



SOUTH OF SCOTLAND ENTERPRISE

FISHERIES AND AQUACULTURE BLOCK EXEMPTION SCHEME

TABLE OF CONTENTS

INTRODUCTION TO STATE AID	1
ABOUT THIS SCHEME	3
FBER ELIGIBILITY AND COMPLIANCE MATTERS	4
ARTICLE 14 (FBER)	10
ARTICLE 15	11
ARTICLE 16	12
ARTICLE 17	14
ARTICLE 18	15
ARTICLE 19	16
ARTICLE 23	17
ARTICLE 25	18
ARTICLE 26	20
ARTICLE 27	22
ARTICLE 28	23
ARTICLE 29	24
ARTICLE 31	25
ARTICLE 32	27
ARTICLE 33	29
ARTICLE 35	30
ARTICLE 36	31
ARTICLE 41	33
ARTICLE 42	34
ANNEX 1: FISHERY AND AQUACULTURE PRODUCTS	36
ANNEX 2: DEFINITIONS	38
ANNEX 3: SME DEFINITION	40
ANNEX 4: PARTICULAR AID WHICH IS INELIGIBLE UNDER THIS SCHEME	44

INTRODUCTION TO STATE AID

The concept of State aid originates in article 87 of the EC Treaty, which is now article 107 of the Treaty on the Functioning of the European Union (“TFEU”) Article 107(1) provides that:

“Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.”

In other words, it is a form of public assistance, given to undertakings on a discretionary basis, which has the potential to distort competition and affect trade between Member States of the European Union.

It is regarded as problematic because State aid may provide an advantage to businesses at the expense of its rivals; it can mean that loss-making businesses remain in the market longer than they should, and that other businesses do not enter the market. This can ultimately result in higher prices for consumers.

It is unknown how the State aid rules will develop once the transition period expires on 31 December 2020. However, as EU State aid rules apply in law until at least the end of the transition period, under the European Union (Withdrawal Agreement) Act 2020 any State aid decisions up until that date can be challenged in the UK Courts for a period of ten years after the individual aid award.

Rules on State aid control are set by the European Commission and comprise various articles of the TFEU, Regulations, Frameworks and Guidelines - which set out what aid is potentially compatible with the single market and the circumstances in which it can be awarded.

The EC governs Member States' compliance with the rules on State aid control and many aid measures must be notified to the Commission and approval given before any award is made. Ignoring the rules can result in the EC or the Courts viewing aid as unlawful and possibly subject to repayment (plus interest) by the aid recipient/undertaking.

It is, however, important to remember that compliance with the State aid rules is not conclusive of whether South of Scotland Enterprise (“SoSE”) will award financial assistance or the level of such an award.

The rules on State aid control place constraints on what can be awarded. Accordingly, compliance with these constraints is necessary but not in and of itself sufficient for an award to be made. SoSE's decision-making process as regards the award of financial assistance to businesses focusses on the individual appraisal of business proposals and selection on the basis of their contribution to SoSE's aims, which are to:

- (a) further the sustainable economic and social development of the South of Scotland; and
- (b) improve the amenity and environment of the South of Scotland (our “Aims”),

using the minimum level of public finance necessary.

In order to achieve those Aims, SOSE may take action directed towards (amongst other things)—

- (a) supporting inclusive and sustainable economic growth,
- (b) providing, maintaining and safeguarding employment,
- (c) increasing the number of residents in the South of Scotland who are of working age,
- (d) enhancing skills and capacities relevant to employment,
- (e) encouraging business start-ups and entrepreneurship,
- (f) supporting inclusive business models (such as social enterprises and co-operatives of any kind),
- (g) promoting commercial and industrial—
 - (i) efficiency,
 - (ii) innovativeness, and
 - (iii) international competitiveness,
- (h) promoting digital connectivity,
- (i) promoting improved transport services and infrastructure,
- (j) supporting communities to help them meet their needs,
- (k) supporting community ownership of land and other assets,
- (l) maintaining, protecting and enhancing the natural and cultural heritage and environmental quality of the South of Scotland,
- (m) promoting the sustainable and efficient use and re-use of resources,
- (n) supporting the transitions required to meet the net-zero emissions target (as defined in section A1 of the Climate Change (Scotland) Act 2009),
- (o) encouraging and facilitating collaborations between persons that will advance one or more of South of Scotland Enterprise's aims.

Please refer to SoSE's website for further information on the application process and our minimum requirements for assistance.

ABOUT THIS SCHEME

This scheme is operated by SoSE to enable it to fund projects which involve State aid in the **fisheries and aquaculture sector**. SoSE implements this scheme under powers conferred on it by the South of Scotland Enterprise Act 2019.

It is primarily designed to explain the parameters within which SoSE can award funding to projects in the fisheries and aquaculture sector in accordance with the EU Fisheries and Aquaculture Block Exemption Regulation ("**FBER**")¹ but also comprises key requirements of certain other EU Regulations² which the FBER refers out to.

This scheme identifies each aid category with reference to the corresponding article of the FBER, with a cross reference to the relevant article of the European Marine Fisheries Fund Regulation, in which the detailed conditions applicable to FBER awards are set out.

The FBER was published in the official journal of the European Union on 24th December 2014. The full reference is Commission Regulation (EU) No 1388/2014 of 16th December 2014 and remains in force until 31 December 2020. Accordingly, this scheme will also remain in force until 31 December 2020, subject to an additional transitional period of up to 6 months.

Some support for undertakings in the fishery and aquaculture sector may also be available under the SoSE General Block Exemption Scheme under the following categories:

- Research, development and innovation aid;
- Training;
- SME access to finance;
- Aid to recruit disadvantaged workers or to recruit workers with disabilities.

Fisheries De Minimis may also be used to assist undertakings in the fishery and aquaculture sector, to which a funding ceiling of €30,000 applies.

¹ COMMISSION REGULATION (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union

² Regulation (EU) No 508/2014 European Marine Fisheries Fund Regulation (EMFF); Regulations (EU) No 1380/2013, (EC) No 1954/2003 & (EC) No 1224/2009, on the Common Fisheries Policy (CFP); Regulations (EU) No 1379/2013, (EC) No 1184/2006 and (EC) No 1224/2009, on the Common Organisation of Markets for Fisheries and Aquaculture.

Please note that SoSE operates separate schemes for sectors which sit outside the scope of FBER, most notably, the SoSE General Block Exemption Scheme and SoSE Agriculture & Forestry Block Exemption Scheme.

FBER ELIGIBILITY AND COMPLIANCE MATTERS

1 Eligibility criteria and mandatory requirements

1.1 This scheme only applies to Small and Medium sized Enterprises (“**SMEs**”) active in the production, processing or marketing of fishery and aquaculture products are eligible for support.

