
- The late agreement on the EMFF regulatory framework;
- The late approval of Operational Programmes ;
- The delay by the Member States in the instrumentation of the EMFF measures.

It is important to ensure that the implementation of the EMFAF will not be as difficult as for the EMFF. The EMFAF Regulation was approved on 7 of July 2021, and, as of September 2022, only four Member States' Operational Programs have been approved by the Commission (Croatia, France, Austria, and Sweden). The late adoption of EMFAF and of each Member State OP is a problem this time as well, resulting in uncertainties and

disrupted activities for European POs. Member States must ensure that the complex rules and administrative requirements linked to the poor implementation of EMFF will not be the same hindering the EMFAF implementation process.

It seems obvious the importance of receiving funds on time or in sufficient quantity to ensure compliance with the obligations laid out in the CFP and CMO. All these inconveniences also prevent the sector from requesting these financial resources, which may lead to policy makers questioning the need for such funds.

Regarding funding of PMPs, the MAC approved an opinion to the Commission on post-2020 EU funding for fisheries and maritime sectors¹⁰ that could be useful to understand the whole picture on the deficiencies of the implementation of the EMFF.

GOOD PRACTICES

POs have encountered important difficulties while drafting and implementing their PMPs. Based on these, the MAC has selected the following good practices in order to avoid them:

1 / SIMPLIFICATION

Simplification on the administrative processes to draft the PMPs is needed, together with the simplification of costs reflected in the plans. The French example could be leading the way in this regard. The streamlining of the plans and annual reports respond to three objectives, namely

- Give better visibility to the measures presented by the PO
- Establish definitions of expected results for the measure, followed by an evaluation of that result in the annual report
- Develop less detailed documents that will ultimately reduce the work of POs and administration

Adequate templates should be drawn up for mandatory measures in order to facilitate the drafting of the plans.

2 / LINK BETWEEN MEASURES AND OBJECTIVES

Result indicators are highly recommended in order to be able to evaluate the implementation of the plan in the annual report. A PMP cannot be reduced to a strategic document: its implementation is fundamental. Performance criteria or indicators would facilitate the draft of the annual report. As stressed before, the inclusion of these indicators does not involve any financial consequence in case of not reaching the objectives.

3 / HARMONIZATION IN DRAFTING PMPS

Although PMPs should adapt to the needs and objectives of all POs, the difference in content and extent of the plans among POs/MS is considerable. The "one size fits all" approach should not apply given the huge differences between POs and precisely because of these differences; guidance at regional level is advisable.

However, taking into account all of the stated above and the guidelines proposed here, a common ground could be found in order to standardize the requirements and red tape applicable to all POs in all MS.

4 / BOTTOM-UP APPROACH

PMPs should follow a bottom-up approach as POs know best what to do, which measures to include and how to achieve their objectives based on their particular circumstances and conditions.

5 / FOLLOW COMMISSION RECOMMENDATIONS

These foster a homogeneous implementation of PMPs, help POs in reaching the objectives of the CMO providing examples of measures illustrating how they could concretely contribute to these, facilitate the monitoring of the PMPs and help national authorities in assessing the implementation of the plans.

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¹⁰ <https://marketac.eu/emff-proposal/>

Promoted already in some countries, online platforms are a useful tool to access all documentation related to PMPs, to improve operational coordination with authorities, to access information related to POs and PMPs and to improve the management of the financial aid.

At the same time, the European Commission should establish an online database for POs at European level with information on the evolution of the number of POs, valid contact details, and representativeness (number and type/sector of members, fleet size, production capacity for aquaculture, volume and value of production, implementing measures approved by Member States, and other relevant information). At present, the Commission has made publicly available a list of POs¹¹.

7 / FINANCIAL SUPPORT

On the one hand, the EMF(A)F should ensure the continuity of the financial support improving the implementation of the fund and build on the inadequacies of the EMFF to ensure a smoother implementation. In this regard, delays in adoption of the Regulation, funding, and drafting and approval of OP should be addressed. Finally, now more than ever, it is essential that all Member States include in their OP the same level of funding to allow for consistency across all EU POs.

