



Advice

2022 Report on the Functioning of the Common Market Organisation (CMO)

Brussels, 30 March 2022

1. Background

The common organisation of the markets in fishery and aquaculture products was created to provide market stability and to guarantee a fair income for producers. Under Article 48 of the CMO Regulation¹, the Commission must provide a report on the results of its application by 31 December 2022. The CMO report will be elaborated and delivered in parallel with a report on the functioning of the CFP.

The objective of the CMO report is to take stock on the implementation of the CMO Regulation and its legal provisions, such as provisions on professional organisations, compulsory marketing standards, information to consumers, the implementation of competition rules, and the collection of common market intelligence. The report will be based on different evidence, including opinions and recommendations of the MAC.

On 17 December 2021, the Commission launched a targeted consultation² on the 2022 report on the functioning of the Common Market Organisation (CMO). The deadline was 14 March 2022. The aim is to build an overview of the stakeholder's main sources of concern and gather information on specific topics, including on professional organisations, consumer information, competition rules, and market intelligence.

¹ [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](#)

² <https://ec.europa.eu/eusurvey/runner/TargetedConsultation2022ReportCMO>

I – General aspects – overall progress made on the CMO objectives

1. What marketing measures from the CMO Regulation work well and have helped achieve the CFP objectives?

In terms of objectives, it is important to highlight the positive contribution of the CMO Regulation to achieving the objectives of the CFP, particularly the proper functioning of fisheries and aquaculture activities, while observing long-term sustainability, through proper exploitation of marine biological resources and the reduction of unwanted catches. Measures/objectives that worked particularly well include: enabling the fishery and aquaculture industry to apply the CFP at the appropriate level, strengthen the competitiveness of the Union capture fishery sector, improving the transparency and stability of the markets, and contributing to ensuring that consumers have a diverse supply of fishery and aquaculture products.

The CMO Regulation provides a framework for certain derogations from the competition rules, which makes it possible to guide the markets, particularly during the first sale as well as to reduce production in POs if first sales price drops below a threshold. In some cases, marketing standards provide uniform visibility of product diversity, contributing to transparency in the EU market through the imposing minimum classifications. The standards, including those for canned products, that have contributed most to achieving the objectives of the CFP are those related to marketing some species, such as on quality, size, weight, packaging, presentation, and labelling, irrespective of the origin of the product, contributing to fair competition practices in the EU internal market and provide affordable fishery and aquaculture products to the EU consumer.

EU fishers are confident that the tools conferred to POs within the framework of the CMO Regulation, and especially the Production and Marketing Plans, have made it possible to better organise the structuring of fish supplies, in order to increase fishers' and fish farmers' incomes. Thanks to the dual competencies, which are generally provided, the quotas management, and

the objective of optimal use, the actions of POs are considered to be helpful in order to achieve the objectives of the CPF, by integrating the three pillars of sustainability.

2. What are the main successes and challenges in implementing the CMO?

The main success in implementing the CMO is the contribution to competitiveness inside the EU market, through a common legislative framework, governed by the same standards, thus improving exports and imports. The contribution to better consumer information and market transparency (through the establishment of EUMOFA) are also successes. Nevertheless, it remains a challenge to ensure the coverage of all relevant fisheries and aquaculture products, guaranteeing the same requirements for all market operators. It is also important to highlight the following topics:

- **Aquaculture:** The aquaculture sector is an integral part of the CMO, but the Regulation was developed mainly from the perspective of capture fishing activities. As an example, for aquaculture, pre-harvesting activities are as important or more than post-harvesting activities when considering food safety, food security, marketing and added value. Communicating and informing on pre-harvesting practices of aquaculture products when placing them in the single market is essential for the success of the CMO. Furthermore, aquaculture producers argue that hardly any of the CMO marketing measures can be considered to be working well for them, even though some POs and IBOs³ have been able to undertake interesting actions connected to communication and promotion.

³ According to data available from the EC, in 2021, more than 210 POs were recognised by EU countries under common EU-wide rules. Out of the 210 POs, only 34 are related to aquaculture (16%), demonstrating a low uptake from the aquaculture sector. More specifically, 12% (26 POs) of the total recognised POs represented finfish aquaculture (marine and fresh water), and almost 4% (8 POs) represented shellfish producers. The mentioned data is available on the Commission's website: https://ec.europa.eu/oceans-and-fisheries/fisheries/markets-and-trade/seafood-markets_en#ecl-inpage-40. The Aquaculture Advisory Council (AAC) adopted advice on "the role of Producers' Organisations in the Sustainable Development of Aquaculture" in December 2021.

- **Processing and trading:** It is remarkable that Article 35 of the CFP outlines the objectives of the CMO and focuses on sustainable fishing, but does not consider the value chain beyond the primary production, ignoring the importance of processing, trading, and retail in the seafood sector. The CMO is set up with a focus on producers, while it is necessary to account that: market supply has become much more global, the market has increased over the years, while EU fishers did not have possibility to increase their quotas, so the percentage of EU supply declined. Therefore, the CMO is of limited relevance to influence the processing and trade, since the approach is producer driven and not market driven.
- **EU-level federations:** The EU market has a very significant composition of micro and small undertakings, which are then structured through national (or regional) associations (or POs). These associations and POs are very important to the competitiveness of the sector, particularly on issues of environment, food safety, animal welfare, marketing intelligence, and workers training. Establishing and maintaining EU federations can be quite challenging for small companies, particularly accounting for the need of high professionalisation and specialisation in different topics (legal, food safety, environment, among others). Yet, neither the CMO, nor the EMFF/EMFAF provide recognition or economic support to EU-level federations. Funding for EU-level federations should not imply a reduction of support to other associations.
- **Non-recognised organisations:** In the view of the Spanish Fishermen Guilds (“Cofradías de Pescadores”), in line with points 5 and 10 of the preamble of Directive (EU) 2019/6334, in the implementation of the Farm to Fork Strategy initiatives, besides support for recognised organisations, support should be extended to other organisations that contribute effectively to the management of production and to the marketing of their

⁴ [Directive \(EU\) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain](#)

members' fishery products⁵. Funding for a greater number of organisations should not imply a reduction for organisations currently supported.