1.2 Successful applicants should be able to demonstrate that the aided project will deliver commercial benefits to the SoSE area (being the areas of: (a) Dumfries and Galloway Council; and (b) Scottish Borders Council). For the avoidance of doubt, the beneficiary is not required to be head-quartered or predominantly established in the SoSE area.

1.3 Different conditions will apply to different categories of aid under this scheme, as required by FBER, which are detailed in respect of each article below. However, **all scheme awards must comply with the following criteria:**

1.3.1 the applicant is (as noted above) a small or medium sized firm according to the EU SME definition (please Annex 3 to this scheme);

1.3.2 eligible costs are less than the Sterling equivalent of **€2,000,000**;

1.3.3 the aid awarded under this scheme is limited to **€1,000,000** per undertaking per year;

1.3.4 work must not have commenced on the aided project before a written application for aid is submitted to SoSE to ensure that the aid has an incentive effect;

1.3.5 the project would not be able to proceed at all, or not at the same scale or speed without public assistance; and

1.3.6 the enterprise has the capacity to implement the project effectively to enhance its future competitiveness.

1.4 In addition, it should be noted that aid awarded under this scheme must be “transparent” aid, ie. grants and interest rate subsidies, loans where gross grant equivalent takes account of the reference rate, and some types of repayable advances. In other words, transparent aid means when it is possible to calculate a realistic value for the aid. For the avoidance of doubt, this scheme does not permit aid to be awarded in the form of capital injections or aid comprised in risk finance measures. **Generally, unless otherwise stated, aid under this scheme will be given in the form of loans or grants.**

- 1.5 The following are **ineligible** for aid under this scheme:
- 1.5.1 aid the amount of which is fixed on the basis of price or quantity of products put on the market;
 - 1.5.2 aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity;
 - 1.5.3 aid contingent upon the use of domestic over imported goods;
 - 1.5.4 aid granted to undertakings in difficulty (see Annex 2 for the tests to ascertain whether a beneficiary is an undertaking in difficulty);
 - 1.5.5 aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market (with the exception of aid schemes to make good the damage caused by natural disasters, which is not covered by this scheme);
 - 1.5.6 ad hoc aid in favour of an undertaking which is subject to an outstanding recovery order, as above;
 - 1.5.7 aid granted to operations which would have been ineligible for support under the EMFF, as detailed at paragraph 1 of Annex 4;
 - 1.5.8 aid granted to undertakings that cannot apply for support from the EMFF for the reasons detailed at paragraph 2 of Annex 4; and
 - 1.5.9 financial assistance with conditions attaching that would cause a breach under the EU Treaty by discriminating on the grounds of origin or constraining the right to establish operations in another Member State, as follows:
 - (a) when the assistance is subject to a condition requiring that the beneficiary has its headquarters in Scotland or the UK, or to be predominantly established within the UK. It is, however, permitted to require that at least part of the beneficiary's operation is based within the UK;
 - (b) where the beneficiary would be obliged by the conditions of assistance to use goods or services from any specific origin within the EU; or
 - (c) restrictions on the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.

2 **Aid “beneficiaries” / “undertakings”**

State aid regulations and guidelines refer to the “beneficiary” of aid, especially in connection with State aid ceilings and obligations that attach to the aid. The beneficiary is the undertaking which receives a selective advantage from the aid, but “undertaking” has particular meaning for State aid purposes and may not necessarily be the applicant or the direct recipient of the particular aid concerned.

An “undertaking” for State aid purposes is an entity, or group of entities that carry out a commercial operation. The European Commission focuses on the **activity** being undertaken and the relevant market, rather than the nature of the entity (or entities) itself. If they are involved in any trading or commercial activities (even if not-for-profit) then state aid issues will need to be considered.

Where several different activities are necessary in order to complete a commercial transaction, and where they have been set up in order to deliver the commercial activity, and thus one depends on the other, then there may be several entities engaged in an undertaking. Sometimes these relationships are contractual, such as a partnership, rather than formal ownership links, but the key element is that they are each engaged in part of a commercial operation and they share in some way in the risks and rewards of the commercial operation.

3 **Aid intensity and Notification Threshold**

Aid intensity is the maximum permitted amount of aid expressed as a percentage of the eligible costs of a given project. No deduction for tax or any other charge is made. Aid payable in several instalments shall be discounted to its value at the moment of granting. The discount rate used in grant equivalence and for present value calculations is the EU Discount Rate.³

The eligible costs shall be supported by documentary evidence which shall be clear and itemised.

Where aid is awarded in the form of repayable advances, where repayment is contingent upon the successful outcome of the project, advances should be repaid with interest. Where this is the case, the aid intensity can be increased by 10%.

The applicable aid intensity varies according to the type of activity to be funded and are noted below as applicable to each state aid category. However, the general position is that the aid intensity is 50% of the eligible costs, subject to certain uplifts which may be available, as follows:

³ The link in full is http://ec.europa.eu/competition/state_aid/legislation/reference_rates.html - here you can select the latest update

A	+30%	if the activity is related to small scale coastal fisheries
B	+10%	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	Up to 100%	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

Articles	Aid Level	A	B	C
Articles 14 - 16	50%	+30%	+10%	Up to 100%
Article 17	50% up to the Sterling equivalent of €75k	Not applicable	Not applicable	Not applicable
Article 18	25% up to the Sterling equivalent of €75k	Not applicable	Not applicable	Not applicable
Articles 19 -25	50%	+30%	+10%	Up to 100%
Articles 26	30% up to the Sterling equivalent of €1.5m	Not applicable	Not applicable	Not applicable
Articles 27 – 29	50%	+30%	+10%	Up to 100%
Articles 31 – 42	50%	Not applicable	Not applicable	Up to 100%

Aid above a certain threshold must be notified to the European Commission and approved before it is awarded. Unless otherwise specified in the Articles below, the following Notification Thresholds shall apply:

Aid level above which notification for prior approval is required	Comment
€2,000,000	Total eligible costs

Aid level above which notification for prior approval is required	Comment
€1,000,000	Per undertaking per year

4 Cumulation with other assistance

The maximum aid intensity applies to the combined State aid value of all forms of public support, including EU funding.

Aid under this scheme may be cumulated with:

- 4.1 any other State aid, as long as those measures concern different identifiable eligible costs;
- 4.2 any other State aid including De Minimis, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable under this scheme

5 Compliance with an EU Priority

FBER prohibits support for any actions that would breach the EU Common Fisheries Policy (“CFP”), which concerns the protection of fish stocks, and hence affects the fishing sector primarily. Should the beneficiary of aid breach the rules of the CFP, then the State aid granted under this Regulation could become repayable by the beneficiary, in proportion to the gravity of the infringement.

