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Common Fisheries Policy - State of play

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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

The common fisheries policy today and tomorrow: a Fisheries and Oceans Pact towards sustainable, science-based, innovative and inclusive fisheries management

{COM(2023) 103 final}

Contents

1. INTRODUCTION

As set out in Article 49 of the Common Fisheries Policy Regulation (EU) No 1380/2013[1] ('CFP Regulation'), the aim of this staff working document and the Communication it accompanies is to report on the functioning of the common fisheries policy (CFP). It assesses the state of play and implementation of the different provisions, mindful of the new challenges and opportunities since the 2013 reform, and the political orientations set out in the European Green Deal[2] and the related Biodiversity[3] and Farm to Fork[4] strategies. This document looks into the impacts of the triple environmental crisis (biodiversity loss, climate change and pollution) on fisheries and aquaculture management, and other issues. It analyses the socioeconomic challenges stemming from the COVID-19 pandemic, the high prices of energy and inputs and the disruptions in trade flows due to the geopolitical context and how these factors have had an impact on implementation of the CFP.

This document looks at the new dynamics in fisheries management created by the withdrawal of the UK from the EU. Since then, managing fish stocks together with third countries has become the rule rather than the exception, also in the North East Atlantic. In practice, it means that the overwhelming majority of stocks covered by the annual rounds of fishing opportunities are managed in an international consultation setting. This creates additional complexity in the decision-making process and highlights the need to strengthen cooperation.

This document builds on the input received from the targeted stakeholder consultation and the call for evidence (see Annex 1 for a synopsis of the consultation activities). It builds on multiple resolutions adopted by the European Parliament, the discussions at the Informal Meeting of the Directors-General and Attachés for Fisheries held in May 2022, recommendations and advice issued by the Advisory Councils. It also builds on the work carried out by scientific advisory bodies such as the Scientific, Technical and Economic Committee for Fisheries, the International Council for the Exploration of the Sea, and regional scientific fisheries bodies of the Regional Fisheries Management Organisations.

To avoid duplication, this document refrains from assessing in-depth specific aspects of the CFP Regulation that are evaluated or assessed in more detail in other documents such as the self-standing reports or communications on the EU's international ocean governance[5], the Control Regulation[6], the Data Collection Framework[7], the annual communications on the

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1 Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC.

2 Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, *The European Green Deal*, COM/2019/640 final.

3 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *EU Biodiversity Strategy for 2030 - Bringing nature back into our lives*, COM/2020/380 final.

4 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A Farm to Fork Strategy for a fair, healthy and environmentally friendly food system*, COM/2020/381 final.

5 Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Setting the course for a sustainable blue planet - Joint Communication on the EU's International Ocean Governance agenda*, JOIN(2022) 28 final and staff working document (2022) 174 final.

6 COM 2021(316) final.

7 Report from the Commission to the European Parliament and the Council Report on the implementation and functioning of Regulation (EU) 2017/1004 of the European Parliament and of the Council of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and

CFP[8], the evaluation on the Baltic multiannual plan[9], the retrospective evaluation study of the Mediterranean Sea Regulation[10], the implementation of the Technical Measures Regulation[11], and the report on the Common Market Organisation[12]. This document builds on these assessments as well as on findings from the European Climate, Infrastructure and Environment Executive Agency studies contracted on behalf of DG MARE. Throughout all chapters, references will be provided to these studies and to own initiative reports issued by the European Parliament. They are also referred to in Annex 2.

1.1. Brief history of the latest reform of the common fisheries policy in 2013

The CFP is based on Article 43 of the Treaty on the Functioning of the European Union (TFEU). It was created in the 1970s and over time has developed into a genuinely EU-level policy as Member States have pooled resources to operate a single EU policy under a common budget. The transnational nature of the sustainability challenges confirms the need for a strong policy based on common rules agreed at EU level.

The EU has exclusive competence to manage the conservation of marine biological resources under the CFP Regulation. This applies both in EU waters and to the EU's involvement in and international obligations deriving from the United Nations Convention for the Law of the Sea and other United Nations agreements to which the EU is party, such as the UN Fish Stocks Agreement[13]. The EU has exclusive competence to manage the Sustainable Fisheries Partnership Agreements (SFPAs) concluded between the EU and third countries. The CFP includes areas of shared competences between the EU and its Member States, where the subsidiarity principle applies. For example, for aquaculture, there is EU added value in coordinating action to tackle the most common obstacles to the sustainable development of the sector in Member States. Under the market policy, which is essential to create a single market in fishery and aquaculture products and ensure fair competition, Member States and businesses (including producer organisations) have a high degree of autonomy in applying the various market policy instruments available. The CFP contributes to the socioeconomic objectives and to the availability of the food supply under Article 39 TFEU.

The current CFP Regulation provides a set of rules for managing European fishing fleets sustainably and for conserving fish stocks within and outside EU waters (regarding EU

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support for scientific advice regarding the common fisheries policy and repealing Council Regulation (EC) No 199/2008 (recast), COM(2020) 664 final.

8 Each year, the annual communication provides further details on the status of European fisheries and guidance on the Commission's proposals and consultations with third countries on fishing opportunities for the subsequent year. Most recent: Communication from the Commission to the European Parliament and the Council, *Towards more sustainable fishing in the EU: state of play and orientations for 2023*. COM/2022/253 final.

9 Report from the Commission to the European Parliament and the Council, *First report on the implementation of the Multiannual Plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks*. COM/2020/494 final.

10 European Commission, Directorate-General for Maritime Affairs and Fisheries, *Retrospective evaluation study of the Mediterranean Sea Regulation: final report*, Publications Office, 2019, https://data.europa.eu/doi/10.2771/886852.

11 Report from the Commission to the European Parliament and the Council, *Implementation of the Technical Measures Regulation* (Article 31 of Regulation (EU) 2019/1241) COM(2021) 583 final and staff working document (2021) 268 final.

12 Report to the European Parliament and the Council on the implementation of the CMO Regulation COM (2023) 101 final

13 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

fishing activities). Originally part of the common agricultural policy, over time the CFP developed a separate identity, through the adoption of specific legislation and a structural policy for fisheries in 1970. Since then, this legislation has been amended regularly, until the CFP Regulation was adopted in 2013, which still applies today.

The aim of the 2013 CFP reform was to remedy the shortcomings of the previous legislative framework as outlined in the 2009 Green Paper[14]. For the first time, it brought in a comprehensive legal framework featuring:

- a new focus in the objectives on the environmental, economic and social aspects of fisheries and a range of tools to manage this approach (such as an ecosystem-based approach to fisheries management);
- an explicit mentioning of the precautionary approach and the ecosystem-based approach to fisheries management aiming to ensure fish stock management at maximum sustainable yield (MSY) by 2020 for all managed stocks[15] and to ensure that negative impacts of fishing activities on the marine ecosystem are minimised;
- gradual introduction of an obligation to land all catches by 2019;
- continued application of the multiannual plans to provide a framework for managing specific fisheries at sea basin level;
- attention to the external dimension, in accordance with the international obligations of the EU and principles of the CFP;
- attention to aquaculture and a new, specific system of strategic coordination for the sustainable development of aquaculture in the EU, including the adoption of Commission strategic guidelines and the obligation of Member States to adopt multiannual national strategic plans for the sector;
- a reform of the common organisation of the markets for fishery and aquaculture products, with an emphasis on production and marketing plans developed and implemented by producer organisations;
- a regional approach to empower Member States to cooperate on 'joint recommendations' with specific measures at sea basin level, which the Commission can then translate into EU law through delegated acts;
- Advisory Councils to enable the CFP to draw on the knowledge and experience of all stakeholders by taking into account the diverse conditions throughout EU waters and the increased regionalisation of the CFP;
- a greater role for science, data collection and scientific advice;
- fleet capacity ceilings per Member State in combination with the obligation for each Member State to achieve a stable balance between fishing capacity and fishing opportunities over time in order to eliminate structural fleet overcapacity.

[14] Green Paper, *Reform of the Common Fisheries Policy*, COM(2009) 163 final.

[15] Fish stock management at MSY by 2025 for the demersal stocks in the western Mediterranean Sea following Regulation (EU) 2019/1022 of the European Parliament and of the Council of 20 June 2019 establishing a multiannual plan for the fisheries exploiting demersal stocks in the western Mediterranean Sea

The CFP Regulation takes the specific situation of the outermost regions into account in the access to waters regime. It helps protect fishing communities by creating an exclusive access zone up to 100 nautical miles from the baseline of the outermost regions, extending to all outermost regions the protection mechanism that has covered the Azores, Madeira and the Canary Islands since 2004. In these zones, until 1 January 2032, the Member States can restrict fishing activities to vessels registered in the ports of these territories and to vessels that traditionally fish in those waters.

The 2013 CFP Regulation has been amended five times.

The first amendment[16] was made in 2014 as Mayotte became an outermost region of the EU within the meaning of Article 349 and Article 355(1) of the TFEU. This had to be implemented into EU law, including the CFP.

The second amendment[17] was adopted in 2015 to provide coherence between the objectives and implementation of the landing obligation with the regulations on technical measures and management measures. It removed incompatibilities between the regulations establishing technical and control measures, making the landing obligation operational by amending or repealing certain provisions.

A third legislative change was made in 2017 to extend the transition to adopt multiannual plans (MAPs) for all sea basins, which had taken longer than originally expected. This was necessary because not all MAPs were in place in all sea basins when the discard plans granting exemptions to the landing obligation expired. Article 15(6) was amended to enable the discard plans to be renewed for a further three years[18].

