



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

POLICY DEVELOPMENT AND CO-ORDINATION

Brussels,

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Number of pages:

Subject: Final minutes of the 4th meeting of the Expert group on the European Maritime and Fisheries Fund - Brussels, 3 February 2015, 9.30 – 16.30

Attendance

Chairperson

Elisa ROLLER, Head of Unit MARE A3, "Structural policy and economic analysis".

Member States

With the exception of HR, EL and LU, all the MS' experts were present at the meeting.

EP and Council

EP PECH Secretariat was represented.

Commission

DG MARE was represented by units A3 and D3

DG ENV (for agenda point 7) and DG EMPL (for agenda point 5) were also represented.

Secretariat:

Carla PALANGA (MARE A3).

1. Adoption of the agenda.

The agenda was adopted.

2. State of play of delegated acts

COM (Gabriella Iglói, DG MARE) presented the state of play of delegated acts under the EMFF. At the request of participants, COM will send all participants the summary table.

3. Delegated act on inadmissibility of applications by operators committing offences as set out in Articles 3 and 4 of Directive 2008/99/EC

COM (Elisa Roller, DG MARE) presented the first draft of the delegated act on inadmissibility of applications submitted by an operator who committed any offence in the meaning of Articles 3 and 4 of Directive 2008/99/EC. She particularly highlighted the following elements:

- Formally, this delegated act will be an amendment to the delegated act on inadmissibility of applications that has already been adopted by the COM on 17 December 2014;
- The directive in its Article 3 lists the cases of offences, but some of them are highly unlikely to involve an aquaculture farmer;
- DG JUST has commissioned a study on how individual MS transposed this directive into their national legislation. This study shows significant differences among MS in terms of possible penalties making it difficult to draft a delegated act that takes into account proportionality but at the same time provides for a level playing field;
- The formula proposed in the draft text takes into account the national legislation of each individual MS as well as how each justice system applies the different penalties. Both the transposition of the directive into national legislation and judicial practice have to take into account the principle of proportionality. This is reflected in the proposed formula;

Participants generally expressed their satisfaction of the proposal to introduce a generic formula which can take into account the significant variations in the way the directive has been implemented and applied in the judicial system in each Member State.

SE and DK proposed to introduce different thresholds for fines and for imprisonment (that would simplify the use of the formula) where the ceilings are lower for fines.

UK asked to explicitly link the application of the formula to convictions.

FR and EE asked whether the notion of administrative fines should be differentiated from criminal penalties.

Furthermore, EE indicated that they have decided not to give any public support to the persons that have been found guilty under criminal charges.

PT and NL asked for a more precise definition of cases within the meaning of Articles 3 and 4 of the directive that apply to aquaculture farmers. Furthermore, NL proposed to link the formula more explicitly to the severity of the offence.

DK proposed to define the date from which offences/sentences should be taken into account to start the 1st of January 2013 (as in control and enforcement).

COM welcomed the positive approach of the meeting participants and will consider all the proposals and comments raised. In its initial reaction the following points were emphasised:

- The empowerment does not provide the possibility to restrict the number of cases listed in Articles 3 and 4.
- The provisions concerning inadmissibility of applications are only applicable in case of applications under Union priority 2 (sustainable aquaculture);
- The text of the delegated act as presented already explicitly links the application of provisions to convictions ("judgment having the force of res judicata").

4. Clarification on support to operational costs for the implementation of a Union control, inspection and enforcement system under Article 76

COM (Elisa Roller, DG MARE) presented the guidance that was elaborated following the receipt of numerous clarification questions from several MS.

Following the comment from SE, COM confirmed that in the first paragraph of chapter 3 the term "in particular" is a drafting mistake and will be deleted.

As a reply to ES, COM highlighted that the guidance aims to clarify the question whether operational costs for control and enforcement may be financed under any other paragraphs than (k) and (l). Article 76(2)(k) and (l) refer specifically to operational costs, for all the other interventions under other paragraphs within this article the guidance outlines the conditions under which operational costs may be eligible. It was also confirmed that costs of inspectors directly related to control operations (eg. travel expenses from Madrid to the port of embarkation) under the conditions outlined in the guidance note may be eligible for financing.

5. Guidance and case study on Simplified Cost Option for all ESI Funds

COM (Elsa Kmiecik, DG EMPL) presented the concept of Simplified Cost Options by highlighting concrete examples to demonstrate the advantages of the use of this concept.

At the meeting, 5 MS (DK, FR, BG, NL, EE) indicated that they wish to make use of Simplified Cost Options. Some others (PT) have not yet decided and will leave this question to the last stage of programming.

Several experts (FR, DK) consider this tool useful in the cases of EMFF-supported operations which include salary costs, although they expressed reluctance to do so because of the perceived complexity. Mostly the processing and marketing measures seem to be the most appropriate places to use simplified cost options by the MS. There were general concerns expressed on how the inclusion of simplified cost options would be assessed in audits and whether both COM and national auditors would accept the methodology established at national level.