All State aid under this scheme must pursue at least one of the following priorities of the EU in the relevant sub-sector:

- 5.1 Fishing: (Articles 14-29):
 - 5.1.1 the reduction of the impact of fisheries on the marine environment, including the avoidance and reduction, as far as possible, of unwanted catches;
 - 5.1.2 the protection and restoration of aquatic biodiversity and ecosystems;
 - 5.1.3 the ensuring of a balance between fishing capacity and available fishing opportunities;
 - 5.1.4 the enhancement of the competitiveness and viability of fisheries enterprises, including of small-scale coastal fleet, and the improvement of safety and working conditions;
 - 5.1.5 the provision of support to strengthen technological development and innovation, including increasing energy efficiency, and knowledge transfer;

- 5.1.6 the development of professional training, new professional skills and lifelong learning.
- 5.2 Aquaculture: (Articles 30-40):
 - 5.2.1 the provision of support to strengthen technological development, innovation and knowledge transfer;
 - 5.2.2 the enhancement of the competitiveness and viability of aquaculture enterprises, including the improvement of safety and working conditions, in particular of SMEs;
 - 5.2.3 the protection and restoration of aquatic biodiversity and the enhancement of ecosystems related to aquaculture and the promotion of resource-efficient aquaculture;
 - 5.2.4 the promotion of aquaculture having a high level of environmental protection, and the promotion of animal health and welfare and of public health and safety;
 - 5.2.5 the development of professional training, new professional skills and lifelong learning.
- 5.3 Marketing and processing: (Articles 41 & 42):
 - 5.3.1 the improvement of market organisation for fishery and aquaculture products;
 - 5.3.2 the encouragement of investment in the processing and marketing sectors.

ARTICLE 14 (FBER)

AID FOR ADVISORY SERVICES FOR THE FISHING SECTOR

The corresponding article in the EMFF is Article 27.

1 Eligible activities

Activities which improve the overall performance and competitiveness of operators and promote sustainable fisheries:

- 1.1 feasibility studies and advisory services that assess the viability of projects
- 1.2 the provision of professional advice on environmental sustainability, with a focus on limiting and, where possible, eliminating the negative impact of fishing activities on marine, terrestrial and freshwater ecosystems;
- 1.3 the provision of professional advice on business and marketing strategies

The feasibility studies, advisory services and advice in (a) shall be provided by scientific, academic, professional or technical bodies, or entities providing economic advice that have the required competences.

2 Beneficiaries

Operators, organisations of fishermen, including producer organisations, or public law bodies.

3 Aid Limits

Articles	Aid Level	A	B	C
Articles 14	50%	+30%	+10%	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 15

AID FOR PARTNERSHIP BETWEEN SCIENTISTS AND FISHERMEN

The corresponding article in the EMFF is Article 28.

1 Eligible activities

Activities which foster the transfer of knowledge between scientists and fishermen:

- 1.1 the creation of networks, partnership agreements or associations between one or more independent scientific bodies and fishermen, or one or more organisations of fishermen, in which technical bodies may participate;
- 1.2 the activities carried out in the framework of the networks, partnership agreements, or associations referred to in point 1.1;
- 1.3 the activities referred to in point 1.2 may cover data collection and management activities, studies, pilot projects, dissemination of knowledge and research results, seminars and best practices.

2 Beneficiaries

Support open to public law bodies, fishermen, organisations of fishermen and non-governmental organisations.

3 Aid limits

Articles	Aid Level	A	B	C
Articles 15	50%	+30%	+10%	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 16

AID TO PROMOTE HUMAN CAPITAL, JOB CREATION AND SOCIAL DIALOGUE IN THE FISHING SECTOR

The corresponding article in the EMFF is Article 29.

1 Eligible activities

Activities which promote human capital, job creation and social dialogue:

- 1.1 professional training, lifelong learning, joint projects, the dissemination of knowledge of an economic, technical, regulatory or scientific nature and of innovative practices, and the acquisition of new professional skills, in particular linked to the sustainable management of marine ecosystems, hygiene, health, safety, activities in the maritime sector, innovation and entrepreneurship;
- 1.2 networking and exchange of experiences and best practices between stakeholders, including among organisations promoting equal opportunities between men and women, promoting the role of women in fishing communities and promoting under-represented groups involved in small-scale coastal fishing or in on-foot fishing;
- 1.3 social dialogue at Union, national, regional or local level involving fishermen, social partners and other relevant stakeholders

2 Sectoral eligibility

- 2.1 The support above may also be granted to spouses of self-employed fishermen or, where and in so far as recognised by national law, the life partners of self-employed fishermen, under the conditions laid down in point (b) of Article 2 of Directive 2010/41/EU of the European Parliament and of the Council.⁴
- 2.2 The support referred to in paragraph 1.1 above (training) may be granted, for a maximum period of two years, for the training of people under 30 years of age, who are recognised as unemployed by the Member State concerned (“**trainees**”). Such support shall be limited to training on board a small-scale coastal fishing vessel owned by a professional fisherman of at least 50 years of age, formalised by a contract between the trainee and the owner of the vessel that is recognised by the Member State concerned, including courses on sustainable fishing practices and the conservation of marine biological resources as defined in Regulation (EU) No 1380/2013. The trainee shall be accompanied on board by a professional fisherman of at least 50 years of age.

⁴ Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC (OJ L 180, 15.7.2010, p. 1)

2.3 Support in paragraph 2.2 above (training) shall be granted to professional fishermen to cover the trainee's salary and related charges, and shall be calculated in accordance with Article 67(5) of Regulation (EU) No 1303/2013, taking into account the economic situation and living standards of the Member State concerned. Article 67(5) is as follows:

“The amounts.....shall be established in one of the following ways:

- (a) *a fair, equitable and verifiable calculation method based on:*
 - (i) *statistical data or other objective information;*
 - (ii) *the verified historical data of individual beneficiaries; or*
 - (iii) *the application of the usual cost accounting practices of individual beneficiaries;*
- (b) *in accordance with the rules for application of corresponding scales of unit costs, lump sums and flat rates applicable in Union policies for a similar type of operation and beneficiary;*
- (c) *in accordance with the rules for application of corresponding scales of unit costs, lump sums and flat rates applied under schemes for grants funded entirely by the Member State for a similar type of operation and beneficiary;*
- (d) *rates established by this Regulation or the Fund-specific rules;*
- (e) *specific methods for determining amounts established in accordance with the Fund- specific rules.”*

3 Aid limits

Articles	Aid Level	A	B	C
Articles 16	50%	+30%	+10%	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: <ul style="list-style-type: none"> (i) it is of collective interest; (ii) it has a collective beneficiary;

	(iii) it has innovative features, where appropriate, at local level
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Support for activities in paragraph 2.3 above shall not exceed a maximum amount of €40,000 for each beneficiary during the training period.

ARTICLE 17

AID TO FACILITATE DIVERSIFICATION AND NEW FORMS OF INCOME IN THE FISHING SECTOR

The corresponding articles in the EMFF are Article 25(1) and (2) and Article 30.

1 Eligible activities

Aid to facilitate diversification and new forms of income through the development of complementary activities, including investments on board, angling tourism, restaurants, environmental services related to fishing and educational activities concerning fishing.