- EU Promotion Policy: The European Commission should ensure that the EU promotion programme for agricultural and food products adequately covers fishery and aquaculture products, including through facilitated access to the programme to fishery and aquaculture products operators and increased support for SMEs⁶.
- Production and Marketing Plans: The transition from the traditional work programmes of POs into full-fledged PMPs, including addressing all aspects of Article 15 of the CFP on the landing obligation, remains a challenge.
- Digitalisation of the management of the fishing sector: The modernisation of working methods and logistics can be challenging for operators. Unlike other food sectors, traditional auctioning (e.g., shout or electronic clock) remains as the predominant price setting mechanism for fishery products. At the same time, all auctions in the Netherlands, Belgium, and Denmark take place in an electronic manner through the use of online technology. Electronic auctions are also increasingly used in other Member States, such as France, Italy, Sweden, and Spain. Taking into account the opportunities to achieve increased efficiency and transparency, the development and use of modern electronic methods should be encouraged.

⁵ In the case of Regulation (EU) 2020/560 regarding specific measures to mitigate the impact of the COVID-19 outbreak in the fishery and aquaculture sector, there were entities providing food supply and keeping markets open, while facing the corresponding risks, that did not receive commercial aid. For a detailed view of the MAC's position on the impact and mitigation of the COVID-19 pandemic on the seafood supply chain, please see the advice adopted on 11 December 2020: <https://marketac.eu/covid-19-pandemic/>.

⁶ On 8 October 2021, the MAC adopted advice on health and environmental of fishery and aquaculture products, which highlighted the importance of coverage under the EU Promotion Policy: <https://marketac.eu/health-environmental-value-of-seafood/>. Previously, on 8 March 2021, the MAC adopted detailed recommendations concerning the Roadmap on the EU Promotion Programme: <https://marketac.eu/eu-promotion-programme/>.

- Consumer information⁷: There has been an improvement of consumer information and awareness, since consumers know that fisheries and aquaculture products come from all over the world and are aware that different production methods exist. Information on species, origin and production method can be quite relevant when it concerns sustainability. Nevertheless, it can be difficult for consumers to understand this information. Sustainable seafood guides and advisory lists can assist consumers in better understanding information, but information on sustainability is not always detailed enough and the categories used can be too general. The use of apps to check additional information can also be quite cumbersome for some consumers. Well known ecolabels can also assist consumers in their decisions. Finally, it is also essential to ensure adequate implementation of consumer information requirements across all Member States and retail outlets.
- Contribution to ensuring a level-playing-field for all products in the Union by promoting sustainable exploitation of fisheries resources⁸: Past promotion efforts focused mainly on the origin of the products. Considering the lack of agreed definition of “sustainable exploitation of fisheries resources”, the consumer can be confused by different messaging from different sources about the same product. Taking into account the emphasis on sustainability mandated by the CFP, there should be EU-level harmonisation on environmental and social sustainability information. In relation to trade with third-countries, conditions for fair competition should be ensured, particularly through respect for sustainability and the application of social standards equivalent to those which apply to Union products, such as good fisheries management (control, working conditions, health, safety, training, hygiene...) and sustainability of the resources. It is also important

⁷ On 5 August 2020, the MAC adopted detailed advice on consumer information on fishery and aquaculture products: <https://marketac.eu/consumer-information-on-fishery-and-aquaculture-products/>

⁸ Comprehensive views on achieving a level-playing-field in the EU market can be found on the MAC advice on the topic, adopted on 30 September 2019: <https://marketac.eu/level-playing-field/>

to account for the significant cost for EU operators of complying with the EU's high sustainability standards, which need to be reflected on the price of the products marketed. It is especially important to ensure and guarantee the application of EU rules through surveillance and control in third countries trading with the EU, strengthening cooperation, audits, training and the use of digital tools for it.

- Providing the consumer with verifiable and accurate information regarding the origin of the product and its mode of production, in particular through marketing and labelling: Depending on the mode of consumption, information on origin and mode of production does not necessarily reach consumer, for example in restaurants. There can also be misleading through species substitution and the use of common names. Furthermore, it is also essential that control authorities enforce all applicable labelling requirements and avoid focusing only on health risks.
- Traceability: Ensuring traceability from the sea to the plate can be challenging for operators. There can be failures in the transmission of information of data between companies, especially between primary production (first sale) and the rest of the supply chain, and in the quality of the data. It is also challenging to carry out a coordinate and automated data transmission that ensures the veracity and compliance. It is fundamental that Member States ensure compliance and adequate control of the implementation of CMO requirements.
- Storage aid: As described in detail in previous advice⁹, the majority of the membership is favourable to the reintroduction of storage aid. Storage aid has long been among the range of tools available to POs. Storage aid has regularly prevented or mitigated price collapses, by allowing excess quantities to be carried forward over time, when the

⁹ In pages 3 and 4 of the MAC's advice on the European Maritime and Fisheries Fund, adopted on 27 February 2019, further details are provided: <https://marketac.eu/emff-proposal/>.

marketing conditions of certain products were degraded. On the other hand, the EU processing and trading sector does not support to this reintroduction.

- Landing obligation: Marketing standards should not be in contradiction with conservation rules. The landing obligation already imposes restrictions on the sale for human consumption (minimum conservation reference size measured in length), while the existing marketing standards regulation imposes further restrictions (marketing standards measured in weight). There is thus a lack of coherence between the two policies resulting in situations where fish not matching the marketing standard, but aligned with the landing obligation is being discarded, despite meeting requirements concerning minimum conservation reference sizes, size class, and quality classification.
- Freshness criteria: As highlighted in previous advice¹⁰, due to technical advancements in the cold chain, the freshness criteria foreseen in the marketing standards framework are no longer relevant and should be replaced with the indication “fit for human consumption” or “not fit for human consumption”, as per the General Food Law.
- Minimum conservation reference sizes: These criteria continue to be very relevant, particularly since these allow application of the same minimum sizes to EU and non-EU products from the same sea areas. It is important to ensure that Member States apply the same standards, in order to avoid unfair competition and loss of income.
- Diversification of consumption habits: Globally, it is estimated that between 7 and 10 million tonnes of commercial fisheries catches are discarded annually¹¹. The levels of discards vary across regions, species and fisheries and there are different reasons why fishers discard. In line with Recital 12 of the CFP Regulation and Article 7 of the CMO

¹⁰ For further details, please see previous advice on the topic, such as the Advice on “Public Consultation - Review of the Marketing Standards Framework for Fishery and Aquaculture products”, adopted on 4 February 2021: <https://marketac.eu/public-consultation-on-marketing-standards/> and the Advice on “EU marketing standards for fishery and aquaculture products (fresh products)”, adopted on 28 March 2019: <https://marketac.eu/marketing-standards-fresh-products/>.