EE inquired whether the description of methodology of SCO in the Operational Programme could be general and the detailed methodology can be developed at the level of an individual operation.

BG asked the COM to provide more examples of the use of SCO in case of CLLD in particular for financing running cost and animation. One example is available in Part II, Section 7.5 (pages 106-109) of the guidance on CLLD that is available [here](#).

COM in its reaction clarified the followings:

- In reply to PT, COM clarified that when a MS designs its own standard scale of unit costs and lump sums on the basis of a fair, equitable and verifiable method, it is easier to do so for similar type of operations. MS can also combine different methodologies of SCO or combine SCO with real cost basis reimbursement. In any case, if SCO is applied the auditors should not request the individual invoices of the underlying real costs but instead evidence that the methodology has been applied correctly and the underlying statistics and calculation justifying how the methodology was established;
- In reply to questions raised by FR and EE, Managing Authorities are encouraged to consult the Audit Authority in their respective MS when designing SCOs. DG EMPL also shared one good practice from the ESF in the 2007-2013 programming period: from the outset, MS had exchanges with the Commission services on their methodologies to ensure consistency and avoid misunderstandings;
- In reply to the question of EE, COM clarified that simplified cost options have to be defined at the latest in the document setting out the conditions for support, and the relevant methods and conditions should be incorporated into the relevant section of the EMFF OP as well as in the national eligibility rules applicable to the programme as a whole;
- In reply to the question of DK, COM clarified that lump sums cannot be applied instead of public procurement, as simplified cost options can only be used where public procurement is not applicable to the entirety of the project or the operation. The use of SCOs does not waive the obligation to fully observe all applicable Union and national rules, including public procurement;
- In reply to the NL, COM confirmed that the provisions of the regulations do not exclude the use of SCO for in kind contributions. Contributions in kind can be taken into account for calculating the value of a SCO.

6. Revision of the multiannual financial framework (MFF) in relation to the adoption of programmes under shared management

COM (Mark Johnston, DG MARE) presented the context and content of the COM proposals for the revision of the MFF as well as for the annual budget highlighting the following information:

- In total, there will be 645 programmes in place under shared management. Out of these 252 programmes (representing 39% of the total number) were adopted in 2014. 93 programmes (14%) went through the entire process of revision and assessment by COM and are ready for adoption but it was materially impossible to adopt them during the last year, so their allocation for 2014 can be carried over to 2015. These programmes need to be adopted before 31 March 2015. The remaining programmes (representing 47% of the total number of programmes) are not in the situation of carry-over.
- Article 19 of the Regulation on the MFF provides for a reprogramming of resources to subsequent year(s). This re-programming affects all of the funds under shared management.

- COM submitted to Council and European Parliament 2 proposals (MFF revision and draft amending budget) in a package that need to proceed in parallel. The MFF revision shall be adopted before May 2015, according to article 19 of the Regulation on the MFF. After the adoption of the MFF revision and of the amending budget, the COM will be in a position to adopt the remaining operational programmes.
- In the EMFF, there are 22 operational programmes that were not adopted in 2014 and are not eligible for the carry-over. For those operational programmes, 2014 commitment appropriations will be reprogrammed to 2015.
- The reprogramming will affect altogether 21 billion EUR throughout the shared management programmes including 741 MEUR in the EMFF.
- In order to ensure equal treatment for all MS, there will be no difference in the treatment of operational programmes in carry-over and those reprogrammed in accordance with Article 19 of the MFF as regards the automatic decommitment rule.

Several MS (DE, EE, FR and UK) expressed concerns on the differentiated approach among the funds, since in case of rural development, commitments will be carried over to 2015 and 2016.

COM clarified that the objective is to stimulate growth and jobs best and as soon as possible. Furthermore, there are several differences between the EAFRD and the EMFF:

- an amendment to the EAFRD that allows MS to transfer from direct payments to rural development came into force only at the end of December 2014;
- because of the transitional rules for the EAFRD, significant amounts spent under the new rural development programmes are still paid under the budget line of the 2007-2013 programmes. Doubling the available commitments in 2015 would result in additional unused appropriations in 2015;
- rural development funds do not benefit from annual pre-financing, so a higher amount of interim payments need to be claimed to avoid automatic decommitment.

As a reply to BE, COM confirmed that no arrangements are currently in place in case an operational programme is not adopted by the end of 2015.

7. Presentation on LIFE integrated projects

COM (László Bécsy, DG ENV) presented the concept of LIFE integrated projects with special regard to coherence with the EMFF and exploiting the possibility of combining EU funds.

IE shared that they are investigating the potential of combining funds from LIFE and the EMFF; contact has already been established with the national contact point for LIFE who has been invited to the Monitoring Committee.

In reply to a question from IE, COM clarified that funding from LIFE and the EMFF can be combined in a complementary manner. In this case, LIFE may finance certain elements that are not eligible under the EMFF. COM reminded that in any case provisions for public aid intensity in the EMFF and in LIFE needs to be respected, and that combining funds cannot result in the accumulation of EU funding beyond the applicable rate of public aid intensity.