Operating aid is expressly prohibited.

2 Sectoral eligibility

The support shall be granted to fishermen who:

- 2.1 submit a business plan for the development of their new activities; and
- 2.2 possess adequate professional skills which may be acquired through operations financed under point (a) of Article 16 above.

The support shall only be granted if the complementary activities relate to the fisherman's core fishing business.

3 Aid limits

The amount of support shall not exceed 50% of the budget foreseen in the business plan for each operation, and shall not exceed a maximum amount of €75,000 for each beneficiary.

4 Condition attaching to the State aid

State aid for diversification that involved the acquisition of a fishing vessel shall be repayable if it is transferred outside of the EU within 5 years of the date of payment of the State aid. The amount to be repaid shall be proportionate to the amount of time during the 5 years that the vessel has been transferred out of the EU area.

5 Notification threshold

Type of FBER aid	Aid level above which notification for prior approval is required	Comment
Aid to facilitate diversification and new forms of income in the fishing sector	€75,000	Per undertaking

ARTICLE 18

START-UP SUPPORT FOR YOUNG FISHERMEN

The corresponding article in the EMFF is Article 31

1 Eligible Activities

Aid for business start-up support to young fishermen.

2 Sectoral eligibility

Aid may be granted only in respect of the first acquisition of a fishing vessel:

- (a) with an overall length of less than 24 metres;
- (b) which is equipped for sea fishing;
- (c) which is between 5 and 30 years old; and
- (d) which belongs to a fleet segment for which the report on fishing capacity, referred to in Article 22(2) of Regulation (EU) No 1380/2013, has shown a balance with the fishing opportunities available to that segment.

The term 'young fisherman' means a natural person who seeks to acquire a fishing vessel for the first time and who, at the moment of submitting the application, is under 40 years of age and who has worked for at least five years as fisherman, or has acquired equivalent vocational training.

3 Aid Limits

Aid must not exceed 25% of the acquisition cost of the fishing vessel and shall in any event not be higher than EUR 75 000 per young fisherman.

4 Condition attaching to the State aid

State aid for diversification that involved the acquisition of a fishing vessel shall be repayable if it is transferred outside of the EU within 5 years of the date of payment of the State aid. The amount to be repaid shall be proportionate to the amount of time during the 5 years that the vessel has been transferred out of the EU area.

5 Notification threshold

Type of FBER aid	Aid level above which notification for prior approval is required	Comment
Aid for business start-up support to young fishermen.	€75,000	Per undertaking

ARTICLE 19

AID TO IMPROVE HEALTH AND SAFETY IN THE FISHING SECTOR

The corresponding article in the EMFF is Article 32.

1 Eligible activities

In order to improve hygiene, health, safety and working conditions for fisherman support may be given for investments on board or in individual equipment provided that those investments go beyond the requirements under Union or national law.

Where the operation consists of an investment on board, the support shall not be granted more than once for the same type of investment and for the same fishing vessel. Where the operation consists of an investment in individual equipment, the support shall not be granted more than once for the same type of equipment and for the same beneficiary.

2 Sectoral eligibility

The support under this Article shall be granted to fishermen or owners of fishing vessels.

3 Aid limits

Articles	Aid Level	A	B	C
Articles 19	50%	+30%	+10%	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 23

AID TO LIMIT THE IMPACT OF FISHING ON THE MARINE ENVIRONMENT AND ADAPT FISHING TO THE PROTECTION OF SPECIES

The corresponding articles in the EMFF are Article 25(1) and (2) and Article 38.

1 Eligible activities

In order to reduce the impact of fishing on the marine environment, to foster the gradual elimination of discards and to facilitate the transition to a sustainable exploitation of living marine biological resources, the following investments may be supported:

- 1.1 in equipment improving size selectivity or species selectivity of fishing gear;
- 1.2 on board or in equipment that eliminates discards by avoiding and reducing unwanted catches of commercial stocks, or that deals with unwanted catches to be landed in accordance with the Common Fisheries Policy.⁵ Aid for normal operating costs are expressly prohibited.
- 1.3 in equipment that limits and, where possible, eliminates the physical and biological impacts of fishing on the ecosystem or the sea bed;
- 1.4 in equipment that protects gear and catches from mammals and birds protected by the EC Habitats Directive and Directive on Conservation of Birds⁶, provided that it does not undermine the selectivity of the fishing gear and that all appropriate measures are introduced to avoid physical damage to the predators.

Support shall only be granted where the gear or other equipment above has a demonstrably better size-selection or a demonstrably lower impact on the ecosystem and on non-target species than the standard gear or other equipment permitted under the Common Fisheries Policy, or relevant national legislation.

⁵ (EU) No 1380/2013

⁶ Council Directive 92/43/EEC or Directive 2009/147/EC of the European Parliament and of the Council

2 Sectoral eligibility

Support shall be granted to:

- 2.1 owners of Union fishing vessels which are registered as active vessels and which have carried out fishing activities at sea of at least 60 days during the two calendar years preceding the date of submission of the application for support;
- 2.2 fishermen who own the gear to be replaced and who have worked on board of a Union fishing vessel for at least 60 days during the two calendar years preceding the date of submission of the application for support;
- 2.3 organisations of fishermen recognised by the Member State.

3 Aid limits

Articles	Aid Level	A	B	C
Articles 23	50%	+30%	+10%	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

Support shall not be granted more than once for the same type of equipment on the same Union fishing vessel.

ARTICLE 25

AID FOR THE PROTECTION AND RESTORATION OF MARINE BIODIVERSITY AND ECOSYSTEMS AND COMPENSATION REGIMES IN THE FRAMEWORK OF SUSTAINABLE FISHING ACTIVITIES

The corresponding article in the EMFF is Article 40.

1 Eligible activities

Protection and restoration of marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities.

In order to protect and restore marine biodiversity and ecosystems in the framework of sustainable fishing activities, with the participation, where relevant, of fishermen, State aid may support the following operations:

- 1.1 the collection of waste by fishermen from the sea such as the removal of lost fishing gear and marine litter;
- 1.2 the construction, installation or modernisation of static or movable facilities intended to protect and enhance marine fauna and flora, including their scientific preparation and evaluation;
- 1.3 contributions to a better management or conservation of marine biological resources;
- 1.4 the preparation, including studies, drawing-up, monitoring and updating of protection and management plans for fishery-related activities relating to NATURA 2000 sites and spatial protected areas referred to in the EU Marine Strategy Directive⁷ the management, restoration and monitoring of NATURA 2000 sites;
- 1.5 the management, restoration and monitoring of marine protected areas with a view to the implementation of the spatial protection measures referred to in Article 13(4) of the EU Marine Directive;
- 1.6 increasing environmental awareness, involving fishermen, with regard to the protection and restoration of marine biodiversity;
- 1.7 schemes for compensation for damage to catches caused by mammals and birds protected by the EU Habitats and Birds Directives (subject to the formal recognition of such schemes by competent authorities); and
- 1.8 the participation in other actions aimed at maintaining and enhancing biodiversity and ecosystem services, such as the restoration of specific marine and coastal habitats in support of sustainable fish stocks, including their scientific preparation and evaluation. Support shall be subject to the formal recognition of such schemes by the competent authorities of the Member States. Member States shall also ensure that no overcompensation for damage occurs as a result of the combination of Union, national and private compensation schemes.