¹¹ https://ec.europa.eu/oceans-and-fisheries/fisheries/rules/discarding-fisheries_en

Regulation, to make the best use of the species available in EU waters, actions should be undertaken to allow the access to markets of less known local species, for example via consumer awareness and wholesalers'/retailers' strategies. In this effort, fishery POs could play an even more effective role in the reduction of the mentioned waste of resources and towards a more sustainable exploitation of marine biological resources. In the long-term, such actions could also contribute to decrease potential overfishing of popular species in the EU¹². Efforts should particularly be made for species that are less known by EU consumers which could result in the improvement of some of the EU stocks in the long term.

The marketing standards must provide the necessary guidance to ensure that minimum standards are met. An individual Member State should not be able to simplify standards in comparison with other Member States, as this will compromise their effectiveness, nor replaced with other national standards or private standards. For the sake of coherence and harmonisation in all Member States, there must be some common rules applicable to all operators. At the same time, for the sake of simplification, the marketing standards on preserved products (canned tuna and canned sardines and sardine type products) could be addressed and integrated in a consolidated new text, while recognizing the complexity of developing a new text. In this context, the MAC recalls previous advice on the marketing standards framework, specifically of fresh products¹³, on preserved products¹⁴, and the incorporation of sustainability criteria in the marketing standards framework¹⁵.

¹² In line with recommendation f) of the MAC Advice on Health and Environmental Value of Seafood, adopted on 8 October 2021: <https://marketac.eu/health-environmental-value-of-seafood/>

¹³ Advice adopted on 28 March 2019: <https://marketac.eu/marketing-standards-fresh-products/>.

¹⁴ Advice adopted on 12 July 2019: <https://marketac.eu/marketing-standards-processed-products/>.

¹⁵ Advice adopted on 15 October 2021: <https://marketac.eu/marketing-standards-sustainability/>.

3. Are any objectives of measures unclear to you? Which methods for implementing the CMO are not sufficiently explained, that might lead to misunderstandings in the field?

The following definitions and concepts can be unclear and lead to misunderstanding in the field:

- “Sustainable exploitation” – Amongst stakeholders, this concept can be interpreted in different ways, which can lead to conflicting situations, perception of misleading claims, and confusion for the consumer. Stakeholders may interpret it as exploitation in respect of the Total Allowable Catches (TACs) set by the Council and quotas set by Member States, while other stakeholders might emphasise that the setting of TACs is the outcome of a political process that does not necessarily strictly follow scientific advice.
- “Fisheries” – Under the CFP and CMO regulations, the term “fisheries” varies from meaning both “fishing” and “aquaculture” together and meaning exclusively “fishing” (capture fisheries). As an example, Article 35 (on CMO objectives) of the CFP Regulation establishes that the common market organisation will (e) “contribute to ensuring a level–playing field for all products marketed in the Union by promoting sustainable exploitation of fisheries resources”.
- “Seafood” – The use of the term “seafood” in official documents spills over to official technical reports and from there to the media and citizens leading them to a literal interpretation of “food that comes from the seas”. Therefore, taking into account the importance of freshwater aquaculture in the EU food supply, employment, and cultural identity, according to the EU aquaculture representation, the term “seafood” should be replaced with “aquatic food”, so as to be more inclusive and not leave freshwater fish farmers behind, as is the case in recent FAO and OIE documents. In the view of the EU fisheries sector, the use of “seafood” as a legal term should be maintained, since it is commercially recognisable and it benefits from a positive image amongst the general public. In their view, if required, legal documents could use more extensive terms, such as “seafood and land-based aquatic food”.

- “Production and Marketing Plans” – The interpretation of what constitutes a PMP can vary, which jeopardises its role as an action plan for policy implementation by POs. The understanding of the objectives of the PMPs can also vary across Member States.

Operators might face misunderstandings in the implementation of the consumer information objective due to the establishment of mandatory requirements across different pieces of legislation, such as the CMO Regulation and the FIC Regulation. Different legislative and executive bodies, both at EU and national level, are involved in the approval, implementation, and control these rules. Therefore, it might be relevant for public authorities to carry out a synthesis and recasting of the different existing legal texts, in order to facilitate understanding by the addressees of the legal requirements, including operators, public authorities, and consumers.

It is also important to ensure that imported products respect a similar level of regulatory requirements as products produced in the EU. Additionally, it is fundamental to avoid imprecisions and contradictions with other regulatory requirements, such as on minimum conservation reference sizes as well as to avoid unnecessary administrative burden on operators (e.g., on gathering of information), which may jeopardise compliance with marketing standards and consumer information requirements.

4. Do you know any good practice/innovative/alternative tools or processes that could help overcome the challenges mentioned above? Can you suggest other possible solutions to address them within the existing legislation?

In relation to the above-mentioned concept of “sustainable exploitation”, it would be useful to undertake an independent assessment of its definition. An agreed description of “sustainable exploitation” would assist in the development of clear consumer information and a better level-playing-field. It is worth noting the STECF’s work on “criteria and indicators to incorporate sustainability aspects for seafood products in the marketing standards under the Common

Market Organisation”¹⁶. It is also important to account for the potential impact of the initiative on substantiating green claims together with the Product Environmental Category Rules for Marine Fish products.

In relation to support for EU-level federations, the Commission should dedicate part of its direct management funds to provide support to EU-level federations, which could be assimilated to Transnational Associations of POs. The Commission could also open calls for specific actions for these federations, for example on communication and on innovation. Funding for EU-level federations should not imply a reduction of support to other associations.

In relation to harmonisation of traceability and risk management practices, it is important to find solutions at Member State level, including the provision of guides and codes of good practice for operators, in order to facilitate the adequate implementation of the CMO in their day to day. It is worth highlighting the existing tools for the transmission of traceability information, including interoperable system. Examples of voluntary tools include the PAS 1550:2017, the Global Dialogue on Seafood Traceability (GDST), and harmonised QR Code systems.