COM also called attention to the Guidance for beneficiaries that has been published on the LIFE 2014 call webpage:

<http://ec.europa.eu/environment/life/funding/life2014/index.htm#integrated>.

8. Presentation of the 2013 EFF Annual Implementation Report

COM (Miguel Peña Castellot DG MARE) presented the main findings of the 2013 Annual Implementation Report on the EFF.

BE in its intervention clarified that the decrease of the leverage effect in EFF in comparison with the FIFG was due to the lower rate of subsidies. Therefore, a further decrease is likely to occur also in relation to the EMFF. As regards pilot projects, the Belgian experience shows that due to the high risk of such projects and given that they are not designed to generate net revenue, a 100% funding needs to be provided. BE expressed concern that the results of the report may be used to further diminish the financial resources for the sector while BE already needs to apply further rules in national legislation to limit the maximum amount of funding for vessels.

As regards the EMFF, FR expressed concern towards the mobilisation of credits and other financial instruments. FR referred to the abnormal mortality of oysters in the last few years and indicated that the EFF was not capable of facilitating quick financial support in emergency situations. That was the reason why FR opted to mobilize national public resources to the sector by granting *de minimis* and other State aid to face that situation.

Both BE and FR tried to put into context the relative decrease of Axis 1 measures by referring to the impact of R744/2008 which allowed MS to re-direct EFF funds from other axes to Axis 1.

COM in its reaction clarified that in case funding targets structural problems, the leverage effect cannot be expected to be high. Nevertheless, the leverage effect experienced with regards to some measures (i.e.; processing, aquaculture and vessel modernisation) does show that the sector is mature enough to change from the culture of grants to the more extensive use of reimbursable support. EMFF should provide grants for operations of an innovative nature that private capital is reluctant to finance. Regarding Axis 1, COM highlighted that although R744 could explain the relative decrease of Axis 1, other factors have also played a role. COM further added that preliminary analysis of de-commitments under the EFF and the uptake of State aid suggest that in some cases, some MS may be replacing national co-funding of EFF measures with State aid, which provided that it respects the state aid rules, can be done.

9. Presentation of the STECF report "The Economic Performance of the EU Fish Processing Industry"

COM (Simkje Kruidenink, DG MARE) presented the key findings of the STECF report on the fish processing industry. This report is a biannual exercise, the next report is expected in 2016.

FR in its intervention detailed the specificities of the processing sector in France. He particularly highlighted the focus on SMEs, the decrease of the number of female employees as well as the role played by imports from 3rd countries.

NL provided an explanation on some of the data presented as regards the low level of their use of EFF funding by processing firms.

BE suggested the use of more comparable data (eg. if the totals would be divided by the number of population).

COM in its reaction referred to the methodological problem of defining processing firms with most of the revenue of firms active in processing deriving from wholesale, including imports from third countries.

10. Clarification of Infosys requirements concerning the identification of the type of beneficiary

A table has been sent to the experts clarifying the terminology as regards identification of beneficiaries pursuant to *Commission Implementing Regulation (EU) No 1242/2014 of 20 November 2014 laying down rules pursuant to Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regard to the presentation of relevant cumulative data on operations*. The table is to provide consistency and common understanding as regards public beneficiaries concerning the data requirements linked to the annual data provision by Member States.

At the request of EE, in case an organization of fishermen is a legal person according to the national law of the Member State, the Commission can confirm that in any case only one code is to be used and if it is possible, the code for the organization of fishermen should be used regardless of its legal status.

11. Delegated and Implementing acts adopted under the CPR

Since the last meeting of the expert group one Commission Implementing regulation has been adopted:

Commission Implementing Regulation laying down detailed rules implementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards the models for the progress report, submission of the information on a major project, the joint action plan, the implementation reports for the Investment for growth and jobs goal, the management declaration, the audit strategy, the audit opinion and the annual control report and the methodology for carrying out the cost-benefit analysis and pursuant to Regulation (EU) No 1299/2013 of the European Parliament and of the Council as regards the model for the implementation reports for the European territorial cooperation goal

The following articles and annexes of this implementing regulation are applicable to the EMFF:

- Article 1 and Annex I – model for the progress report;
- Article 6 and Annex VI – Model for the management declaration;
- Article 7 and Annexes VII, VIII and IX – Models for the audit strategy, the audit opinion and the annual control report.

At the request of participants, a summary table of delegated and implementing act under the CPR will be sent.

12. Miscellaneous

- a. Based on the experiences with the operational programmes so far, COM (Fabien Deridder, DG MARE) clarified the **links between the tables on output indicators, the performance framework and financial allocations** by presenting a concrete

example. In reply to a question by EE, COM clarified that the excel sheet that was provided earlier was to help MS to complete the financial table in section 8.2 of the operational programme only. Nevertheless, in addition to table 8.2 MS needs to check logical links to and consequences with the performance framework in section 7.2 of the Operational Programme.

The next meeting of the Expert group on the EMFF is scheduled for 10 March. Any proposal to the agenda is welcome within 2 weeks.



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