Funding of normal operating costs is not permitted.

⁷ Directive 2008/56/EC and relating to other special habitats; EN L 149/28 Official Journal of the European Union 20.5.2014

2 Sectoral eligibility

Support shall be granted to scientific or technical public law bodies, Advisory Councils, fishermen or organisations of fishermen which are recognised by the Member State, or by non-governmental organisations in partnership with organisations of fishermen.

3 Aid limits

Articles	Aid Level	A	B	C
Articles 25	50%	+30%	+10%	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 26

AID TO IMPROVE ENERGY EFFICIENCY AND TO MITIGATE THE EFFECTS OF CLIMATE CHANGE IN THE FISHING SECTOR

The corresponding article in the EMFF is Article 41.

1 Eligible activities

Aid to improve energy efficiency and to mitigate the effects of climate change, with the exception of aid to replace or modernise engines:

- 1.1 investments in equipment or on board aimed at reducing the emission of pollutants or greenhouse gases and increasing the energy efficiency of fishing vessels. Investments in fishing gear are also eligible provided that they do not undermine the selectivity of that fishing gear;
- 1.2 energy efficiency audits and schemes;
- 1.3 studies to assess the contribution of alternative propulsion systems and hull designs to the energy efficiency of fishing vessels

Normal operating costs are not eligible for this aid.

Support for the replacement or modernisation of main or ancillary engines may be granted only:

- 1.4 for vessels up to 12 metres in overall length, provided that the new or modernised engine does not have more power in kW than the current engine;
- 1.5 for vessels between 12 and 18 metres in overall length, provided that the power in kW of the new or modernised engine is at least 20 % lower than that of the current engine;
- 1.6 for vessels between 18 and 24 metres in overall length, provided that the power in kW of the new or modernised engine is at least 30 % lower than that of the current engine.

Support for the replacement or modernisation of main or ancillary engines may only be granted in respect of vessels belonging to a fleet segment for which the report on fishing capacity has shown a balance with the fishing opportunities available to that segment.

Support shall only be granted for the replacement or modernisation of main or ancillary engines which have been officially certified in accordance the EU Regulation for fishing quotas.⁸ It shall only be paid after any required reduction of capacity in kW has been permanently removed from the Union fishing fleet register.

For fishing vessels not subject to a certification of engine power, support shall only be granted for the replacement or modernisation of main or ancillary engines in respect of which the consistency of engine power has been verified in accordance with the EU Regulation for fishing quotas and which have been physically inspected to ensure that the engine power does not exceed the engine power established in the fishing licenses.

The reduction of engine power referred to in paragraphs 1.5 and 1.6 may be achieved by a group of vessels for each category of vessel referred to in those points (only relevant where the aid is part of a scheme rather than a one-off aid decision).

2 **Sectoral eligibility**

Support shall only be granted to owners of fishing vessels and shall not be granted more than once for the same type of investment for the same fishing vessel.

3 **Aid limits**

Support shall not exceed the Sterling equivalent of €1,500,000 using the official EU daily conversion rate for the day when an unconditional offer of aid is accepted.

⁸ Article 40(2) of Regulation (EC) No 1224/2009

ARTICLE 27

AID TO ADDED VALUE, PRODUCT QUALITY AND USE OF UNWANTED CATCHES

The corresponding article in the EMFF is Article 42.

1 Eligible activities

In order to improve the added value or quality of the fish caught, the following support may be given:

- 1.1 investments that add value to fishery products, in particular by allowing fishermen to carry out the processing, marketing and direct sale of their own catches;
- 1.2 innovative investments on board that improve the quality of the fishery products - conditional on the use of selective gears to minimise unwanted catches and shall only be granted to owners of Union fishing vessels that have carried out a fishing activity at sea for at least 60 days during the two calendar years preceding the date of submission of the application for support

Normal operating costs are not eligible for this aid.

2 Aid limits

Articles	Aid Level	A	B	C
Articles 27	50%	+30%	+10%	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 28

AID TO FISHING PORTS, LANDING SITES, AUCTION HALLS AND SHELTERS

The corresponding article in the EMFF is and Article 43.

1 Eligible activities

For the purpose of increasing the quality, control and traceability of the products landed, increasing energy efficiency, contributing to environmental protection and improving safety and working conditions, the following support may be given:

- 1.1 Investments improving the infrastructure of fishing ports, auctions halls, landing sites and shelters, including investments in facilities for waste and marine litter collection, for the purpose of increasing the quality, control and traceability of the products landed, increasing energy efficiency, contributing to environmental protection and improving safety and working conditions.
- 1.2 Investments in fishing ports, auction halls, landing sites and shelters in order to facilitate compliance with the obligation to land all catches in accordance with the Common Fisheries Policy⁹ and the Regulation on Common Organisation of Markets in Fisheries and Aquaculture products,¹⁰ as well as to add value to under-used components of the catch.
- 1.3 In order to improve the safety of fishermen, support may be given in the form of investment in the construction or modernisation of shelters in order to improve the safety of fishermen.
- 1.4 Support shall not cover the construction of new ports, new landing sites or new auction halls.

2 Aid limits

Articles	Aid Level	A	B	C
Articles 28	50%	+30%	+10%	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary;

⁹ (EU) No 1380/2013

¹⁰ (EU) No 1379/2013

	(iii) it has innovative features, where appropriate, at local level
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ARTICLE 29

AID TO INLAND FISHING AND INLAND AQUATIC FAUNA AND FLORA

The corresponding article in the EMFF is Article 44.

1 Eligible activities

- 1.1 No aid may be granted for normal operating costs.
- 1.2 In order to reduce the impact of inland fishing on the environment, to increase energy efficiency, to increase the value or quality of fish landed, or to improve health, safety, working conditions, human capital and training, State aid may support investments in the following:
- 1.2.1 the promotion of human capital, job creation and social dialogue as referred to in Article 16 and under the conditions set out in that Article;
 - 1.2.2 on board or in individual equipment as referred to in Article 19 and under the conditions set out in that Article;
 - 1.2.3 in equipment and types of operations as referred to in Articles 23 and 24 and under the conditions set out in that Article;
 - 1.2.4 the improvement of energy efficiency and the mitigation of the effects of climate change as referred to in Article 26 and under the conditions set out in that Article;
 - 1.2.5 the improvement of the value or quality of the fish caught as referred to in Article 27 and under the conditions set out in that Article; and
 - 1.2.6 in fishing ports, shelters and landing sites as referred to in Article 28 and under the conditions set out in that Article.
- 1.3 Inland fishing may receive State aid for support for investments relating to business start-ups for young fishermen as referred to in Article 18 and under the same conditions as set out in that Article, except for the requirement under point (b) of paragraph 2 of that Article.
- 1.4 Inland fishing may receive State aid for, for the advisory services in accordance with Article 14 and for partnerships between scientists and fishermen in accordance with Article 15.
- 1.5 Inland fishing may receive State aid for support for the diversification of inland fishing activities to complementary activities under the conditions laid down in Article 17.