In terms of voluntary sustainability claims¹⁷, it is important to highlight the use by the EU fishing fleet of product specifications related too sustainability, both environmental and social. These product specifications indicate important standards enshrined in the ILO C188 and made mandatory via Council Directive (EU) 2017/159 for European produce. As referred to in previous advice, the Commission should recognise the importance of the three pillars of sustainability and increase consumer awareness on the applicable legal requirements regarding environmental and

¹⁶ The report is available on STECF’s website: https://stecf.jrc.ec.europa.eu/nb_NO/reports/strategic-issues. On 15 October 2021, the MAC adopted advice on the incorporation of sustainability aspects in the marketing standards framework: <https://marketac.eu/marketing-standards-sustainability/>.

¹⁷ Comprehensive views on voluntary sustainability claims on fishery and aquaculture products, including ecolabels and certification schemes, can be found on previous advice on that topic, adopted on 15 June 2021: <https://marketac.eu/voluntary-sustainability-claims/>

socio-economic sustainability for products placed in the EU market, on the requirements for voluntary sustainability claims and certification schemes, and under the CFP.

In terms of a level-playing-field, it is essential to promote the ratification and implementation by Member States and by third countries of ILO 2007 Work in Fishing Convention and fight against labour abuses, human rights violations, and IUU fishing. The EU should promote the development of a sustainable food system by the entire international community, in line with the EU's ambitious environmental and socio-economic standards, while not rewarding third countries who take little action for the sustainability of fish stocks and the fair treatment of people. There should be appropriate due diligence requirements, including on social standards, in order to ensure an emphasis of sustainability, ensuring that importers, processors, and consumers are aware of the way of production, while avoiding the creation of trade barriers.

Taking into account the emphasis on sustainability mandated by the CFP, there should be EU-level harmonisation on environmental and social sustainability information. In relation to trade with third-countries, conditions for fair competition should be ensured, particularly through respect for sustainability and the application of social standards equivalent to those which apply to Union products, such as good fisheries management, control, working conditions, health, safety, training, hygiene, and sustainability of the resources.

It is also important to highlight the investments undertaken by the EU fleet to ensure compliance with the standards of the Regional Fisheries Management Organisations (RFMOs) and those imposed by EU legislation. There are also costs associated with regular sanitary inspections, transport, unloading, and documentation.

In relation with market stabilisation, the majority of the MAC's membership believes that the provision of storage aid under the PMPs is a useful to prevent or mitigate price collapses, by allowing excess quantities to be carried over time, when the marketing conditions of certain

products were degraded. During the ongoing health crisis, this mechanism made it possible to avoid the destruction of fish, to guarantee a minimum income for producers and contribute to a stabilisation of the market. The processing and trading sectors do not support this statement¹⁸. Furthermore, EU fishery producers believe that tool similar to the “total contribution clause” that applies to the marketing of fruit and vegetables by agricultural POs could be a useful tool for the structuring of the market. This provision could be activated at the discretion of POs and could be implemented under certain conditions to be defined.

Specific aspects of the CMO – Professional organisations

5. Do producer organisations (POs) or inter-branch organisations (IBOs) get adequate support to achieve their objectives (financially and operationally)?

Under the CMO Regulation, POs are central structures for the marketing of fisheries and aquaculture products and, more generally, for meeting the objectives of CFP. It is essential that POs are equipped with an operational tool for organising and planning their missions, combined with appropriate financing (EMFF-EMFAF), so that POs can manage the activities of their members and promote production. Additionally, EMFAF funding could potentially be used for fisheries organisations that were not established as POs, for example fisheries committees, “prud’homies”, and fishermen’s guilds, but that intervene to achieve the objectives of the CMO, provided that this funding is additional to that of the POs and does not impact them.

In some Member States, POs and IBOs receive adequate support, but not in all. Nevertheless, differences of interpretation between national public authorities create a significant gap between Member States in the development of POs and IBOs, which is connected to both financial and operational issues. As an example, Dutch operators perceive a lack of understanding

¹⁸ Detailed views of the MAC’s membership on storage aid can be found in the MAC’s Opinion on the European Maritime and Fisheries Fund, adopted on 27 February 2019, pp. 3-4: <https://marketac.eu/emff-proposal/>.

by management authorities of the objectives of the CMO when analysis Production and Marketing Plans as well as a lack of awareness in policy developments by PO board members. However, per the EMFF Regulation¹⁹, the PO and IBOs could receive support for the preparation and implementation of the Production and Marketing Plans, which, per PO yearly, shall not exceed 3% of the average annual value of the production placed on the market by that PO during the preceding three calendar years. Additionally, such support could be granted in the form of advance of 50% of the financial support (after approval of the Production and Marketing Plan). After the specific measures to mitigate the impact of the COVID-19 outbreak in the fishery and aquaculture sector, the percentage under EMFF was increased to 12%²⁰.

It is worth mentioning that other operators of the fisheries and aquaculture supply chain should also receive adequate support, in order to ensure a proper functioning of the chain. The key role of fish auctions in some Member States should be recognised, even though there is no position foreseen for these under the CMO Regulation.

Exchanges and knowledge sharing with agricultural POs could be facilitated. Taking into account their experience as a sector subject to an EU-level integrated policy and as suppliers of food products, their reflections and actions could benefit the fisheries and aquaculture sector. Considering the specificity of their activities, it could also be helpful for POs to be able to receive legal advice from a national or EU-level bodies.

6. What are the main difficulties/challenges in establishing POs or IBOs?

¹⁹ [Regulation \(EU\) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund](#)

²⁰ [Regulation \(EU\) 2020/560 of the European Parliament and of the Council of 23 April 2020 amending Regulations \(EU\) No 508/2014 and \(EU\) No 1379/2013 as regards specific measures to mitigate the impact of the COVID-19 outbreak in the fishery and aquaculture sector](#)

Amongst the MAC's membership, there are small inshore capture fisheries producers that believe that, under the current criteria, it is difficult to establish POs composed exclusively of small-scale operators, leaving parts of the small-scale fleet segment without commercial aid. At the same time, small-scale operators are able to become part existing POs, joining numerous partners. In the experience of other fisheries producers, it is not difficult to establish a PO, but it is difficult to maintain the membership, which translates into difficulty in maintaining the recognition as PO. French fisheries producers highlight that, in their case, public authorities do not allow the establishment of new POs and, instead, favour rapprochement and consolidation of actions.