When the Technical Measures Regulation[19] entered into force in 2019, it amended the CFP Regulation specifically for Article 15(12) providing '*for species that are not subject to the landing obligation as specified in paragraph 1, the catches of species below the minimum conservation reference size shall not be retained on board, but shall be returned immediately to the sea, except when they are used as live bait'*.

16 Council Regulation (EU) No 1385/2013 of 17 December 2013 amending Council Regulations (EC) No 850/98 and (EC) No 1224/2009, and Regulations (EC) No 1069/2009, (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, following the amendment of the status of Mayotte with regard to the European Union.

17 Regulation (EU) 2015/812 of the European Parliament and of the Council of 20 May 2015 amending Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009, and Regulations (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, as regards the landing obligation, and repealing Council Regulation (EC) No 1434/98.

18 Regulation (EU) 2017/2092 of the European Parliament and of the Council of 15 November 2017 amending Regulation (EU) No 1380/2013 on the common fisheries policy.

19 Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005.

A fifth amendment[20] to extend the access to waters regime by another 10 years was adopted on 14 December 2022.

2. POLICY CONTEXT

2.1. Ecosystem-based approach to fisheries management

2.1.1. Introduction

Sustainable fisheries management goes beyond mere fish stock management; it aims to achieve a sustainable approach to the broader social, economic and environmental dimensions of fisheries policy. Sustainable fisheries management should be delivered through the implementation of an integrated, 'ecosystem-based' approach covering fish stock management, contributes to environmental protection and sustains fishers' livelihoods.

The CFP Regulation defines the ecosystem-based approach to fisheries management as '*an integrated approach to managing fisheries within ecologically meaningful boundaries which seeks to manage the use of natural resources, taking account of fishing and other human activities, while preserving both the biological wealth and the biological processes necessary to safeguard the composition, structure and functioning of the habitats of the ecosystem affected, by taking into account the knowledge and uncertainties regarding biotic, abiotic and human components of ecosystems*[21]'.

On that basis, an ecosystem-based approach to fisheries management is about ensuring the supply of goods and services from living aquatic resources for present and future generations within meaningful ecological boundaries. This approach is important because by their nature, fisheries, like other activities that take place at sea, impact the wider marine environment. This impact of such activities should be minimised and avoid the degradation of the marine environment.

2.1.2. Background: from 2009 to the state of play in 2022

The 2009 Green Paper identified the need to integrate an ecosystem-based approach in the overall strategy to implement the CFP as an instrument to pursue sustainable development in its three dimensions. To meet this need, the 2013 reform made clear that the CFP must be based on the three dimensions of sustainability: social, economic and environmental. The CFP Regulation also requires applying the precautionary approach widely to the conservation, management and exploitation of fish stocks. This approach, as referred to in Article 6 of the UN Fish Stocks Agreement and defined in the CFP Regulation[22], means 'an approach according to which the absence of adequate scientific information should not justify postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment'.

The role of sustainable fisheries management in helping to protect the marine environment was enshrined in the CFP Regulation, together with other policies addressing maritime activities. In particular, this includes helping to achieve good environmental status,

[20] Regulation (EU) 2022/2495 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 1380/2013 as regards restrictions to the access to Union waters

[21] Article 4(1)(9) of the CFP Regulation.

[22] Article 4(1)(8) of the CFP Regulation.

specifically through descriptors 1[23], 3[24], 4[25] and 6[26] set out in the in the Marine Strategy Framework Directive[27]. It also includes the contribution to the effective management of marine protected areas and to the implementation by Member States of the their obligations under the Birds[28] Habitats[29] and the Water Framework[30] Directives. To this end, a suite of tools were adopted. The CFP Regulation providesfor the use of these tools both for fisheries management and for empowering Member States to meet their obligations under environmental legislation, market (and food supply) policy, and aquaculture development. These tools in the CFP Regulation include conservation (including technical) measures and multiannual plans. They have been complemented with additional provisions and tools for Member States to use under the Technical Measures Regulation. Overall, it is essential that fisheries policy is consistent and integrated with other environment, marine and maritime policies. The European Green Deal emphasises this need for integration by prioritising Europe's seas, oceans, and marine environment as a source of natural and economic wealth for Europe that must protected to continue sustaining Europe in the future. An ecosystem approach to managing the seas indeed cannot and should not be implemented in a single specific sector but must be cross-sectoral. In this same vein, the Farm to Fork Strategy recognises the need of a harmonised, cross-sectoral EU approach for a sustainable food system.

Since the 2013 reform and building on cooperation and research carried out before that time, the scientific advisory bodies have adapted their methods to achieve a robust knowledge base, ensure it is based on interdisciplinary science, i.e. incorporating natural sciences, social sciences and economics, and informed by cross-disciplinary perspectives. This means involving stakeholders in the scientific advisory processes and taking account of the local indigenous knowledge of fishers and other stakeholders. Involving stakeholders and scientific experts in the different advisory and decision-making processes of the ecosystem-based approach to fisheries management can increase the credibility of the knowledge base, the legitimacy of the process, and the relevance of scientific input[31]. Overall, the International Council for the Exploration of the Sea (ICES) continues to actively promote participation by stakeholders in its numerous activities and processes.

Though work on the ecosystem approach to fisheries management is an ongoing process, the ICES has already taken into account ecosystem factors in its scientific advice. For example, it provides Ecosystem Overviews[32] for each ecoregion[33]. The ICES Ecosystem Overviews

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23 Descriptor 1: Biological diversity is maintained. The quality and occurrence of habitats and the distribution and abundance of species are in line with prevailing physiographic, geographic and climatic conditions.

24 Descriptor 3: Populations of all commercially exploited fish and shellfish are within safe biological limits, exhibiting a population age and size distribution that is indicative of a healthy stock.

25 Descriptor 4: All elements of the marine food webs, to the extent that they are known, occur at normal abundance and diversity and levels capable of ensuring the long-term abundance of the species and the retention of their full reproductive capacity.

26 Descriptor 6: Sea-floor integrity is at a level that ensures that the structure and functions of the ecosystems are safeguarded and benthic ecosystems, in particular, are not adversely affected.

27 Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive).

28 Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (Codified version),

29 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora,

30 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy. Water Framework Directive (europa.eu)

31 http://dx.doi.org/10.1016/j.marpol.2014.10.019.

32 https://www.ices.dk/advice/ESD/Pages/Ecosystem-overviews.aspx.

provide a description of the regional ecosystems, identify the main human pressures and activities, and explain how these affect key ecosystem components. The ICES also looks at the dynamics and challenges of fisheries in a social and ecological system. For instance, for 73% of the data-rich stocks, the advice already contains elements of ecosystem variability[34]. In certain cases, the ICES also provides estimates for management options that can provide 'pretty good yield'[35] for fisheries management plans (setting broader ecosystem, economic and social objectives than simply setting a maximum sustainable yield for individual species).

In addition, the ICES fisheries overviews[36] provide information on the commercial fish stocks and their exploitation. Fisheries overviews cover more than information on a single species, they now include mixed fisheries[37] advice and information on the effects of fisheries on the wider ecosystem, i.e. beyond the target stocks. Specifically, they describe two types of effects: physical disturbance of benthic habitats by bottom trawl fishing gear, and fisheries by-catch of protected, endangered and threatened species. The ICES provided further advice identifying vulnerable marine ecosystem areas that need protection via closures, while also taking into account the fishing intensity in those areas. This represents an innovative balanced approach to achieve maximum conservation with a minimum disturbance of fishing activities. More recently, the ICES has also started to issue scientific advice that takes account of changes to ecosystem productivity (for Irish Sea fisheries).

A multiannual approach to the system of setting total allowable catches (TAC) can be useful for stocks that have shown relatively stable trends because it would give more stability in managing stocks and would be more efficient when organising the Council decision making process. This approach is already implemented for deep-sea stocks (set for two years). For stocks shared with third countries, it is crucial to first secure agreement on this approach. The Commission has already explored the concept of setting multiannual TACs with the scientific bodies. Multiannual TACs would require the provision of ICES advice covering several years, as well as an annual scientific review of specific indicators (most recent data on catches and fishing effort) to check whether any changes require further assessment and that the multiannual advice remains valid. The ICES has made some proposals in this respect in their ecosystem overviews, but there are still a number of methodological issues that need to be solved before a fully reliable multiannual advice can be provided instead of an annual advice.

However, the uncertainties brought by climate change call for a further and more systematic application of the precautionary approach to fisheries management. This means, for example, exploring more adaptive and flexible frameworks to fisheries management that can help address and contain potential future climate-driven shocks that would affect the status of commercial fish stocks in the short and medium term.

In the General Fisheries Commission for the Mediterranean's (GFCM) management approach, an ecosystem approach to fisheries is an important aspect and it is reflected in the GFCM

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33 ICES uses ecoregions as the spatial units to synthesise the evidence for the ecosystem approach. ICES ecoregions are based on biogeographic and oceanographic features and existing political, social, economic, and management divisions. They are developed through an iterative process of consultations between scientists and stakeholders led by the ICES Advisory Committee.

34 ICES, ACOM sanctioned analysis of ICES productivity questionnaire (Ad Hoc), ICES Scientific Reports. Vol. 4, Issue 12, 2022, pp. 12, http://doi.org/10.17895/ices.pub.10037.

35 'Pretty good yield' is defined as sustainable yield, at least 80% of the maximum sustainable yield.

36 https://www.ices.dk/advice/Fisheries-overviews/Pages/fisheries-overviews.aspx.

37 Article 4(1)(36) of the CFP Regulation defines mixed fisheries as ‘mixed fisheries’ means fisheries in which more than one species is present and where different species are likely to be caught in the same fishing operation’.