1.6 In order to protect and develop aquatic fauna and flora, State aid may be used to support:

1.6.1 the management, restoration and monitoring of NATURA 2000 sites which are affected by fishing activities, and the rehabilitation of inland waters in accordance with the EU Water Framework,¹¹ including spawning grounds and migration routes for migratory species;

1.6.2 the construction, modernisation or installation of static or movable facilities intended to protect and enhance aquatic fauna and flora, including their scientific preparation, monitoring and evaluation.

2 Condition attaching to the State aid

Vessels receiving support under this article must operate exclusively in inland waters.

3 Aid limits

Articles	Aid Level	A	B	C
Articles 29	50%	+30%	+10%	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 31

AID TO PRODUCTIVE INVESTMENTS IN AQUACULTURE

The corresponding articles in the EMFF are Articles 46 and 48.

1 Eligible activities

State aid may support the following productive investments in aquaculture:

¹¹ Directive 2000/60/EC

- 1.1 productive investments in aquaculture;
- 1.2 the diversification of aquaculture production and species cultured;
- 1.3 the modernisation of aquaculture units, including the improvement in working and safety conditions of aquaculture workers;
- 1.4 improvements and modernisation related to animal health and welfare, including the purchase of equipment aiming at protecting the farms from wild predators;
- 1.5 investments reducing the negative impact or enhancing the positive effects on the environment and increasing resource efficiency;
- 1.6 investments in enhancing the quality of, or in adding value to, aquaculture products;
- 1.7 the restoration of existing aquaculture ponds or lagoons through the removal of silt, or investments aimed at the prevention of silt deposits;
- 1.8 the diversification of the income of aquaculture enterprises through the development of complementary activities - only if the complementary activities relate to the core aquaculture business of the enterprise, including angling tourism, environmental services related to aquaculture or educational activities concerning aquaculture.
- 1.9 investments resulting in a substantial reduction in the impact of aquaculture enterprises on water usage and quality, in particular through reducing the amount of water or chemicals, antibiotics and other medicines used, or through improving the output water quality, including through the deployment of multi-trophic aquaculture systems;
- 1.10 the promotion of closed aquaculture systems where aquaculture products are farmed in closed recirculation systems, thereby minimising water use;
- 1.11 investments increasing energy efficiency and promoting the conversion of aquaculture enterprises to renewable sources of energy

Where operations consist of investments in equipment or infrastructure ensuring compliance with future requirements relating to the environment, human or animal health, hygiene or animal welfare under Union law, support may be granted until the date on which such requirements become mandatory for the enterprises.

Support shall not be granted to the farming of genetically modified organisms.

Support shall not be granted to aquaculture operations in marine protected areas, if it has been determined by the competent authority of the UK on the basis of an environmental impact assessment, that the operation would generate significant negative environmental impact that cannot be adequately mitigated.

2 **Conditions for Approval**

Entrepreneurs entering the sector shall provide a business plan and, where the amount of investments is more than €50,000, a feasibility study including an environmental assessment of the operations.

Support shall be granted only where it has been clearly demonstrated in an independent marketing report that good and sustainable market prospects exist for the product.

Support for the increase in production and/or modernisation of existing aquaculture enterprises, or for the construction of new ones, must be consistent with the UK multiannual national strategic plan for the development of aquaculture.

3 **Sectoral eligibility**

Aquaculture enterprises only.

4 **Aid limits**

Articles	Aid Level	A	B	C
Articles 31	50%	Not applicable	Not applicable	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 32

AID TO MANAGEMENT, RELIEF AND ADVISORY SERVICES FOR AQUACULTURE FARMS

The corresponding articles in the EMFF are Articles 46 and 49.

1 **Eligible activities**

In order to improve the overall performance and competitiveness of aquaculture farms, and to reduce the negative environmental impact of their operations, the State aid may support:

- 1.1 the setting-up of management, relief and advisory services for aquaculture farms by public law bodies or other entities selected by the Member State to set up the farm advisory services to aquaculture SMEs or aquaculture organisations, including aquaculture producer organisations and associations of aquaculture producer organisations;
- 1.2 the purchase of farm advisory services of a technical, scientific, legal, environmental or economic nature by scientific or technical bodies, as well as by entities providing legal or economic advice with the required competences. Such services should cover:
- 1.2.1 the management needs to enable aquaculture farms to comply with Union and national environmental legislation, as well as with maritime spatial planning requirements;
- 1.2.2 environmental impact assessment as referred to in Directive 2001/42/EC of the European Parliament and of the Council (1) and Directive 92/43/EEC;
- 1.2.3 the management needs to enable aquaculture farms to comply with Union and national aquatic animal health and welfare or public health legislation;
- 1.2.4 health and safety standards based on Union and national legislation;
- 1.2.5 marketing and business strategies.

2 Aid limits

Articles	Aid Level	A	B	C
Articles 32	50%	Not applicable	Not applicable	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

Beneficiaries shall not receive support more than once per year for each category of advisory services referred to in paragraph 1.2 above.

ARTICLE 33

AID TO PROMOTE HUMAN CAPITAL AND NETWORKING IN AQUACULTURE

The corresponding articles in the EMFF are Articles 46 and 50.

1 Eligible activities

In order to promote human capital and networking in aquaculture, support may be given for:

- 1.1 professional training, lifelong learning, the dissemination of scientific and technical knowledge and innovative practices, the acquisition of new professional skills in aquaculture and with regard to the reduction of the environmental impact of aquaculture operations;
- 1.2 the improvement of working conditions and the promotion of occupational safety;
- 1.3 networking and exchange of experiences and best practices among aquaculture enterprises or professional organisations and other stakeholders, including scientific and technical bodies or those promoting equal opportunities between men and women.

2 Eligible beneficiaries

SMEs active in aquaculture. Support shall also be granted to public or semi-public organisations and also to spouses of self-employed aquaculture farmers or, where and in so far as they are recognised by national law, to the life partners of self-employed aquaculture farmers.

3 Aid limits

Articles	Aid Level	A	B	C
Articles 33	50%	Not applicable	Not applicable	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 35

AID TO ENCOURAGE NEW AQUACULTURE FARMERS PRACTISING SUSTAINABLE AQUACULTURE

The corresponding articles in the EMFF are Articles 46 and 52.