Aquaculture producers believe that their sector is suitably structured internally, both at national and EU-level. Prior to the current CMO, POs were generally unattractive for aquaculture products, so the most common sectorial bodies are non-profit associations. Nowadays, the most adequate sectorial organisations in most Member States are POs. Nevertheless, the transformation from an association into a PO can be a complex exercise, which can even break up organisations, due to tensions and internal balances. Therefore, the development of easy ways of converting existing associations would facilitate the establishment of new POs.

There is limited experience with IBOs, which include different players in the chain. Well-functioning IBOs have proven to be a valuable instrument enhancing the proper functioning of the markets for sustainable European seafood. Therefore, IBOs deserve active promotion. In this respect it is noted that a balanced governance structure with clear rules and procedures and a professional chair and secretariat is advisable given the composition of an IBO.

7. Is it useful to extend POs'/IBO's rules to achieve the CMO and CFP objectives? Would this also benefit other producers in the sector?

In the view of fisheries producers, the extension of rules can be an interesting mechanism, since these allow a uniform application of rules, but this mechanism has been used very few times in

recent years. French operators exemplify that, despite positive feedback from operators, in the recent years, the extension of rules has been rarely used and that their national authorities seem less and less supportive of the mechanism. The Spanish Fishermen's Guilds ("Cofradías de Pescadores") believe that the extension of rules has a positive effect in principle, but that it is necessary to involve professionals who are unable to form POs. The extension of rules can also benefit the other producers and the rest of the sector, but the extension should be assessed individually.

In order for this mechanism to become more operational, the following could be considered: a reduction of the minimum period for extending the rules currently set at 60 days (Article 22/4 of the CMO Regulation) – a minimum period of one week would likely remove this brake, a clarification of the zones or sub-zones of recognition of the PO that is possible to justify the percentage of products marketed to legitimise the request for extension, and specification of the procedure and the notification period required to apply the extension.

Aquaculture producers highlight that, even though the extension of rules is possible for aquaculture POs and IBOs, it has seldom been used. In the case of the agricultural POs and IBOs, the extension of rules is useful, because the sector is comprised of very large number of farmers and convincing the majority of them to participate in common activities (e.g., communication or promotion) is complex and free riders would deter responsible farmers. At the same time, the production of those hundreds of farmers must go through specific downstream convergence points (slaughterhouse or mills) where the payment exercise of the extension of rules can be feasibly implemented. In the case of aquaculture POs, the number of farmers is small, and they tend to be collaborative between themselves, while their downstream flows do not converge in any point before the delivery to the final retailers. Aquaculture producers believe that, besides the typical focus in communication and promotion, the extension could be used in aquaculture POs to achieve innovative targets, such as addressing fish health or animal welfare issues.

8. Would being formally recognised as a transnational PO/IBO (e.g., multinational membership) help achieve the CMO and CFP objectives?

Fisheries producers highlight that, while all EU POs comply with the same rules for constitution and operation, their mission can differ, in particular because of the methods of management of fishery rights applied in the various Member States. In this context, reflections have taken place on the possibilities to set up transnational POs, but without success. It is worth noting the practical difficulties in finding the appropriate leadership with transboundary skill. Following Brexit, ways to cooperate with British POs on issues of common interest will also need to be developed.

Fisheries producers highlight that are constraints connected to recognition by several Members, availability of funding under PMPs, and differentiation in management of fishing opportunities and of market interventions between Member States. Therefore, as prerequisite, it would be necessary to: clarify the procedure for benefitting from transnational status, facilitate the recognition and financing of transnational POs/IBOs, identify the advantages of benefitting from translation status, and clarify the rules for managing fishing opportunities and market interventions when the concerned Member States have different procedures. It could be useful for the European Commission to lead coordination efforts amongst Member States, including through the establishment of a “one stop shop”.

Once the mentioned prerequisites were met, different benefits could take place, for example: stabilisation of markets and adaptation of production to market requirements in sales places and markets frequented by operators with different flags, contribution to ensuring fair competition between different flags within the same PO, contribution to ensuring that activities are economically viable and competitive, financial support for POs and IBOs at EU-level, and facilitation of dialogue between operators of different Member States that operating in the same fishing areas.

Aquaculture producers highlight that transnational activity of POs has clear advantages because most of the challenges of aquaculture companies and of their POs are transnational (both in production and market matters). However, in their view, the most suitable approach is through Transnational Associations of POs and not through Transnational POs. Unfortunately, there is no clear pathway to create Transnational Associations of POs under the current CMO or to finance them through the EMFF/EMFAF.

Specific aspects of the CMO – Consumer information

9. Does the CMO provide consumers with sufficiently clear and comprehensive information to make informed purchasing decisions?

Amongst the MAC's membership, there are different perspectives on whether the CMO provides consumers with sufficiently clear and comprehensive information to make informed purchasing decisions. It is worth highlighting the following topics:

- **Implementation:** The food sector, including the sector of fish and other aquatic products, can suffer from misinformation, non-compliance, and fraud, which plays against the competitiveness of sustainable producers²¹. Therefore, it is essential to ensure adequate implementation and control by Member States, while accounting that the applicable legal requirements are dispersed in different pieces of legislation and that different legislative and executive bodies, both at the EU and national level, are involved in its approval, implementation and control.

²¹ For a comprehensive report on seafood fraud, see: Warner et al. (2016) Deceptive Dishes: Seafood swaps found worldwide. Oceana. Available at: https://usa.oceana.org/sites/default/files/global_fraud_report_final_low-res.pdf. As an example, in a specific sector, see: Feldmann, F., Ardura, A., Blanco-Fernandez, C., Garcia-Vazquez, E. 2021. DNA Analysis Detects Different Mislabeling Trend by Country in European Cod Fillets. *Foods* 2021, 10, 1515. <https://doi.org/10.3390/foods10071515>.