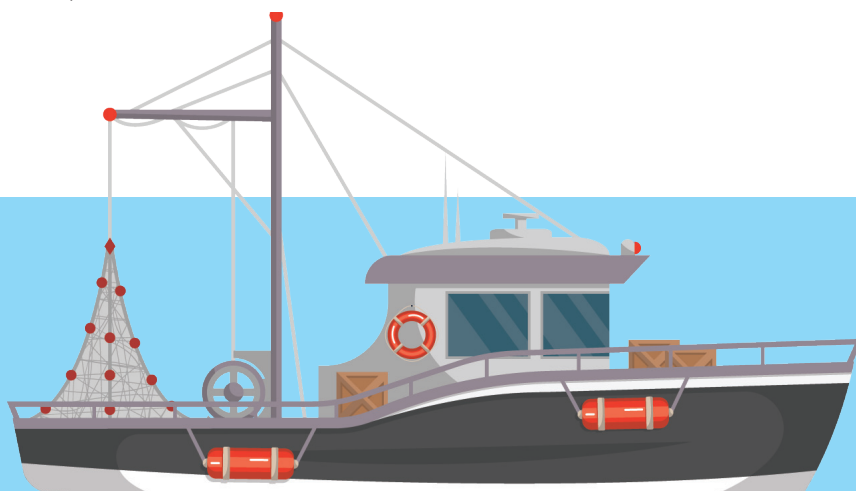
It is also significant for controlling bodies or auditors at national level to become aware that expenditures are eligible according to their destination (i.e., necessary to reach an objective) and not according to their nature. Understanding this would decrease the fear of a possible correction, which has slowed down the implementation previously.

On the other hand, it is advisable to mention, in the plans, other resources or projects (including Articles 66 and 26 support, other EMF(A)F support, self-funded actions), linking objectives and the respective articles of the EMF(A)F, as this inclusion does not imply an approval of those resources or projects but help in having a full picture of the funding of the plan.

8 / SHARED EXPERIENCE

To ensure the effectiveness of the exercise of reflecting on lessons learnt during the whole process of implementing PMPs, it is fundamental that the word is spread. The identification of good practices should be followed by a widespread dissemination among stakeholders. It is therefore advisable to encourage pedagogy, exchanges and experience-sharing between actors at national and transnational level. It is therefore advisable to encourage pedagogy, exchanges and experience-sharing between actors at national and transnational level.

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¹¹ <https://marketac.eu/events/production-and-marketing-plans-pmps-september-2017-3/2017/1004>



1/RECOGNITION OF TRANSNATIONAL ORGANISATIONS

In 2013, the reform of the CMO regulation introduced the possibility to recognise professional organisations (i.e. producer organisations (POs), associations of producer organisations (APOs) and inter-branch organisations (IBOs) with a transnational area of activity. When notifying the Commission on their decision to grant recognition, Member States are required to specify the “Area of activity” of any organisation seeking recognition, in accordance with the format laid down in Annex II of the Implementing Regulation (EC) No 1419/2013. Member States can either classify an organisation as T (transnational) or N (national).

The Member State responsible for the recognition of the transnational organisation is the one where the organisation has a legal personality under the law of that Member State, is established and has its official headquarters (art. 14 of the CMO regulation). The Member State where the transnational producer organisation (or association thereof) is recognised is also responsible for the approval of its production and marketing plan (PMP) (art. 28 of the CMO regulation).

The CMO does not provide a definition of the transnational area of activity. For instance, the transnational character could be established on the basis of:

- the countries in which the members are registered (i.e. member’s legal entity);
- the countries in which the members/producers are nationals;
- the countries of the flag of the vessels of the members (for fishery POs);
- the countries where the production units of the members of the PO are based (for aquaculture POs).

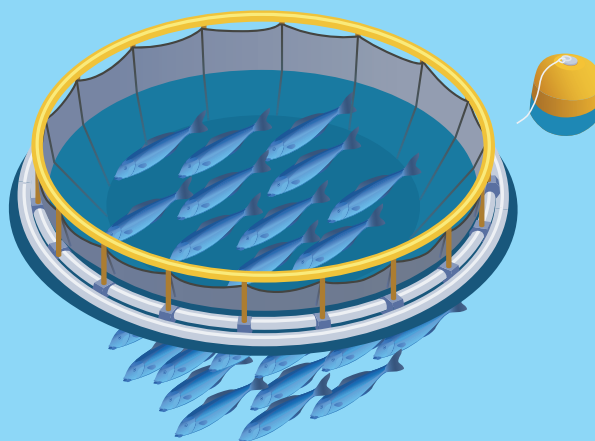
The Pilot Project has identified the following cases of multinational membership within existing CMO-recognised organisations:

- Fishery POs including members with vessels under other Member States flags as well as their own Member State;
- Fishery POs including member vessel-owners from other Member States and all vessel flags under the PO’s Member State;
- Fishery POs including member vessel-owners from other Member States with vessels under other Member States flags.