1 **Eligible activities**

In order to foster entrepreneurship in aquaculture, support may be given for the setting-up of sustainable aquaculture enterprises by new aquaculture farmers.

Support shall not be granted to the farming of genetically modified organisms.

Support shall not be granted to aquaculture operations in marine protected areas, if it has been determined by the competent authority of the Member State, on the basis of an environmental impact assessment, that the operation would generate significant negative environmental impact that cannot be adequately mitigated.

2 **Eligible beneficiaries**

Support shall be granted to aquaculture farmers entering the sector provided that they:

- 2.1 possess adequate professional skills and competence;
- 2.2 set up for the first time an aquaculture micro or small enterprise, as managers of that enterprise; and
- 2.3 submit a business plan for the development of their aquaculture activities.

Note: in order to acquire adequate professional skills, aquaculture farmers entering the sector may benefit from support under Article 33.

3 **Conditions for Approval**

Entrepreneurs entering the sector shall provide a business plan and, where the amount of investments is more than €50,000, a feasibility study including an environmental assessment of the operations.

Support shall be granted only where it has been clearly demonstrated in an independent marketing report that good and sustainable market prospects exist for the product.

4 Aid limits

Articles	Aid Level	A	B	C
Articles 35	50%	Not applicable	Not applicable	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 36

AID FOR THE CONVERSION TO ECO-MANAGEMENT AND AUDIT SCHEMES AND ORGANIC AQUACULTURE

The corresponding articles in the EMFF are Articles 46 and 53.

1 Eligible activities

In order to promote the development of organic or energy-efficient aquaculture, support may be given to:

- 1.1 the conversion of conventional aquaculture production methods into organic aquaculture;¹²
- 1.2 the participation in the Union eco-management and audit schemes (EMAS).¹³

Support shall not be granted to the farming of genetically modified organisms.

Support shall not be granted to aquaculture operations in marine protected areas, if it has been determined by the competent authority of the Member State, on the basis of an

¹² Council regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and Commission regulation (EC) No 710/2009 of 5 August 2009 on the implementation of Council Regulation (EC) No 834/2007 on organic aquaculture animal and seaweed production

¹³ Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing participation in a Community eco-management and audit scheme (EMAS)

environmental impact assessment, that the operation would generate significant negative environmental impact that cannot be adequately mitigated.

2 **Conditions for Approval**

Support shall only be granted to beneficiaries who commit themselves to participate in the EMAS for a minimum of three years or to comply with the requirements of organic production for a minimum of five years.

3 **Types of assistance**

Support shall take the form of compensation for a maximum of three years during the period of the conversion of the enterprise to organic production, or during the preparation for participation in the EMAS. Compensation shall be calculated on the basis of:

3.1 the loss of revenue or additional costs incurred during the period of transition from conventional into organic production for operations eligible and in accordance with the regulations in footnote¹².

3.2 the additional costs resulting from the application and preparation for participation in the EMAS.

4 **Aid limits**

Articles	Aid Level	A	B	C
Articles 36	50%	Not applicable	Not applicable	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 41

AID FOR MARKETING MEASURES FOR BOTH THE FISHERIES AND AQUACULTURE SECTORS

The corresponding article in the EMFF is Article 68.

1 Eligible activities

Support may be given to marketing measures for fishery and aquaculture products which are aimed at:

- 1.1 creating producer organisations, associations of producer organisations or inter-branch organisations to be recognised in accordance with Section II of Chapter II of the Common Organisation of Markets in Fishery and Aquaculture;¹⁴
- 1.2 finding new markets and improving the conditions for the placing on the market of fishery and aquaculture products, including:
 - 1.2.1 species with marketing potential;
 - 1.2.2 unwanted catches landed from commercial stocks in accordance with technical measures, Article 15 of the Common Fisheries Policy and Article 8(2)(b) of the Common Organisation of Markets in Fishery and Aquaculture
 - 1.2.3 fishery and aquaculture products obtained using methods with low impact on the environment, or organic aquaculture products within the meaning of the Council Regulation on Organic Products;¹⁵
- 1.3 promoting the quality and the value added by facilitating:
 - 1.3.1 the application for registration of a given product and the adaptation of concerned operators to the relevant compliance and certification requirements in accordance with the EU regulation on agricultural products and foodstuffs;¹⁶
 - 1.3.2 the certification and the promotion of sustainable fishery and aquaculture products, including products from small-scale coastal fishing, and of environmentally-friendly processing methods;
 - 1.3.3 the direct marketing of fishery products by small-scale coastal fishermen or by on-foot fishermen;
 - 1.3.4 the presentation and packaging of products;

¹⁴ Regulation (EU) No 1379/2013

¹⁵ Regulation (EC) No 834/2007

¹⁶ Regulation (EU) No 1151/2012

- 1.4 contributing to the transparency of production and the markets and conducting market surveys and studies on the Union's dependence on imports;
- 1.5 contributing to the traceability of fishery or aquaculture products and, where relevant, the development of a Union-wide ecolabel for fishery and aquaculture products as referred to in Regulation (EU) No 1379/2013;
- 1.6 drawing up standard contracts for SMEs, which are compatible with Union law;
- 1.7 conducting regional, national or transnational communication and promotional campaigns, to raise public awareness of sustainable fishery and aquaculture products. Support should not be aimed at commercial brands.

Operations may include the production, processing and marketing activities along the supply chain.

2 Aid limits

Articles	Aid Level	A	B	C
Articles 41	50%	Not applicable	Not applicable	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

ARTICLE 42

AID FOR THE PROCESSING OF FISHERY AND AQUACULTURE PRODUCTS

The corresponding article in the EMFF is Article 69.

1 Eligible activities

Support may be given in respect of investments in the processing of fishery and aquaculture products that:

- 1.1 contribute to energy saving or reducing the impact on the environment, including waste treatment;
- 1.2 improve safety, hygiene, health and working conditions;
- 1.3 support the processing of catches of commercial fish that cannot be destined for human consumption;
- 1.4 relate to the processing of by-products resulting from main processing activities;
- 1.5 relate to the processing of organic aquaculture products pursuant to Articles 6 and 7 of the EU Regulation on organic production and labelling;¹⁷
- 1.6 lead to new or improved products, new or improved processes, or new or improved management and organisation systems.