- Comprehensive approach to sustainability: Sustainability aspects on food products are a horizontal issue, which requires a comprehensive approach by the EU, as demonstrated by the planned initiative on a sustainable food systems framework²².
- Distribution in the HORECA sector: Amongst the MAC's membership, aquaculture producers, NGOs, and the Spanish retail sector for fish and frozen products, highlight that, in the context of an important distribution channel of fishery and aquaculture products, the HORECA sector, not enough information on the products reaches the final consumers²³, for example on origin.
- Private certification schemes and voluntary standards: These can provide a basis for positive and mutually beneficial relationship between primary producers and purchasers to raise certain standards – producers are able to differentiate their products and open new markets, and retailers are allowed to respond to consumers' changing demands. These provide a possibility for supply chain operators to drive the sustainability agenda more ambitiously and effectively.
- Quantity of information on the label: Taking into account the information requirements under the CMO and FIC Regulations, it is important to ensure that the quantity of information on labels/packaging is manageable for operators, does not create consumer confusion, and is easily controllable by public authorities. In the view of the EU processing sector, it is not advisable to add more information on the label and, in the case new information is required, it should replace existing information. In the view small-scale coastal fleet, aquaculture producers, environmental NGOs, it would be relevant to have a controllable label that demonstrates origin and grade of freshness - further details

²² 15 February 2022, the MAC adopted advice on the Sustainable Food System Framework initiative, which is available online: <https://marketac.eu/sustainable-food-system-framework-initiative/>.

²³ E., Viðarsson, J.R., Ólafsson, K., Ólafsdóttir, G., Daniëlsdóttir, A.K., and Pérez-Villareal, B. 2018. DNA barcoding revealing mislabelling of seafood in European mass caterings, Food Control, Volume 92, Pages 7-16. ISSN 0956-7135. <https://doi.org/10.1016/j.foodcont.2018.04.044>.

provided under question 11. In the view of the NGOs, the existing information requirements allow for essential transparency and should not be replaced by new requirements, adding that, however, consumers cannot always easily relate this information (species, origin and production method) when it concerns sustainability, so consumer information should be presented in a way that increases sustainability awareness.

- Coherence: In the context of the market of fisheries and aquaculture products, both the CMO and FIC regulations are relevant. It is essential to avoid in the interpretation and practical implementation between these two regulations, in order to avoid a two-tier system²⁴. The EU aquaculture sector also draws attention to a potential practical incoherence in the separation of some products with similar characteristics, such as caviar and salmon eggs, which use different Combined Nomenclature codes²⁵.
- Marketing standards framework: The current marketing standards framework concerns mainly B2B practices, allowing operators for some species to share information to comply with mandatory labelling requirements as well as the possibility to provide additional voluntary information to consumers.

10. Do the mandatory requirements for consumer information benefit EU producers or any other stakeholders in the supply chain? Or do they pose difficulties for those involved operators?

The proper implementation of mandatory requirements for consumer information can benefit EU producers and other stakeholders in the supply chain. It is worth highlighting a few points:

²⁴ For further details, please see recommendations a), b), and c) of the MAC Advice on Consumer Information on Fishery and Aquaculture Products, adopted on 5 August 2020: <https://marketac.eu/consumer-information-on-fishery-and-aquaculture-products/>.

²⁵ The issue of caviar labelling is addressed in more detail in the MAC's Advice on the Aquaculture Advisory Council's Recommendation on Labelling of Caviar, adopted on 14 April 2021: <https://marketac.eu/aac-recommendation-on-labelling-of-caviar/>.

- **Cost:** Consumer information is relevant for the positioning of fishery and aquaculture products in the market, but there is a cost, which is not always paid by the market. Therefore, when considering potential increases of information requirements, it is important to account for the increase in the price of the product for the consumer. As an example, there is a relevant cost for the industry in the maintenance of databanks and the corresponding specialised labour²⁶.
- **Administrative burden:** For producers, there can be significant administrative burden in collecting the necessary information. For all the actors of the supply chain, especially retailers, there can also be significant burden in dealing with the amount of information being received, including traceability information. It is important to ensure the possibility for electronic and automated transmission of traceability information with compatibility in all links, while avoiding any manipulation of information. Furthermore, it is also important to leave space for innovation in the market, for example through the use of quality features beyond legal requirements to increase food quality.
- **Level-playing-field:** Compliance with consumer information requirements can be an opportunity to inform consumers on the quality and sustainability of products, which can favour responsible local consumption of fishery and aquaculture products and benefit EU producers. At the same time, the current market supply is heavily dependent on imports, which demonstrates the importance of strict compliance with requirements by imported products as well as of the promotion of a sustainable food system by the entire

²⁶ The EU processing sector details that, in line with the FIC Regulation, information must be accurate and not mislead consumers. Therefore, dedicated people are needed to manage the update of packaging information, including for regulatory monitoring, change of specifications with customers and printers, management of packaging stocks, etc. There are packaging costs and costs with increased stock levels. The addition of mandatory information limits the space for multilingual information labels, so more products would have «one label per country». More information often means more variation in labelled information, resulting in covering of needs by having more pre-printed packaging materials, increasing levels of stocks and financing fixed assets; and/or change of packaging entailing cylinder and reporting costs, packaging scrap risks, inspection visits; and/or the processing of smaller lots to match accuracy of pre-printed information, increasing variable costs.

international community, in line with the EU's ambitious environmental and socio-economic standards. The impact on small operators is particularly relevant.

- **Mixed products**: The implementation of mandatory requirements for mixed products (e.g., products mixing different species and/or catch gear categories) can be difficult for the EU processing industry²⁷. The requirements for these products should be more clearly outlined and there should be a harmonisation of the interpretation by public authorities.
- **Packaging**: In labels/packages, it can be difficult to accommodate the necessary space to include all the mandatory information. It is also important to account that, in line with European Green Deal objectives, increasing the size of the package should not be encouraged, since it will increase the carbon footprint and waste. Therefore, information placed on the label should be of quality and not quantity, although innovative ways to overcome this space challenge and deliver the necessary information to consumer should be attempted.
- **Scientific names**: In accordance with Article 37 of the CMO Regulation, Member States shall draw up and publish a list of the commercial designations accepted in their territory, together with their scientific names. The list shall indicate the scientific name for each species, in accordance with the FishBase Information System or the ASFIS database of the Food and Agriculture Organisation (FAO). In order to avoid trade barriers between Member States, there should be full alignment of the list of scientific names, meaning that the scientific name for one species should be the same in all 27 Member States. Revisions of names for individual species should be agreed and implemented at the same time in all EU27. The lack of alignment creates practical and/or legal problems for the marketing of fishery and aquaculture products between Member States.