Each Member State may decide to provide a definition of transnational organisations in their national legal framework, as long as the latter does not contradict the provisions of the CMO Regulation or EU legislation in general. For APOs, article 9 of the CMO clearly states that a transnational APO is one where the POs that are members of the APO have been recognised in two or more Member States. Thus, the transnational status should be assigned by looking at the countries of recognition of the members.

Besides, Member States may adopt specific provisions in their national law to implement articles 14 and 16 of the CMO Regulation (e.g. criteria of sufficient economic activity) for the specific case of transnational organisations. By default, the same provisions apply to both national and transnational organisations.

¹² The annex duplicates the guidance on the recognition of transnational organisations under the CMO and the establishment and support of their production and marketing plans, which was part of a letter from MARE A4 to representatives of the Markets and Trade Expert Group (28 January 2021). The full letter is available here: <https://marketac.eu/wp-content/uploads/2022/10/Letter-to-MTFAP-on-Transnational-organisations.docx.pdf>.



2/COOPERATION WITH OTHER MEMBER STATES CONCERNED

Article 18(2) of the CMO Regulation states that the competent authorities of the Member State hosting the transnational organisation is responsible for the set-up of the administrative cooperation needed to “carry out checks on the activities of the organisation or association concerned in collaboration with the other Member States concerned” (i.e. the national competent authorities of the foreign members of the transnational association).

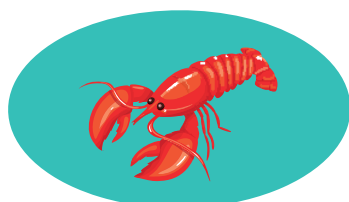
The CMO Regulation does not provide any rule on the framework and the implementation of this cooperation. It is up to the Member State to decide how to proceed. The Member State shall formally inform the competent authorities of the other concerned Member States and might ask them information on the foreign members during the process of checks. Conversely, if a Member State is invited by other national competent authorities for the checks of members of a transnational organisation on its territory, this Member State should cooperate and provide the requested information.

There is no legal obligation to set-up these administrative arrangements at the stage of the recognition, although

it would be advisable, in particular if the intention is to have concerned Member States financing the transnational organisation through EMF(A)F support.

As far as PMPs are concerned, the principles and obligations to which T-(A)POs must subscribe are exactly those applicable to national POs. Accordingly, it is the responsibility of the competent authorities of the host Member State to approve the PMPs and related annual activity reports (art.28(5) of the CMO regulation) as well as to carry-out the checks it considers necessary to verify that POs recognised on its territory comply with PMPs’ related obligations (art.28(7) of the CMO regulation). To that end, concerned Member State must integrate these checks in the administrative cooperation framework established in accordance with the requirements of art.18.2 of the CMO regulation.

In order to carry-out these checks, you may find useful to refer to the EC guidance document on the implementation of Chapter II “Professional Organisations” of Regulation (EU) No 1379/2013 (SWD(2016) 113 final).



3/FINANCIAL SUPPORT TO TRANSNATIONAL (ASSOCIATION OF) PRODUCER ORGANISATIONS

This section focuses on the financing of production and marketing plans established by T- (A)POs. The principles can however be applied to all operations funded under the EMF(A)F to the benefit of these organisations (such as the creation and restructuring¹³ of POs), as well as to inter-branch organisations.

3.1 GENERAL PRINCIPLES

The EMFF supports the preparation and implementation of the PMPs. Support to this measure is mandatory: the EMFF “shall support...” (art.66 of the EMFF). There is no minimum amount set for the financial support. The total support (EMFF + MS) may not exceed 12% of the average annual value of products put on the market by (members of) POs over a reference period. Support

of PMPs under the EMFF is possible until 2022 on conditions that all related actions are implemented and paid by 31 December 2023.