Agreement[38]. The central GFCM fisheries management subsidiary body, in particular the Scientific Advisory Committee on Fisheries, takes the ecosystem approach to fisheries in its mandate that guides its work. Over the years, important political documents[39] adopted at regional level have also emphasised the role of the ecosystem approach. The last important political document in this respect is the GFCM 2030 strategy, which recognises that '*concerted efforts are in fact essential to maximise GFCM action and address the social, economic as well as environmental aspects of sustainability in the region, in line with the ecosystem approach, and build resilience to respond to global challenges and crises*.' The GFCM has adopted 45 instruments (recommendations, resolutions and decisions) over the years that explicitly refer to the ecosystem approach to fisheries management, mainly relating to management plans or management measures.

2.1.3. Opportunities and challenges

The most recent European Climate, Infrastructure and Environment Executive Agency study, *The implementation of ecosystem-based approaches applied to fisheries management under the CFP*[40] indicated that current conservation measures are still primarily focused on conventional single-species fisheries management. It concluded that to achieve an ecosystem based approach to fisheries management, several challenges must be tackled, in particular to improve the advisory process, the knowledge base and the decision-making process. The study recommends expanding the policy objectives beyond commercial species. As fisheries management to date has mostly been dominated by conventional single-species advice (which forms the basis of the annual fishing opportunities), a step towards a more ecosystem-based approach should be to continue and step up implementation of technical measures via the Technical Measures Regulation to reduce unwanted catches and minimise the impacts of fishing on the marine ecosystem and in particular on sensitive species and habitats. The study concludes that this will require a fundamental re-assessment of data needs as the current data are insufficient to calibrate and validate models needed to make a multispecies analysis.

The 2022 MARE seminar on fisheries science[41] explored how to capture trends in marine ecosystems and how to use this information to complement the more conventional single stocks assessments, to refine or qualify the scientific advice. In the context of rapid global changes in both the climate and oceans, it is important to look beyond the dynamics of target stocks, or even predator-prey relationships. It is crucial to seek a better understanding of the overall ecosystem trends and to boost our understanding of the links to and impact of other areas of the sustainable blue economy (such as aquaculture, maritime spatial planning and other maritime sectors). This information should be used by decision makers when adopting harvest strategies.

The studies on the ecosystem-based approach recommended that further improvement can be achieved through better stakeholder involvement and a clearer focus on the broader context of fisheries management. Similarly, the importance and role of stakeholders is outlined in

38 Agreement for the Establishment of the General Fisheries Commission for the Mediterranean, https://www.fao.org/3/ax825e/ax825e.pdf.

39 The 2016 Bucharest Declaration, the 2017 MedFish4Ever Declaration, the 2018 Sofia Declaration.

40 European Commission, European Climate, Infrastructure and Environment Executive Agency, *The implementation of ecosystem-based approaches applied to fisheries management under the CFP: final report*, Publications Office of the European Union, 2022, https://data.europa.eu/doi/10.2926/57956.

41 DG MARE 2022 Seminar (webinar) on Fisheries Science: Implementation of an Ecosystem Approach to Fisheries Management, https://www.fisheriessciencesеminar.eu/.

another European Climate, Infrastructure and Environment Executive Agency study on regionalisation[42]. This study sets the current approach to regionalisation and to stakeholder involvement against the achievement of the CFP objectives to implement an ecosystem-based approach and precautionary approach. The study concludes that the contribution of these two approaches to support the achievement of the CFP objectives depends on the success in achieving both approaches in practice. The advisory councils comprise stakeholders with different knowledge domains and different interests which ultimately need to be balanced. This should help develop both approaches and reach the CFP objectives. The regional approach is covered in more depth in Chapter 3.11.

Many stakeholders underlined the importance of including an ecosystem-based approach to fisheries management and decision-making. Any ecosystem-based approach to fisheries management requires a more holistic fisheries governance framework that tackles the trade-offs between ecological, social (including cultural and institutional) and economic sustainability criteria. Operational methods to support the ecosystem-based approach comprise both conventional single-species fisheries management and wider ecosystem management. The latter attempts to account for the dynamic and highly complex nature of ecosystems, their ecological integrity and biodiversity, and the recognition of fisheries management as part of a social-ecological system. The ecosystem-based approach does not mean moving away from the current fisheries management system but extending it.

2.2. The economic dimension

2.2.1. Introduction

One of the objectives of the CFP Regulation is to create the conditions for an economically viable and competitive fishing capture and processing industry and land-based fishing-related activity[43]. The CFP Regulation should also foster direct and indirect job creation and economic development in coastal areas[44] and ensure that fishing and aquaculture activities contribute to long-term environmental, economic and social sustainability[45].

In 2019, the EU's blue economy (a catch-all term to denote all economic activities linked to the water, the sea and the oceans) employed 4.45 million people, generating gross added value of EUR 183.9 billion, a total turnover at EUR 667.2 billion and gross profits of EUR 72.9 billion[46]. In 2019, total employment in the living resources sector, which includes primary production, processing and distribution, employed close to 540 000 people and generated a total gross value added of over EUR 19 billion[47]. Of that, the EU commercial fisheries generated revenue from landings of over EUR 5.8 billion per year and employed over 124 630

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42 European Commission, European Climate, Infrastructure and Environment Executive Agency, *Study on regionalisation of Common Fisheries Policy (CFP)*, Publications Office of the European Union, 2022, https://cinea.ec.europa.eu/publications/study-regionalisation-common-fisheries-policy-cfp_en#files

43 Article (2)(5)(c) of the CFP Regulation.

44 Recital 12 of the CFP Regulation.

45 Recital 4 of the CFP Regulation.

46 European Commission, Directorate-General for Maritime Affairs and Fisheries, Joint Research Centre, Addamo, A., Calvo Santos, A., Guillén, J., et al., *The EU blue economy report 2022*, Publications Office of the European Union, 2022.

47 European Commission, Directorate-General for Maritime Affairs and Fisheries, Joint Research Centre, Addamo, A., Calvo Santos, A., Guillén, J., et al., *The EU blue economy report 2022*, Publications Office of the European Union, 2022.

fishers, some 82 272 full-time equivalents[48] in 2020. The cultural heritage and history of fishing is also very important across Europe. Fishing is often seen as a way of life, providing food that has a greater cultural significance than sustenance. It is often passed down through generations in the form of commercial livelihoods and, for some, a way of subsistence.

2.2.2. Background: from 2009 to the state of play in 2022

Under the CFP, the EU fishing fleet has achieved a significant improvement in its economic performance. However, several external factors, notably fuel prices, have had a substantial impact on the economic performance of the EU fishing fleet[49]. The recent economic trends experienced by the EU fishing fleet can be divided in two periods:

- From 2009-2018, there was a general improvement in the economic performance of the EU fishing feel, with some fluctuations, driven by three key factors: (1) Progress in achieving sustainable fisheries, reflected in higher landings per unit of effort and lower operational costs resulting from more abundant fishing stocks. As effort has decreased over the past several years and stocks have become more abundant, landings per unit of effort have risen, as have profits; (2) higher average first-sale prices for several commercially important species and (3) relatively low fuel costs.
- From 2019-2022, this long-term positive trend stalled and there was a significant downturn in the economic performance of the EU fleet due to the combined impacts of external shocks such as the pandemic, Brexit, environmental changes (see Section 2.7.3 Impacts of climate change on European fisheries and aquaculture) and the current energy and inflation crises. Despite these impacts, the EU fishing fleet remained profitable in 2020 and 2021, showing a certain degree of resilience. However, the high fuel prices in 2022 had a severe impact on the fleet and offset the gains achieved in previous years. For the first time since 2008, the EU fishing fleet will have made a loss in 2022 (projected at EUR 63 million in gross losses).

However, not all fishing fleets made a loss. Economic evidence suggests that fleet segments that depend on stocks fished sustainably and that managed to increase their energy efficiency (or lower their fuel use intensity) are still able to make a profit, despite the current adverse economic conditions. These findings provide evidence of economic gains from fish stock conservation and from energy efficiency in EU fleets. Both are linked to support the economic performance and resilience of the EU fishing fleets.

The Annual Economic Report on the EU fishing fleet provides a comprehensive overview of the latest information available on the structure and economic performance of the Member States' fishing fleets[50]. Overall, fuel use intensity fell by 15% from 2008 to 2020 mainly due to the good state of stocks (in particular in North Sea and North East Atlantic), yielding more catches with fewer days at sea, to changes in fishing behaviour by some fishing vessels to reduce consumption (reduce speed, landing the catches in ports closer to the fishing grounds

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48 European Commission, Joint Research Centre, Scientific, Technical and Economic Committee for Fisheries, *The 2022 annual economic report on the EU fishing fleet (STECF 22-06)*, Virtanen, J.(editor), Guillen, J.(editor), Prellezo, R.(editor), Sabatella, E.(editor), Publications Office of the European Union, 2022.

49 European Commission, Joint Research Centre, Scientific, Technical and Economic Committee for Fisheries, *The 2022 annual economic report on the EU fishing fleet (STECF 22-06)*, Virtanen, J.(editor), Guillen, J.(editor), Prellezo, R.(editor), Sabatella, E.(editor), Publications Office of the European Union, 2022.

50 European Commission, Joint Research Centre, Scientific, Technical and Economic Committee for Fisheries, *The 2022 annual economic report on the EU fishing fleet (STECF 22-06)*, Virtanen, J.(editor), Guillen, J.(editor), Prellezo, R.(editor), Sabatella, E.(editor), Publications Office of the European Union, 2022.

and transporting them by road to the main fish auctions where they fetch higher prices, and to a certain extent to more fuel-efficient technology and fishing gear, with support from the European Maritime and Fisheries Fund during 2008 to 2020). With an annual fuel consumption of almost 2 billion of litres, there is scope to substantially improve the energy efficiency of and reduce fuel consumption in the EU fishing fleet.