2 Aid limits

Articles	Aid Level	A	B	C
Articles 42	50%	Not applicable	Not applicable	Up to 100%

A	if the activity is related to small scale coastal fisheries
B	if the activity is implemented by organisations of fishermen or other collective beneficiaries
C	if the activity fulfils all of the following criteria: (i) it is of collective interest; (ii) it has a collective beneficiary; (iii) it has innovative features, where appropriate, at local level

¹⁷ Regulation (EC) No 834/2007

ANNEX 1: FISHERY AND AQUACULTURE PRODUCTS

Fishery and Aquaculture products covered by the Common Organisation of Markets in Fisheries and Aquaculture (CMO):¹⁸

CN Code		Description of the goods
(a)	0301	Live fish
	0302	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304
	0303	Fish, frozen, excluding fish fillets and other fish meat of heading 0304
	0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen
(b)	0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption
(c)	0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption
	0307	Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption
(d)		Products of fish or crustaceans, molluscs or other aquatic invertebrates
	0511 91 10	Fish waste
	0511 91 90	Other
(e)	1212 20 00	Seaweeds and other algae
(f)		Fats and oils and their fractions, of fish, whether or not refined, but not chemically modified:
	1504 10	Fish-liver oils and their fractions
	1504 20	Fats and oils and their fractions, of fish, other than liver oils
(g)	1603 00	Extracts and juices of meat, fish or crustaceans, molluscs or other aquatic invertebrates

¹⁸ EN L 354/16 Official Journal of the European Union 28.12.2013

CN Code		Description of the goods
(h)	1604	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs
(i)	1605	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved
(j)	1902 20	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared Stuffed pasta, whether or not cooked or otherwise prepared
	1902 20 10	Containing more than 20% by weight of fish, crustaceans, molluscs or other aquatic invertebrate
(k)		Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption; greaves:
	2301 20 00	Flours, meal and pellets, of fish or of crustaceans, molluscs or other aquatic invertebrates
(l)	2309 90 Ex 2309 90 10	Preparations of a kind used in animal feeding Other Fish solubles

ANNEX 2: DEFINITIONS

“**aid**” means any measure fulfilling all the criteria laid down in Article 107(1) of the Treaty;

“**small and medium-sized undertakings**” or “**SMEs**” means undertakings fulfilling the criteria laid down in Annex 3;

“**fishery and aquaculture products**” means the products defined in Annex I of the Common Organisation of Markets of Fishery and Aquaculture Products and in Annex 1 of this document;

“**natural disasters**” means earthquakes, avalanches, landslides and floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin;

“**undertaking in difficulty**” means an undertaking in respect of which at least one of the following circumstances occurs:

- (a) in the case of a limited liability company (other than an SME that has been in existence for less than three years), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, “**limited liability company**” refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU of the European Parliament and of the Council¹⁹ and “**share capital**” includes, where relevant, any share premium;
- (b) in the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, “company where at least some members have unlimited liability for the debt of the company” refers in particular to the types of company mentioned in Annex II to Directive 2013/34/EU;
- (c) where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors;
- (d) where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan;

¹⁹ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19)

“ad hoc aid” means aid not granted on the basis of an aid scheme;

“aid scheme” means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount;

“individual aid” means:

- (a) ad hoc aid; and
- (b) awards of aid to individual beneficiaries on the basis of an aid scheme;

“gross grant equivalent” means the amount of the aid if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charges;

“repayable advance” means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project;

“start of works” means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. For take-overs, ‘start of works’ means the moment of acquiring assets directly linked to the acquired establishment;

“fiscal successor scheme” means a scheme in the form of tax advantages which constitutes an amended version of a previously existing scheme in the form of tax advantages and which replaces it;

“aid intensity” means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;

“date of granting the aid” means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime;

“small-scale coastal fishing” means fishing carried out by fishing vessels of an overall length of less than 12 metres and not using towed fishing gear as listed in Table 3 of Annexe 1 to the Commission’s Regulation o(EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register;²⁰

“vessels operating exclusively in inland waters” means vessels engaged in commercial fishing in inland waters and not included in the Union fishing fleet register.

²⁰ OJ L 5, 9.1.2004 p25

ANNEX 3: SME DEFINITION

Enterprise

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

Staff headcount and financial thresholds determining enterprise categories

- 1 The category of micro, small and medium-sized enterprises (“**SMEs**”) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding €50 million, and/or an annual balance sheet total not exceeding €43 million.
- 2 Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed €10 million.
- 3 Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than ten persons and whose annual turnover and/or annual balance sheet total does not exceed €2 million.

Types of enterprise taken into consideration in calculating staff numbers and financial amounts

- 1 An “**autonomous enterprise**” is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.
- 2 “**Partner enterprises**” are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

- (a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than €1,250, 000;
- (b) universities or non-profit research centres;

- (c) institutional investors, including regional development funds;
 - (d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.
- 3 **“Linked enterprises”** are enterprises which have any of the following relationships with each other:
- (a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
 - (b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
 - (c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
 - (d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise. There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders. Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked. Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets. An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.
- 4 Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 5% or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies. 5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

Data used for the staff headcount and the financial amounts and reference period

- 1 The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (“**VAT**”) and other indirect taxes.
- 2 Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.
- 3 In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

Staff headcount

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full- time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU.

The staff consists of:

- 1 employees;
- 2 persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- 3 owner-managers;
- 4 partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise. Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

Establishing the data of an enterprise

- 1 In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.
- 2 The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in

which the enterprise is included through consolidation. To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies. To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

- 3 For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100% of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation. For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.
- 4 Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.

ANNEX 4: PARTICULAR AID WHICH IS INELIGIBLE UNDER THIS SCHEME

1 Aid granted to operations which would have been ineligible for support under the EMFF, namely:

- (a) operations increasing the fishing capacity of a vessel or equipment increasing the ability of a vessel to find fish;
- (b) the construction of new fishing vessels or the importation of fishing vessels;
- (c) the temporary or permanent cessation of fishing activities, unless otherwise provided for in the EMFF;
- (d) exploratory fishing;
- (e) the transfer of ownership of a business;
- (f) direct restocking; unless explicitly provided for as a conservation measure by an EU legal act or in the case of experimental restocking;

is ineligible for aid under this scheme.

2 Aid granted to undertakings that cannot apply for support from the EMFF because:

- (a) the beneficiary has committed a serious infringement under relevant EU legislation²¹;
- (b) the beneficiary has been involved in the operation, management or ownership of fishing vessels included in the Union IUU vessel list as set out in Article 40(3) of Regulation (EC) No 1005/2008, or of vessels flagged to countries identified as non-;
- (c) the beneficiary has committed a serious infringement of the CFP rules identified as such in other legislation adopted by the European Parliament and by the Council; or
- (d) the beneficiary has committed any of the offences in the relevant EU legislation;²²
- (e) the beneficiary, after submitting the application, shall continue to comply with the conditions referred to in points (a) to (d) above throughout the

²¹ 1 Article 42 of Council Regulation (EC) No 1005/2008 (1) or Article 90(1) of Regulation (EC) No 1224/2009 – Common Fisheries Policy

²² Articles 3 and 4 of Directive 2008/99/EC of the European Parliament and of the Council (2), where the application is made for support under Chapter II of Title V of this Regulation

period of implementation of the operation and for a period of five years after the final payment to that beneficiary,

is ineligible for aid under this scheme.