The EMFAF¹⁴ does not provide for the financing obligation nor any upper limits in the support. However, all obligations applicable to POs ensuing from the CMO regulation remain in force. It is therefore important that Member States ensure continuity in the support to their POs. Support to PMPs under the EMFAF is possible from January 2021. This means that managing authorities may choose between EMFF and EMFAF to support their POs’s PMPs for the 2021 and 2022 fishing years.

To support its POs’ PMPs, a Member State must

specifically plan it in the Operational Programme it submits under the EMFF or the EMFAF. This is enough to make possible related expenditures eligible for EU aid. The corresponding operations will be subsequently selected according to the national selection criteria established by the Member State.

3.2 SPECIFIC CASE OF T-(A)POS

The support to a T-(A)POs' PMPs follows the same logic as for national organisations: mandatory under the EMFF and possible under the EMFAF. The difficulty results from the fact that this logic implies that a Member State would finance the PMP of a T-(A)PO which members are nationals of one or several other Member States. This is allowed but could legitimately be difficult to accept (the EMFF and EMFAF being closed envelopes, funds allocated to foreign beneficiaries would come in deduction to funds allocated to national ones).

Therefore, it may be legitimate to expect other concerned Member States to pay their fair share of the support in case national producers or POs are members of a PO or of an APO recognised in another Member State. However, methods and conditions to do so are not explicitly laid down in the legal bases.

The first requirement is that Member State earmark amounts in their national EMF(A)F programmes destined to the support of POs' PMPs.

From there, Member States are entitled to support operations that take place outside the programme area, provided they comply with the conditions set by art.70 of the CPR (R(EU) No 1303/2013). Concretely, this would be the path forward for a Member State which intends to support the PMP of a T-(A)PO located in a

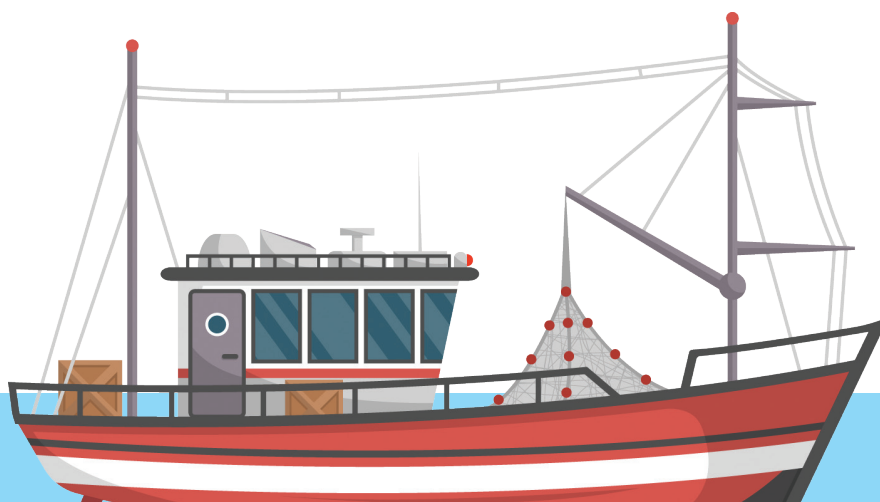
third Member State, and which consists of national producers or national POs. In this case, the operation (the PMP) could be considered to be "for the benefit of the programme area" as stipulated by art.70.2(a) of the CPR (all other conditions of that article would normally be fulfilled).

Nevertheless, no formal mechanism establishes the conditions for an even distribution of the financial support over the concerned Member States. To overcome this weakness, DG MARE would recommend establishing an information sharing framework within the administrative cooperation framework established in compliance with art.18.2 of the CMO regulation. By doing so, concerned Member States could be consulted by the competent authorities of the home Member State of the T-(A)PO on the content of the draft PMP as well as on the extent to which they will financially support the preparation and implementation of the PMP. Member States are invited to commonly decide in that framework on the most appropriate distribution key. Possible sharing criteria can be based for example on the relative weight of national producers or POs in the T-(A)POs, the share in the total value of production of members, share in the amount of vessels, etc. The concerned (A)POs may be consulted in this process.

As far as the new programming period is concerned, this framework should be included in the section on "the interregional and transnational actions with beneficiaries located in at least one other Member State" in the EMFAF programme template.

¹³ The support to the restructuring of POs is only possible under the EMFAF.

¹⁴ At the date of this letter





DISCLAIMER • This document intends to reflect solely the opinion of the Market Advisory Council.

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