At Member State level, the Spanish fleet continued to generate the highest revenue at EUR 1.6 billion in 2020, followed by the French fleet at EUR 1.1 billion. No Member State suffered gross losses in 2020, but four (Finland, Germany, Estonia and Cyprus) generated net losses.

At fleet segment level, the EU distant-water fleet[51], large-scale fleet[52] and the small-scale coastal fleet[53] saw marked differences in their economic performance. The LSF and DWF demonstrated strong resilience in 2020, mostly due to exceptionally low prices for marine fuel in 2020. This situation changed dramatically in 2022, when these fleets (and particularly the distant-water) were the most affected by high fuel prices. By contrast, for the small-scale coastal fleet, there are significant differences across Member States and regions. Results broken down by Member State show that the small-scale coastal fleet in 10 Member States made gross losses (Germany, Denmark, Estonia, Finland, Greece Lithuania, Latvia, Malta, Poland and Sweden). The small-scale coastal fleet in the Baltic region recorded the poorest performance due to the combined effects of poor status of key demersal stocks and the unfavourable environmental situation[54] caused by an excessive inflow of nutrients, greater extent of deep-water areas with low oxygen levels, climate-driven changes in water temperature, high levels of contaminants and the inflow of non-indigenous species.

It is important to note that within this general trend, fleets targeting stocks fished sustainably for several years have tended to record higher profitability and salaries. Healthy stocks further contribute to the sector's socio-economic performance. Vice-versa, fleets fishing for overexploited stocks have tended to record poorer economic results. Indeed, certain segments of the fishing fleet have overcapacity, resulting in marine biological resources being overexploited. If there is structural overcapacity, profitability is low because too many vessels are chasing too few fish. To prevent this situation, there needs to be a structural adaptation of the fishing fleets concerned. To eliminate overcapacity, the CFP requires Member States to take specific measures to align the number of fishing vessels with the resources available. These measures are based on an assessment of the balance between fleet fishing capacity and the fishing opportunities available, for each segment of the fishing fleet. Where there is overcapacity, the European Maritime, Fisheries and Aquaculture Fund (EMFAF)[55] can grant financial compensation to fishers if they permanently cease their fishing activities. The fishing capacity removed with the use of this support is then permanently removed from the fleet. Permanent cessation is achieved either by scrapping the fishing vessel or by decommissioning it and retrofitting it for other activities. However, retrofitting the vessel for recreational fishing must not lead to increased pressure on the marine ecosystem.

51 Includes EU registered vessels over 24 metres operating in 'other fishing regions' including EU outermost regions.

52 Includes all vessels over 12 metres using static gear and all vessels using towed gear operating predominately in EU waters.

53 Includes all vessels under 12 metres using static gear.

54 Includes all vessels under 12 metres using static gear.

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

Overall, the economic performance of the aquaculture industry is declining. In 2019 and 2020, the aquaculture industry in the EU generated sales of 1.2 million tonnes and revenues of EUR 4.1 billion and EUR 3.9 billion respectively. This represents a 4% drop in sales volume and a 4% drop in revenue from 2018 to 2020. Despite a decline in total production volume and turnover from 2019 to 2020, most economic performance metrics for the EU aquaculture industry in 2020 increased since 2019 for the countries providing data. The segment of marine finfish led this positive result in the economic indicators'[56], and the freshwater fish and shellfish segments recorded a decline.

The rise in energy prices seen after Russia's unprovoked invasion of Ukraine has had multiple effects on the economic performance of the aquaculture sector, with different levels of impact in different segments and species involved. The increase in fuel and energy prices has both a direct and indirect influence on production costs. Direct impacts stem from the direct consumption of electricity, fuel and gas and vary according to the energy needed to run aquaculture operations. Indirect impacts affect the costs of other vital components for aquaculture production such as fingerlings and feed. In addition to the effects of the pandemic and Russia's unprovoked aggression of Ukraine with the related spike on energy prices, other factors have also affected the performance of EU aquaculture in recent years. The main factors are the ageing workforce with a low level of education and the more extreme weather conditions seen, which have affected aqua-farmers, production and international competition.

The processing sector is particularly important, not only in terms of scale of employment but particularly in the capacity to add value to the raw material produced by the fishing fleet and aquaculture. The fish-processing sector is an industry linked to the sea but it also provides opportunities on land for coastal communities, particularly for women.

The results of the latest Scientific, Technical and Economic Committee for Fisheries (STECF) report on processing show that total income, including turnover and other income, increased for the European fish-processing industry between 2008 and 2019 (almost doubled in nominal terms), amounting to EUR 28.7 billion in 2019, a slight increase compared to 2018 (+6%) and 2017 (+7%)[57]. For energy costs, though the share of total costs appears to have fallen slightly over 2008-2019, it went up by 9% in 2021. In light of Russia's unprovoked aggression of Ukraine, the higher prices for energy and raw materials drove up operating costs for fish-processing companies. The extent of the effects of the energy prices increase will be assessed in the STECF processing economic report to be issued in 2023. One of the consequences is that, compared to fisheries and the aquaculture sector, fish-processing companies are more affected by high prices for logistics and by trade disruption because they rely heavily on supplies of whitefish from Russia[58].

The most recent STECF report indicates a general rise in employment in the processing sector since 2012 to over 110 000 people, or some 100 000 full-time equivalents. This indicates that the share of part-time employment in this sector is relatively low. The rise in employment in the processing sector from 2008 to 2019 was 10.9% when expressed in full-time equivalents, but 26.4% when expressed in the total number of people employed. This suggests a shift towards part-time work and is most likely a reflection of broader labour shortages in northern EU Member State economies.

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56 Economic Report on the EU aquaculture (STECF-22-17).

57 STECF 21-14, EU Fish Processing sector, https://stecf.jrc.ec.europa.eu/reports/economic/-/asset_publisher/d7Ie/document/id/34543618.

58 https://www.europarl.europa.eu/RegData/etudes/ATAG/2022/729372/EPRS_ATA(2022)729372_EN.pdf

In the coming years, the fish-processing sector will be strongly influenced by the political decisions taken in the context of the European Green Deal, the Farm to Fork strategy, in particular in the context of the future legislative Framework for a Union Sustainable Food System and the energy transition, which will have a direct influence on the aquaculture process. The fish-processing sector remains highly dependent on imports of raw material and on international developments in the markets (i.e. prices). Consumers are located in the internal EU market and demand is not expected to fall but to rise.

2.3. The social dimension

2.3.1. Introduction

The CFP Regulation provides that the socioeconomic impact of fisheries management should be assessed along with environmental considerations when taking decisions. In the EU's blue economy, fishing is considered a relatively small economic sector, especially compared with coastal tourism and maritime transport. However, in several EU coastal communities and regions, the social importance of the fisheries sector outweighs its direct economic importance.

The objectives of the CFP Regulation[59] state that '*... fishing and aquaculture activities ...are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits (...)', and that the '...CFP shall, in particular, ... contribute to a fair standard of living for those who depend on fishing activities, ... taking into account socioeconomic aspects.'*

The aforementioned aspects cover a wide range of different social components, many of which are a challenge for the fishing sector. They include decent working conditions, well-being of fishing communities, safety on board, an ageing workforce, generational renewal and gender equality. These aspects, often overlapping, will be covered in the following section.

2.3.2. Background: from 2009 to the state of play in 2022

The social dimension was put forward actively as a topic of discussion in the 2009 Green Paper. It focuses on all aspects that come into play when looking at the human side of the common fisheries policy. Topics range from the role and place of stakeholders, transparency, safety on board and working conditions, training and development of professionals, the wider aspects of EU funding to pursue these objectives and the need for the dialogue with EU social partners. The 2009 Green Paper emphasised that economic and social sustainability require productive fish stocks and healthy marine ecosystems as prerequisites. The economic and social viability of fisheries can only be achieved by restoring the productivity of fish stocks. There is, therefore, no conflict between the ecological, economic and social objectives in the long term. However, the Green Paper recognised that these objectives can and do clash in the short term, especially when fishing must be temporarily reduced to allow overexploited fish stocks to recover.

These topics were all included in the 2011 Commission proposal[60]. The grounds for the Commission proposal were that the CFP should achieve environmental, economic and social sustainability in the exploitation of fisheries resources. According to the 2011 Commission

[59] Article 2 of the CFP Regulation.

[60] COM(2011) 425 final

proposal, these objectives were equally important legally and none could be achieved in isolation. However, the impact assessment carried out to underpin the 2011 Commission proposal confirmed that without more marked improvements in stock status, economic and social sustainability will remain limited. The proposal included specific indicators to monitor implementation of the social sustainability and social impacts linked to employment (full-time equivalents) and to crew wages per full-time equivalent.

The mechanisation of the fishing activity has led to a reduction in the number of jobs at sea[61]. This is the inevitable result of technical progress in fishing vessels that makes it possible to fish more efficiently. However, the social dimension of the common fisheries policy is broader than employment, it includes a number of parameters drawn from social data. A prerequisite to verify and ensure that fishing activities are managed in a way that is consistent with the social and employment objectives is to have this social data readily available. Some general social data are already available, such as overall employment figures and wages, as provided in the Annual Economic Report on the EU Fishing Fleet.[62]

The latest data presented in the 2022 AER, collected under the Data Collection Framework, show that employment in the sector fell by 2.1% from 2008 to 2020. Over the same period, the total number of FTE has fallen more sharply, by 10.8%. By contrast, real average wages per full-time equivalent have risen by 23.8%. The 2022 AER also reports on the social data collected from 2020, such as data on age, gender, education, nationality and employment status. This data collection began in 2019, with the multiannual EU programme for the collection and management of biological, environmental, technical and socioeconomic data in the fisheries and aquaculture sectors[63].