²⁷ For example, in the case of mixtures of wild shrimp which are allowed to be marketed as shrimp. More details are provided on the MAC's Advice on Consumer Information on Fishery and Aquaculture Products, adopted on 5 August 2020, and available online: <https://marketac.eu/consumer-information-on-fishery-and-aquaculture-products/>.

- Voluntary practices in the market: It is also worth noting that, for many operators, the CMO labelling requirements serve as a baseline. These operators also follow recommendations developed by industry associations and other initiatives, for example the displaying of the species and of the catch area in tuna cans, as recommended by the International Seafood Sustainability Foundation. When dealing with certain customers and brands, operators can also be requested to meet additional requirements on consumer information or to use labels developed by private certification schemes.

11. Do you find any of the mandatory information irrelevant or not fitting its purpose? Is there any other information that might be relevant or should be mandatory?

In relation to consumer information on fishery and aquaculture products, the MAC would like to highlight the continued relevance of its previous advice on the topic²⁸, where detailed information can be found on the views of the MAC's membership. Nevertheless, it is worth providing some short comments on the following topics:

- Scientific Name: In accordance with Article 35/1/a) of the CMO Regulation, the scientific name of the species constitutes mandatory information. The labelling of scientific names is considered important, especially in certain European regions, in order to identify what the product actually contains²⁹. However, there can be instances where special accommodation needs to take place, such in mixtures of wild shrimp³⁰.
- Indication of the catch area: As outlined in Article 35/1/c) and Article 38 of the CMO Regulation, in the case of fishery products at sea, it is mandatory to indicate information

²⁸ <https://marketac.eu/consumer-information-on-fishery-and-aquaculture-products/>

²⁹ In the view of the Spanish retail sector for fish and frozen products, the scientific name is irrelevant to the consumer, who knows more about the name of the product by its common name. It is important information between the previous links of the supply chain, but unnecessary for the consumer.

³⁰ <https://marketac.eu/consumer-information-on-fishery-and-aquaculture-products/>, p. 16

on the area of capture, in accordance with the FAO fishing areas. This information can enable the consumer to identify whether a product may come from particularly sensitive habitats or areas as well as to infer on potential environmental impacts of distance of transport. Nevertheless, in practice, references to fishing areas can be difficult for consumer to understand.

- **Flag State:** In the view of the EU fishing fleet, the Spanish retail sector for fish and frozen products and environmental NGOs, a clearer connection between the information provided and information on the flag State could facilitate understanding by consumers. The EU processing sector disagrees with references to “flag State” as the origin indication for the fish as an ingredient in the labelling, adding that the approach of Commission Implementing Regulation (EU) 2018/775 must also be considered. Under this implementing regulation, “flag State” is not an option for the indication of the country of origin or place of provenance of the primary ingredient, while geographical references to the FAO Fishing Area or third country are foreseen, among other options. In their view, flexibility and a voluntary approach of the origin labelling possibilities according to the operational needs must be the rule to follow by legislators.
- **Origin:** Amongst the MAC’s membership, with the objective of achieving a level-playing-field and highlighting consumer interest signalled in studies and surveys, the EU catching sector³¹, the Spanish retail sector for fish and frozen products, the aquaculture producers, and the environmental NGOs, believe that prepared and preserved fish products which are containing a minimum of 50 percent of seafood, thus a primary ingredient, should be included and subject to an adaptation of Article 35 of the CMO Regulation. In the view of the EU processing sector, voluntary origin labelling combined with the existing mandatory provisions under the FIC Regulation and the origin labelling regimes for specific foods or

³¹ The Spanish Fishermen Guilds, in particular, express their interest in a controllable label that demonstrates the origin of products from national fishing grounds and the degree of freshness.

categories of food are the suitable, since they maintain selling prices and allows consumers to choose products with specific origins if they want to, while not affecting competitiveness and not impacting the internal market and international trade.

- **Defrosting:** In accordance with Article 35/1/d) of the CMO Regulation, for fishery and aquaculture products, it is mandatory to indicate “whether the product has been defrosted”. Provisions on labelling of defrosted fishery and aquaculture products are foreseen across different pieces of legislation. When comparing with other pieces of legislation, the difference is that the CMO Regulation determines that, as an exception, “fishery and aquaculture products which have been defrosted before the process of smoking, salting, cooking, pickling, drying or a combination of any of those processes” do not require the indication of “defrosting” (Art. 35/1/d/d). The indication of defrosting is stricter for fishery and aquaculture products than for other foodstuffs. Under Annex VI, Part 4, Point 2/c) of the FIC Regulation, “foods for which the defrosting has not negative impact on the safety or quality of the food” are not required to include the designation “defrosted”. In the view of the EU processing sector, fishery and aquaculture products for which freezing/defrosting has not impact on safety or quality are under a less favourable legal framework, but no reasoning is provided for the difference in treatment³². This difference is relevant, at minimum, for vacuum packed smoked/marinated products. On the other hand, in the view of the EU fish farmers, the possible inexistence of negative impacts of freezing/defrosting on the safety and quality of fish is not an absolute value: it is only a relative one. The inexistence of negative impacts will always depend on the way in which the freezing/defrosting has taken place (quality of the procedure), which is

³² In the view of the EU processing sector, the Commission should examine the background in this difference and clarify why the general provision is not applicable to fishery and aquaculture products. In their view, regarding the indication of “defrosted”, the Commission should: 1) delete the provisions in the CMO Regulation that are similar to the ones in the FIC Regulation, 2) include a reference to the provisions in the FIC Regulation, 3) maintain the provisions of Art. 35/1/d/d), and 4) investigate whether the indication used for fishery and aquaculture products would be beneficial to other food products.

especially relevant for aquatic products, differently from meat. In their view, information on defrosting should remain compulsory in consumer information as stated in the current CMO Regulation.