This resulted in a first report by the STECF on social data in the EU fisheries sector[64]. The report covered in particular the profiles of the EU fleet's workforce in terms of age, nationality, education and gender. The STECF EWG 20-14[65] was tasked with building on the findings from 2019 and was requested to further develop methodologies to collect and analyse social data in fisheries. In 2022, the Commission requested the STECF to continue this work[66]. It will provide the way forward to further develop tools to take better account of social aspects when proposing measures on fisheries management. Along with the work from the STECF, the ICES is examining how to further integrate social aspects into an ecosystem-based approach (see also Section 2.1).

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61 European Commission, Joint Research Centre, Scientific, Technical and Economic Committee for Fisheries, *The 2022 annual economic report on the EU fishing fleet (STECF 22-06)*, Virtanen, J.(editor), Guillen, J.(editor), Prellezo, R.(editor), Sabatella, E.(editor), Publications Office of the European Union, 2022.

62 European Commission, Joint Research Centre, Scientific, Technical and Economic Committee for Fisheries, *The 2022 annual economic report on the EU fishing fleet (STECF 22-06)*, Virtanen, J.(editor), Guillen, J.(editor), Prellezo, R.(editor), Sabatella, E.(editor), Publications Office of the European Union, 2022.

63 Commission Delegated Decision (EU) 2019/910 of 13 March 2019 establishing the multiannual Union programme for the collection and management of biological, environmental, technical and socioeconomic data in the fisheries and aquaculture sectors C/2019/1848.

64 The EWG 19-03 report provided a comprehensive overview of the social data collected under the EU MAP for the EU fishing sector on the social and demographic characteristics of the labour force both at EU and Member States level over the year 2017.

65 Scientific, Technical and Economic Committee for Fisheries (STECF) – Social dimension of the CFP (STECF-20-14)., Doering, R., Fitzpatrick, M. and Guillen Garcia, J. editor(s), EUR 28359 EN, Publications Office of the European Union, Luxembourg, 2020, ISBN 978-92-76-27169-7, doi:10.2760/255978, JRC123058.

66 STECF EWG 22-14 Social data in EU fisheries.

The age of fishers (men and women), whether they are vessel owners or crew, is an important factor for fisheries. An intergenerational deficit in the fishing population can pose a risk to the economic and social sustainability of the sector. The age of the fishing population is also used as an indicator for a number of characteristics, including the attractiveness of the sector. In addition to ensuring the continuity of fishing activities, involving young people and achieving generational renewal gives the sector a better awareness of the challenges it faces, including sustainability issues such as climate change, pollution and the energy transition.

The STECF Economic report on EU aquaculture provides social data of aquaculture in the EU[67]. According to this report, aquaculture employs predominantly men (78%). The employment rate for those between the ages of 40 and 65 is around 46%, followed by the 25-39 age group that covers 27% of the employment. The level of education is rather low as only 8% of the people in this sector has a higher-level degree and 36% has obtained medium level education. Finally, the vast majority (82%) of people employed in the sector are EU nationals of their own country, the rest mainly being workers from other Member States.

It is worth highlighting that in terms of gender, the processing sector has an equal ratio of men and women. Despite all the member states and production methods have a disproportionately high male workforce, the shellfish industry has a larger proportion of female employees.

> In Spain, an association was set-up to increase the visibility of women in fishing and aquaculture and to improve their ability to develop business projects that help diversify the sector.
> A network for seafaring women | FARNET (europa.eu)

To support generational renewal and preserve the cultural aspect of fisheries, the Commission is running a number of initiatives to increase the attractiveness of the profession. There are five main conditions to make the fishing sector more attractive:

- Fisheries and fleets must be managed sustainably. This brings a greater degree of economic stability, which lays the ground for long-term profitability.
- Fishing activities must lower their operational costs and be more efficient. Energy efficiency, decarbonisation, reducing fishing effort and gear selectivity are some of the key ways to reduce costs.
- There must be a high standard of safety and working conditions. Fishing can be a dangerous job, therefore providing good conditions for the crew is paramount.
- Competitiveness relies on skills. Adequately trained employees are better and more sustainability driven, healthier, safer fishers benefiting from competitive revenues and staying in employment longer. In particular, mastering digital tools is a key asset.
- The fishing sector and the seafood supply chain must improve their self-organisation. Producer organisations and inter-branch organisations play an essential role here.

Support is available under the EMFAF, which already strongly reflects the social dimension. It is designed to foster human capital and skills, attract young people into the fisheries sector through educational and communication measures, grant start-up support to young fishers, improve safety and working conditions on board fishing vessels, improve gender balance and facilitate labour relations involving all stakeholders.

[67] Economic Report on the EU aquaculture (STECF-22-17)

For example, in 2018 a network for seafaring women was created in Spain, via the community-led local development under the European Maritime and Fisheries Fund (EMFF)[68]. A cooperation project between two Catalan Fisheries Local Action Groups[69] supported the creation of an association that aims to increase the visibility of women in fishing and aquaculture and improve their ability to develop business projects that help diversify the sector. However, such support depends on each Member State to include the social dimension aspects in their programming.

Social dialogue is fundamental to improve the living and working conditions in any sector. It enhances social fairness. The EU-level social partners of the sea fisheries play a key role in shaping the social model for the sector. Almost 40 joint outcomes[70] were negotiated and agreed upon over the past ten years. This includes a social partner agreement that is a basis for transposing the Work in Fishing Convention C188, for integrating guidelines on the medical examinations of fishers[71] and for integrating other deliverables into EU law.

Fisheries are a labour-intensive sector with health- and life-threatening workplaces and long working hours. Promoting decent work is an increasing focus in the international context, particularly through the work of the International Labour Organization (ILO), the UN and the Organisation for Economic Cooperation and Development (OECD), but also in the G7 and G20 groups of nations. The EU is committed to shaping the global agenda on decent work and to promoting a human-centred work for the future. The EU aspires to champion decent work both in the European Union and around the world, in line with the UN 2030 Agenda for Sustainable Development. The European Pillar of Social Rights and its 20 principles are the EU's compass to build a fairer Europe and to promote better living and working conditions for all including but not limited to social protection, adequate wages, labour and human right, and social dialogue. On 4 March 2021, the Commission put forward an ambitious action plan[72] to implement the Pillar of Social Rights across the EU.

The main international instrument on work in fishing is the ILO's Work in Fishing Convention C188. Convention C188 helps ensure decent working conditions on board fishing vessels and provides the basis to enforce minimum requirements through labour inspections in foreign ports. Based on an EU social partner[73] agreement, the Convention was transposed into EU law in 2017 via Council Directive 2017/159. The Commission is carrying out a compliance assessment to check whether Member States have correctly transposed the Directive into their national legal orders.

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68 Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council

69 Local action groups financed from the different ESI Funds have been set up throughout Europe and tasked with the development and implementation of local development strategies through multi-stakeholder, public-private partnerships.

70 https://ec.europa.eu/social/main.jsp?catId=521&langId=en&day=&month=&year=&sectorCode=SECT18&themeCode=&typeCode=&recipientCode=&mode=searchSubmit&search=Search .

71 https://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=5739.

72 https://ec.europa.eu/info/strategy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-action-plan_en

73 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:social_partners.

The fishing industry is seen as one of the most dangerous sectors to work in. The rate of fatal accidents at work in fishing and aquaculture is one of the highest in the EU. In 2018, there were about 24 fatal cases per 100 000 workers in fishing and aquaculture (economic sector A03). According to a statistical evaluation of economic activities in 2020, (NACE Rev. 2) this was the highest rate of all economic sectors (two-digit level in EU-27), nearly 14 times higher than the average rate in the EU economy[74].

The Torremolinos Convention (1977) for the Safety of Fishing Vessels was updated by the Torremolinos Protocol (1993) and then again by the Cape Town Agreement (2012). The Torremolinos Protocol was transposed into EU law through Directive 97/70/EC on maritime safety. This Directive, which largely focuses on safe construction, equipment and the seaworthiness of fishing vessels, applies the technical provisions of the Torremolinos Protocol. It has been in force for over 20 years and since then the fishing sector has changed substantially. Fishing vessels have improved, and technology has advanced; this should have a positive effect on safety. However, there is no information available yet on whether the Directive has been successful in achieving its original objectives in a cost-efficient manner and whether it is able to address today's needs. The Commission is currently carrying out an evaluation of the Directive, which is expected to be finalised in the beginning of 2023.

Bilateral dialogues between the ILO's High Representative and the Commission are used to address fishing-related challenges such as forced labour and other forms of work that infringe human rights and health. In September 2022, the Commission proposed to prohibit products made with forced labour on the EU market. The proposal[75] covers all products, those made in the EU for domestic consumption, exports and imported goods, without targeting specific companies or industries.

A related piece of legislation governing the safety of fishing vessels is Directive 2009/18/EC on maritime accident investigation. This Directive includes measures concerning accidents with fishing vessels of more than 15 metres. One of the tangible deliverables is the section on accidents including those fishing vessels in the Annual Overview of Marine Casualties and Incidents created by the European Maritime Safety Agency.

The Commission has also been revising the Port State Control Directive and assessing whether to include the enforcement and compliance aspects of the ILO Convention on work in fishing (C188). The Commission is assessing whether to include larger fishing vessels (>24 metres) in the port state control system that call in EU ports to verify their compliance with applicable international conventions. This could be proposed on a voluntary basis and implemented in several interested Member States with the help of the European Maritime Safety Agency.

'Human erroneous action' is the main cause of serious incidents with fishing vessels. This raises the issue of training and skills. The International Maritime Organisation (IMO) Convention on Standards of Training, Certification and Watch keeping for Fishing Vessel personnel (STCW-F) is the international instrument governing basic training levels for fishing personnel. This Convention has been in force since September 2012 and covers the minimum requirements of training and education of fishers. It sets standards for training and certification of skippers, engineer officers and radio operators, for watch keeping and basic

74 Eurostat database on European Statistics on Accidents at Work (ESAW), table hsw_n2_02.

75 COM(2022) 453 - Proposal for a regulation on prohibiting products made with forced labour on the Union market.

training for personnel on fishing vessels. EU-wide application of the STCW-F with a common minimum level of training for fishing vessels personnel would improve safety at sea, increase the attractiveness of the sector and facilitate the free movement of workers. It would also level the playing field in the EU and for third countries that have ratified the Convention. The IMO is currently preparing a revised version of the Convention. The revision has been delayed by the pandemic, however, and unlikely to be finalised in 2022 as initially planned.

The Commission cannot ratify any convention on behalf of the Member States, but it actively encourages Member States to do so. A list of the ratification status of key conventions by coastal Member States is provided in Annex 3.

2.3.3. The social dimension of sea fisheries at global level

The Commission's work in cooperation with some third countries on the fight against illegal, unreported and unregulated (IUU) fishing showed that improvements in fisheries controls can indirectly help detect potential labour abuses in the fisheries sector. These issues can be properly addressed by the labour authorities involved and in the context of bilateral labour dialogues.

Labour issues are increasingly important at international level too. The SFPA's include in their protocols a set of binding rules, mostly referring to ILO standards and the protection of human rights. The most recent SFPAs contain a stronger social clause requiring shipowners to negotiate employment contracts with fishers to ensure that they obtain the best possible working conditions, including salaries. Recently, the Long Distance Advisory Council (LDAC) issued a recommendation on the effectiveness of the evaluations of SFPAs[76], which underlines the need to look in more detail at implementation of the social clause of SFPAs, and at other issues. Likewise, the EU has supported the adoption of provisions to further integrate ILO C188 in several Regional Fisheries Management Organisations (RFMO), such as in the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Western and Central Pacific Fisheries Commission (WCPFC) and the Indian Ocean Tuna Commission (IOTC). The GFCM 2030 strategy also encompasses social aspects with the aim of promoting the principle of decent work in the Mediterranean and Black Sea fishing sector, including through fair and safe working conditions and access to social protection.

Since Canada is a key international partner of the EU in ocean governance, cooperation to ensure decent and safe living and working conditions for fishers was included in the Ocean Partnership with Canada signed in 2019.

2.3.4. Small-scale coastal fisheries

Small-scale coastal fisheries (SSCF)[77] play an important socioeconomic role in many coastal communities and they provide local markets with high-quality products. In 2020, the EU

[76] https://ldac.eu/en/publications

[77] 'Small-scale coastal fishing' means fishing activities carried out by marine and inland fishing vessels of an overall length of less than 12 metres and not using towed gear as defined in Article 2(1) of Council Regulation (EC) No 1967/2006(28); or fishers on foot, including shellfish gatherers; according to Regulation (EU) 2021/1139 of the European Parliament and of the Council of 7 July 2021 establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004.

SSCF comprised 42 582 vessels, employing 62 196 fishers[78]. This means that 76% of the EU's active fleet are small-scale coastal fisheries and they employ 50% of all crew. SSCFs are especially important in the Mediterranean Sea, where over half of the sector is located and where SSCF have played a dominant role in the livelihoods of coastal communities for centuries. Typically, these SSCFs are family-based businesses, where owners are directly involved in the fishing activity. The 2009 Green Paper pointed out that many vessels were small scale and had a limited environmental impact. However, small-scale fishing can also be harmful to sensitive coastal habitats and its aggregated impact can have significant consequences on the state of the stocks. At times, both small and large-scale fleets target the same fish stocks. A balanced approach covering both small and large-scale fleets is needed. It should have a differentiated regime for the small-scale fleet, which would have to be carefully designed to secure the ecological sustainability of the stocks on which these fishing communities depend. This was brought with the 2013 CFP reform.

Six Iris Fisheries Forums were set-up to ensure representation of small-scale segment of fleet in regional and national decision-making. Setting up Inshore Fisheries Forums | FARNET (europa.eu)	Small scale coastal fishers and fish farmers have been actively involved in the design of a coastal management plan for the Emilia-Romagna coastline. Setting up Inshore Fisheries Forums | FARNET (europa.eu)

The 2013 CFP reform was also an important step forward in recognising the significant differences between small-scale and larger scale fisheries at EU level. The CFP Regulation contains several provisions tailored to the specific features of small-scale coastal fisheries:

- Member States may give preferential access to the small-scale fleet in the 12-nautical miles coastal band under Article 5(2) of the CFP Regulation;
- the small-scale fleet is exempt from certain obligations that apply to larger vessels, such as fishing authorisations, landing declarations, sales notes and separate stowage;
- concerning governance, the rules on Advisory Councils ensure that representatives of small-scale fisheries can participate in their meetings.

Financial support is available for small-scale coastal fisheries under the EMFAF. This fund has a specific focus on SSCF and almost all the projects related to SSCF are eligible for support at a rate of public aid of 100%. Member States must take into account the specific needs of small-scale coastal fisheries in their EMFAF programmes and describe the actions needed to meet those needs. Member States must endeavour to introduce simplified procedures for small-scale coastal fishing businesses applying for EMFAF support.

Article 17 of the CFP Regulation requires Member States to use transparent and objective allocation criteria for fishing opportunities[79], but it does not oblige them to reserve a share of the quotas to small-scale coastal fisheries. However, they may use allocation criteria that are

78 European Commission, Joint Research Centre, Scientific, Technical and Economic Committee for Fisheries, *The 2022 annual economic report on the EU fishing fleet (STECF 22-06)*, Virtanen, J.(editor), Guillen, J.(editor), Prellezo, R.(editor), Sabatella, E.(editor), Publications Office of the European Union, 2022.

79 To be noted that, in its Judgment of 12 July 2018, Spika, C-540/16, EU:C:2018:565, the Court of Justice pointed out that Member States may adopt a method of allocation of fishing opportunities which, while being based on a transparent and objective allocation criterion, may create a difference in treatment between operators having fishing vessels flying that Member State's flag, provided that that method pursues one or more general interests recognised by the European Union and respects the principle of proportionality

relevant to SSCF, for example on the impact of fishing on the environment and the contribution to the local economy. When allocating fishing opportunities, Member States must also endeavour to provide incentives to fishing vessels deploying selective fishing[80] gear or using fishing techniques with reduced environmental impact, such as reduced energy consumption or habitat damage (Article 17 of the CFP Regulation). These incentives may work in favour of small-scale coastal fisheries and the Commission is monitoring the criteria applied by Member States, ensuring transparency.

Small-scale coastal fishing operators experience difficulties in accessing fishing opportunities and in having their concerns taken up in fisheries management and maritime spatial planning decisions. Part of the solution lies in small-scale fishers improving their collective organisation to have their voice heard by the Member States, which are the main decision makers on allocating fishing opportunities and on maritime spatial planning.

According to small-scale coastal fishers, the key challenge of the CFP remains to create and maintain level playing field for small-scale and large-scale fishery activities, and to address the historical grievances of the small-scale sector in terms of access to fishing opportunities. During the stakeholder consultation, small-scale fishers cited poor implementation of Article 17 and the lack of access of small-scale fishers to quota species as their challenges. They also emphasised the importance of the 'access to waters' regime, since granting preferential access in coastal waters to the small-scale fleet highly favours them. They also mentioned the need to introduce measures with long-term objectives to restore stocks (such as temporary closures), develop production and marketing plans for producer organisations, give more weight to scientific data when setting restrictions on fishing activity, promote awareness to make use of the local knowledge of fishers, focus on measures to support young people and women, and improve the energy efficiency of vessels and gear.

2.3.5. Opportunities and challenges

The European Green Deal puts a particular emphasis on the role of fishers in managing the transition towards more sustainable fisheries and in enhancing their role as 'stewards of the sea'. Fishers carry out this role daily in their work and their fishing practices. By increasing gear selectivity, energy efficiency and improving waste management, fishers can make a real difference to the sustainability of fishing. See the text boxes in this document illustrating best practices of such initiatives. Training is a key enabler to this role as stewards of the sea, and another issue that was raised in the stakeholder consultation. It can also play an important role in boosting the contribution of fishing activities to the protection of nature.

A Bulgarian fisher received funding to scale up his fisheries business and to beat the consequences of COVID-19.
EC AV PORTAL (europa.eu)

The aim of the ongoing EMFF project 'catching the potential'[81] is to develop a European standard for sustainable fisheries training. 'Fishing for Litter'[82] is a good illustration of the

[80] Article 4(1)(12) defines selective fishing as 'fishing with fishing methods or fishing gear that target and capture organisms by size or species during the fishing operation, allowing non-target specimens to be avoided or released unharmed'.

[81] https://catchingthepotential.eu/.