- Minimum durability: In accordance with Article 35/1/e), it is mandatory to indicate “date of minimum durability”, where appropriate. Taking into account that the indication of minimum durability is already appropriately regulated under the FIC Regulation, in the view of the EU processing sector, it is no longer relevant to include it under the CMO Regulation.
- Traceability: In order to reach the objectives of the Farm to Fork Strategy to enhance the sustainability of the food system, it is important to ensure the traceability of information on the fishery and aquaculture products throughout all the stages of the value chain to the final delivery in destiny, avoiding losses of information at any stage of the value chain.
- Date of catch (for capture base fishing) / date of harvest (for aquaculture): Currently, the date of catch or harvest falls under additional voluntary information, noted in Article 39 a) of the CMO Regulation. As described previously³³, amongst the MAC’s membership, it is considered that this piece of information should continue to be voluntary, since it is not deemed to be of high importance to consumers, quality is guaranteed through the freshness criteria, there is already a significant number of mandatory dates, and the date of landing can be provided across the supply chain under the current fisheries control system. On the other hand, the EU aquaculture industry and the Spanish Fishermen Guilds believe that this information should be compulsory, since freshness ranks as one of the main purchase drivers for consumers.

Specific aspects of the CMO – Competition rules

³³ <https://marketac.eu/consumer-information-on-fishery-and-aquaculture-products/>, p. 17

12. Is a PO's ability to control the amount of products their members put on the market detrimental to other operators down the value-chain?

The specificity of the fishing sector is that it is based on the exploitation of natural resources, which requires rigorous control of the extractions in connection with the achievement of the objectives of the CFP. Therefore, POs of fisheries producers play a central role in regulating activities in line with the fishing opportunities available, in order to enhance the value of production. In the view of fisheries producers, taking into account the context of an open market, the POs do not have significant influence to have a detrimental impact on other operators down the value-chain.

It should be remembered that POs do not control the entire market on place of sale and that membership is voluntary. Many fishery producers do not participate in POs, particularly in the coastal segment. There can also be producers from different POs on the same sales site. Producers not participating in POs also benefit from this collective organisation, since the price is maintaining, avoiding falls under break-even points. In the view of EU fishery producers, quantity control is beneficial for the auction and can help stabilise onshore processing plants with contracts via POs. Thus, the pre-auction levy for processing guarantees that the plant will operate during the dedicated season, regardless of the hazards linked to the catches (e.g., weather, problems with resources, etc.). Other advantages highlighted include the guarantee of a price for part of the production and boosting the auction sale by reducing volume. At the same time, it is important to remember that POs are limited for certain species by fishing opportunities, that POs participate in a network of stakeholders that influence the marketing, and that services in charge of health and hygiene controls can limit the marketing of products.

Aquaculture fish farmers believe that, even though aquaculture POs have the capacity to channel the supply and marketing of their members' products and to organise their production, in practice, fish farmers POs behave as literal "producer" organisations and not as "sales

organisations”. This disables their potential capacity to control the amount of farmed fish their members put on the market in a way that could be detrimental to other operators down the value-chain. On the other hand, shellfish farmers believe that POs could help selling production of their members. For example, a former shellfish PO based in Arcachon, France, was conceived to sell the entire production of oysters’ seed of all its members, so as to concentrate the offer. In the Netherlands, another PO has an auction to sell the mussel production of its members.

The support for POs for the realisation of their PMPs, in order to contribute to the objectives specified in the Article 7 of the CMO Regulation, is very important. Through those PMPs, it can be decided to improve the diversification of activities for the producers, including the creation of direct sales. Nonetheless, it must be clear that, once they have opened a new business as fish distributors or restaurant services, fair competition must be assured. In this case, producers become another type of economic actors and they must be obliged to the same legal requirements (e.g., labour issues, food safety) as well as to be provided with the same funding opportunities that their economic competitors can benefit, not more, not less.

The Spanish Fishermen Guilds highlight that their organisations also control the quantity of products their members put on the market, expressing their belief that it is beneficial to the entire supply chain.

13. Does the exception to certain competition rules provide an incentive to set up a PO? Have these exceptions helped achieve the CMO objectives?

In many Member States, the exception to certain competition rules is important and provides an incentive to establish POs, which contributes to achieving the objectives of the CMO since, without the exception, no one would be willing to take the risk of becoming a board member or an employee. There have been cases of competition authorities, once becoming aware of collaboration between potential competitors, investigating and opening cases against POs. Even

though these cases ended up closed without a penalty or fine, they still created significant burden, for several years, for the affected POs.

14. How did the Commission's market intelligence services help the sector, in particular POs/IBOs?

EUMOFA's deliverables assist the sector by providing data and analyses on the EU market, which can support business decisions and policy-making as well as inform stakeholders. In the past years, the work of EUMOFA has improved. The MAC also takes the opportunity to thank the European Commission for the openness to receive proposals and suggestions to improve the quality and diversity of EUMOFA reports, including the development of EU-level species-specific case studies³⁴. It is important to recognise that, at present, EUMOFA is not able to provide real-time and prognostic data, which is a function that should be considered in the future. In relation to the suggested consideration of the possibility to provide prognostic data, the EU processing sector does not agree with public bodies substituting a competitive approach. In their view, it would be against competition rules and would refrain operators from doing their own market strategic approach.

15. How did you use market intelligence tools (purposes, context, frequency)?

Amongst the MAC's membership, the use of market intelligence tools varies from daily use to no use. Aquaculture fish farmers draw attention to the importance of EUMOFA's deliverables for their daily work for both general and specific issues. NGO members highlight the use, in the context of technical reports and legislative and public policy analyses, of market intelligence tools for the study of imports and exports on species (inside and outside the EU), the analysis of

³⁴ As an example, in 2020, the MAC provided suggestions of studies to be undertaken, which were welcomed by the European Commission and included in EUMOFA's work programme: <https://marketac.eu/clarifications-on-eumofa-studies/>



consumption patterns of fishery and aquaculture products, and the analysis of different market impacts (e.g., the impact of Brexit on the EU seafood market). There are operators that highlight the usefulness of EUMOFA to obtain data on market evolution, allowing them to act accordingly, for example in relation to household consumption. At the same time, according to the EU processing and trade sector, businesses do not seem to base their decisions on the market intelligence provided by EUMOFA. Nevertheless, the intelligence provided, including the case studies, is considered particularly relevant for the understanding of past situations in the market.