[82] https://fishingforlitter.org/.

broader contribution fishers can make to achieve a healthier marine environment, beyond their traditional fishing activities. Enhancing the role of fishers in the sustainable management of the seas also offers opportunities by improving the image of the sector and increasing its attractiveness for newcomers. Several stakeholders often mentioned the need to boost the attractiveness of the sector during the consultation.

> Local fishers are helping enforce protection measures and halt poaching in Cabo de Palos, Spain. Its improved protection has favoured an increase of endemic species.
> MPAs: under fishers' surveillance | FARNET (europa.eu)

Stakeholders, trade unions and Advisory Councils highlighted the need to boost the role of women in the fisheries sector. In local communities, women make an essential contribution to the generation of wealth and employment, as well as to the sustainable use and conservation of aquatic resources. Despite this, their contribution to fisheries and aquaculture is often not sufficiently recognised, preventing their full and balanced participation in the sector. Although the gender balance is proportionally better in aquaculture than in fisheries, 78% of people employed in the aquaculture sector are men, showing that European aquaculture is clearly gender biased[83]. This differs from the processing industry, which is gender balanced. In spite of that, the shellfish segment employs a higher percentage of female workers.

Women are still underrepresented in management and decision-making positions, in professional bodies, trade unions and workers' councils. The EMFAF supports projects to help remedy this situation, in line with the objectives of the EU Gender Equality Strategy[84]. Financial support under the EMFAF takes account of gender and builds on projects and actions to enhance the contribution of women to the sector supported under the previous EU fisheries funds. To promote gender equality in the sustainable blue economy in a broader sense, the Commission launched a specific call for proposals under the EMFAF to support up to two projects promoting the role of 'Women in the blue economy'[85]. With EUR 2.5 million, this call for proposals aims to increase the participation of women in different sectors of the blue economy and contribute to a more gender equal society. To promote gender balance in the fisheries sector in particular, it is necessary to invest in more data collection, consolidation and data analysis on women working in the sector.

From a governance point of view, a strong involvement of fishers in decision-making and ownership of the measures adopted are also a prerequisite for success. The regionalisation approach taken by the CFP, the empowerment of producer organisations under the Common Market Organisation Regulation and the role given to Advisory Councils are ways to achieve this involvement and ownership. Some Advisory Councils have social partners among their members, and they have actively promoted the social dimension of the CFP for some years. In 2016, the LDAC issued a recommendation to express its concerns about fundamental and human rights in the fisheries sector around the world. In 2020, the LDAC issued a recommendation on the role of women in fisheries and SFPAs. The Mediterranean Advisory Council has also been very active over the years and has worked on the role of women in

83 Once published (January 2023) – finalise reference STECF 22-17.

84 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A Union of Equality: Gender Equality Strategy 2020-2025*, COM/2020/152 final.

85 https://cinea.ec.europa.eu/news-events/news/women-blue-economy-call-proposals-now-open-2022-05-17_en.

fisheries. In May 2021, Europêche, European Transport Workers' Federation (ETF) and LDAC jointly wrote to the Commission to request the transposition of key legal international instruments on maritime safety and labour in fisheries.

The Pelagic Advisory Council (PELAC) then expressed its support for this recommendation and the social dimension in fisheries. The Commission is working closely with the EU social partners in sea fisheries on these issues.

2.4. Sustainable blue economy

2.4.1. Introduction

The sustainable blue economy pursues the ambitions set out in the European Green Deal and has a role to play in enabling the EU to meet its environmental and climate objectives. The ocean is the planet's main climate regulator. It provides clean energy and sustains us with oxygen, food and many critical ecosystem services. Biodiversity conservation and protection are the fundamental principles that underpin maritime economic activity. Marine biodiversity is not only the prerequisite for economic activities, but it also offers economic opportunities. To fully embed the blue economy into the Green Deal and the recovery strategy, the Commission has adopted a new approach to achieve a sustainable blue economy in the EU[86].

2.4.2.

To rejuvenate the ageing fisheries sector in Lapland, a fisheries recruitment and training project was funded. As a result, 14 young fishers of both genders started to operate.
Recruiting young people to train with experienced fishers | FARNET (europa.eu)

Background

In 2012, the European Commission adopted the communication entitled *Blue Growth*, on opportunities for marine and maritime sustainable growth[87] (the Blue Growth Strategy). This communication describes the potential of the blue economy to provide jobs and growth in the EU and identifies areas for further work to realise this potential. The Commission followed up this work in 2014 by adopting the communication entitled *Innovation in the Blue Economy: realising the potential of our seas and oceans for jobs and growth*[88], focusing on action to develop knowledge, innovation and skills. In 2017, the Commission issued a Report on the implementation of the Blue Growth Strategy, which detailed the achievements made since the adoption of this strategy in 2012. It covered maritime spatial planning (EU Directive and international work), sea-basin strategies, marine data and knowledge (European Marine Observation and Data Network[89]) and maritime security.

In 2021, the Commission adopted a new communication entitled *the Sustainable Blue Economy*, which marks the transition from the concept of blue growth to a sustainable blue

86 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a new approach for a sustainable blue economy in the EU Transforming the EU's Blue Economy for a Sustainable Future COM(2021)240 final.
87 COM(2012) 494 final.
88 COM(2014) 254 final/2.
89 https://emodnet.ec.europa.eu/en.

economy. It sets out a detailed and realistic agenda for the blue economy to play a major role in achieving the European Green Deal's objectives. In 2022, the European Commission launched the EU Blue Economy Observatory to provide near-real-time information and key socio-economic indicators on the EU blue economy [90] .

2.4.3. Maritime spatial planning

Europe's seas are home to a wealth of activities. At any given time, fishing, aquaculture, shipping, renewable energy, nature conservation, touristic activities and other uses compete for maritime space. Multiple initiatives under the European Green Deal will trigger changes in the use of the European seas and oceans, for example:

- the EU strategy on offshore renewable energy;[91]
- the strategic guidelines for a more sustainable and competitive EU aquaculture;[92]
- the initiative on algae;[93]
- the targets under the EU Biodiversity Strategy for 2030[94], and in particular the extension and effective management of marine protected areas (MPAs)[95].

Maritime spatial planning can play a very useful role in charting the way forward on sustainable and integrated management of human activities at sea, while contributing to the sustainable use of marine goods and services by current and future generations. The EU Directive on Maritime Spatial Planning[96] therefore sets out provisions to improve transparency and stability. It encourages investment and cross-border cooperation, including in relation to offshore wind energy developments and marine protected areas. It lays down minimum requirements for the planning process and for national maritime spatial plans, including stakeholders and transboundary consultation requirements.

The process to draw up national maritime spatial plans is consultative and iterative. Coastal communities must be involved in the process and it should also factor in sea interactions. Maritime spatial planning should take an ecosystem-based approach, as referred to in Article 1(3) of the Marine strategy framework directive (2008/56/EC), with the aim of ensuring that the collective pressure of all activities is kept within levels compatible with the achievement of good environmental status.

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90 https://blue-economy-observatory.ec.europa.eu/index_en.

91 https://energy.ec.europa.eu/topics/renewable-energy/offshore-renewable-energy_en.

92 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategic guidelines for a more sustainable and competitive EU aquaculture for the period 2021 to 2030*, COM/2021/236 final.

93 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Towards a Strong and Sustainable EU Algae Sector*, COM/2022/592 final.

94 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *EU Biodiversity Strategy for 2030 Bringing nature back into our lives* COM/2020/380 final

95 https://www.eea.europa.eu/themes/water/europes-seas-and-coasts/assessments/marine-protected-areas.

96 Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning.

The European Maritime Spatial Planning Platform[97], financed by the EMFAF, provides information on current practices, processes and projects, carries out technical studies, and hosts a question and answer service. In addition, the European Marine Observation and Data Network provides free and easy access to spatial data from national maritime spatial plans. There is scope to create synergies between the multiple human activities carried out at sea in initiatives such as the European Blue Forum, as announced in the new approach for a sustainable blue economy.

There is evidence[98] of positive results achieved by combining aquaculture activities with renewable energy, in particular in the North Sea. This is encouraging, not only for the integration of blue economy activities, but also for a more efficient maritime space planning in the EU. It could have a positive impact on aquaculture production, given the scope to explore better water quality for production.

2.4.4. Opportunities and challenges

The ambitions set out in the European Green Deal and related EU policy on ocean governance put a greater legislative focus on environmental protection and on competing claims for coastal and marine space in the EU. This will influence the management and governance of marine resources' use in the near future. The use of maritime space, in particular given the further expansion of marine protected areas and the increased need to develop offshore renewable energy, will require further discussions in the context of maritime spatial planning. The stakeholder consultation process (Annex 1) showed that many stakeholders were concerned about the interaction between fisheries and other activities at sea. Maintaining a level playing field and creating synergies between activities are essential challenges to tackle in future discussions. Structured dialogues will be needed in this process in order to reach the set objectives.

The study on regionalisation[99] highlighted that the current structure for stakeholder participation developed under the common fisheries policy works well in many regards. This structure can be used by organisations participating in the tasks of the Advisory Councils as defined in Article 44 of the CFP Regulation for transboundary cooperation and regional stakeholder involvement in maritime spatial planning, which can be improved in this regard. The increased use made of areas of regional seas by other users than fishers (such as marine protected areas and renewable energy) demand a greater degree of regional alignment in maritime spatial planning, which currently is mostly carried out at Member State level.

The outermost regions have a unique potential to contribute to the blue economy thanks to their rich marine biodiversity and their large exclusive economic zones (EEZ), accounting for over half of the EU's EEZ. Fisheries account for an important share of their economies. It is

97 https://maritime-spatial-planning.ec.europa.eu/.

98 STECF EWG 22-17 in report STECF PLEN 2.

99 European Commission, European Climate, Infrastructure and Environment Executive Agency study on Study on regionalisation of Common Fisheries Policy (CFP): final report, Publications Office, 2022, https://cinea.ec.europa.eu/publications/study-regionalisation-common-fisheries-policy-cfp_en

important that the outermost regions develop their blue economy strategies in a sustainable way, including by protecting their marine biodiversity[100].

2.5. Recreational fisheries

2.5.1. Introduction

Under the CFP, specifically under the sustainable blue economy and fisheries management, the EU recognises the role of recreational fishers in promoting the prosperity of (coastal) communities across Europe. In addition to being a leisure activity, recreational fishing serves the cultural ecosystems with individual benefits of and by recreational fishers' spending. As this activity can have a significant impact on fish resources, the Member States should ensure that it is conducted in line with the CFP objectives[101].

2.5.2. Background: from 2009 to the state of play in 2022

The 2009 Green Paper highlighted that it is essential to secure a future for coastal, small-scale and recreational fishers taking fully into account the specific situation of small- and medium sized enterprises. Recreational fisheries are defined in EU legislation as '*..non-commercial fishing activities exploiting marine living aquatic resources for recreation, tourism or sport'*[102].

The CFP Regulation recognises that recreational fishing has an impact on fish stocks and, under the CFP, management measures are in place for certain species caught recreationally. Quotas and seasonal closures applicable to recreational fishing are provided by the Fishing Opportunities Regulation. For technical (conservation) measures, the Technical Measures Regulation[103] provides that certain provisions apply to recreational fishing[104] and, where recreational fishing has a significant impact in a particular region, the Commission has the power to adopt delegated acts to set minimum conservation sizes for specific recreational fisheries on the basis of a joint recommendation submitted by the Member States with a direct management interest.

The Commission encourages Member States to collect data to monitor recreational catches of certain species. The current EU MAP for data collection[105], which is used to supply data for EU fisheries management, requires the Member States to implement sampling schemes to

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100 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Putting people first, securing sustainable and inclusive growth, unlocking the potential of the EU's outermost regions*, COM/2022/198 final.

101 Recital 3 of the CFP Regulation.

102 Article 4(24) of Regulation (EC) No 1224/2009.

103 Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005.

104 Under Article 2(2) of the Regulation, the following provisions apply to recreational fishing: Article 7 (Prohibited fishing gear and methods), Article 10 (Prohibited fish and shellfish species), Article 11 (Catches of marine mammals, seabirds and marine reptiles) and Article 12 (Protection for sensitive habitats including vulnerable marine ecosystems).

105 Commission Delegated Decision (EU) 2021/1167 of 27 April 2021 establishing the multiannual Union programme for the collection and management of biological, environmental, technical and socioeconomic data in the fisheries and aquaculture sectors from 2022, and Commission Implementing Decision (EU) 2021/1168 of 27 April 2021 establishing the list of mandatory research surveys at sea and thresholds as part of the multiannual Union programme for the collection and management of data in the fisheries and aquaculture sectors from 2022.

estimate catches and releases (at least for the species listed in the programme) by running statistically sound multispecies surveys. Under the previous 2017-2021 programme, the Member States conducted pilot studies to test the data collection schemes for recreational fisheries, optimise sampling methods and identify priority species. The STECF[106] evaluated the results of the studies, which formed the basis of routine sampling programmes for recreational fisheries under the current EU MAP. Regional coordination and end user dialogue is ongoing to prioritise species and optimise sampling schemes at regional level.

In its judgement of 10 March 2020 (T-251/18), the Court stated that when setting fishing opportunities, the Council was entitled to take into account all fishing activities that could have an impact on fish stock status, including recreational activities. The relevant paragraph of this judgment is paragraph 72 'Consequently, in order to ensure the attainment of the objective pursued by Article 43(3) TFEU, it was permissible, appropriate and even necessary for the Council, when it adopted the contested provisions, to take into account all activities which may have an impact on the stock status of European seabass and the replenishment of that stock, irrespective of whether or not those activities are commercial.". This confirmed the general approach that the scope of the CFP can cover recreational fisheries when they impact the conservation of marine biological resources.

In 2018, the GFCM adopted the regional plan of action for small-scale fishers in the Mediterranean and the Black Sea.[107] The plan recognises interactions between small-scale and recreational fishing activities, encourages good cooperation, calls for strengthening the knowledge on their interactions and for improving monitoring and surveillance to avoid illegal, unreported and unregulated fishing. The plan is a political commitment setting out an ambitious roadmap until 2028. It prescribes concrete and coherent measures to address the challenges and boost opportunities for small-scale fisheries, including by giving fishers a voice in the decisions that affect their livelihoods, by safeguarding environmentally sustainable fishing practices and by providing economic, social and employment benefits.

In addition, the GFCM created a Working Group on Recreational Fisheries, which convenes annually, for example to produce key input to a regional research programme on recreational fisheries. The GFCM also published a Handbook for Data Collection on Recreational Fisheries in the Mediterranean and Black Sea[108] to provide a clear methodological framework to allow Mediterranean and Black Sea countries to implement suitably harmonised sampling and survey monitoring schemes for recreational fisheries. In 2022, the scientific advisory committee of the GFCM reviewed the proposal for a recommendation on recreational fisheries, pending from the forty-fourth session of the GFCM, and endorsed a revised list of species of importance for recreational fisheries.

Building on this work, at the GFCM Annual session of November 2022, based on an EU proposal the GFCM adopted[109] setting regional minimum rules to achieve the effective management, control and monitoring of recreational fishing activities in the Mediterranean Sea. The rules adopted are based on the need to continue monitoring this activity and to identify solutions to mitigate the pressure of recreational fishing, as advised by the SAC. This

106 STECF 21-09 - Evaluation of AR and DTi.pdf - Data Collection Framework - European Commission (europa.eu).

107 https://www.fao.org/3/cb7838en/cb7838en.pdf.

108 Grati, F., Carlson, A., Carpentieri, P. & Cerri, J. 2021. *Handbook for data collection on recreational fisheries in the Mediterranean and the Black Sea*. FAO Fisheries and Aquaculture Technical Paper No 669. Rome, FAO.

109 GFCM/45/2022/12 on the establishment of a set of minimum rules for sustainable recreational fisheries in the Mediterranean sea

should serve a general framework, with fishery-specific details to be developed at sub-regional level.

On the specific issue of monitoring, the Commission's evaluation[110] of the impact of the Control Regulation[111], several scientific studies and other reports have indicated that in most Member States, knowledge on recreational fisheries was scarce and the monitoring was not always sufficient. The lack of licencing/registration in some countries and the lack of detailed reporting provisions for recreational fisheries catches at EU level hinder the quality of catch data and the implementation of adequate conservation and management measures in some sea basins. These findings called for a more regular data collection system and more effective control schemes for recreational fisheries, which included revising the Control Regulation.

Therefore, in November 2019, at the request of the European Parliament, the Commission launched the pilot project 'Control scheme for recreational catches of sea bass'. This 12-month pilot project primarily targeted sea bass in the Atlantic Ocean but was expanded to include four other species (salmon and cod in the Baltic Sea and blackspot seabream in the Mediterranean Sea). Key stakeholders were consulted, and the stakeholder survey results showed that, overall, recreational fishers in Europe agreed on the need for catch reporting and preferred mobile application-based reporting tools. They recommended adopting an integrated monitoring and control information system to facilitate the sharing of fishery-related data and promote cooperation between all stakeholders in managing marine recreational fisheries.

Following this work, an innovative integrated catch reporting system for recreational fisheries was developed with two main components: a web-based platform – RecFishing.eu[112] (with an administration web portal and a public fisher's web portal) – and an existing partner app for catch reporting of recreational fisheries – FishFriender[113]. The system was successfully tested at sea (in real-life conditions), with the support of European angler federations and recreational federations. The RecFishing.eu platform is being developed to cover more species and to integrate other apps.

2.5.3. Opportunities and challenges

The RecFishing.eu platform shows that a licensing/registration and reporting system regarding recreational fisheries is feasible and implementable. Fisheries monitoring and control can be modernised by making the transition to a fully digitalised system to improve data on catches of recreational fisheries and the management of key fish stocks, and to prevent the problem of taking measures based on insufficient/poor data.

Given that recreational fishing can have a potentially significant impact on fish resources, the Member States should ensure that it follows the CFP objectives. The Commission monitors the situation closely and proposes measures for recreational fisheries on a case-by-case basis, as it was the case for recreational catches of sea bass and European eel. The scientific community, on which the Commission relies on for advice on conservation and policy management, identified as a main challenge the difficulty to accurately estimate both the biological impact and the overall economic impact of recreational fisheries.

110 COM(2021)316 final.
111 Council Regulation (EC) No 1224/2009.
112 https://recfishing.eu/
113 https://www.fishfriender.com/?_locale=en

Stakeholder involvement is of the essence and recreational fishing associations are active in multiple Advisory Councils. During the stakeholder consultation, recreational fishers themselves mentioned their wish to be included fully and fairly in the CFP, in order to reach its objectives and make informed decisions on the best use of fish resources in society.

Recreational fishing is already integrated in multiple aspects of the CFP as described above. There needs now to be a continued focus and improvement in the ongoing work on data collection, monitoring and regional implementation.

2.6. A clean and healthy ocean

2.6.1. Introduction

Oceans are key for the climate system and host huge biodiversity that is under threat by cumulative pressures. The five main drivers of biodiversity loss[114] – changes in land and sea use, overexploitation, climate change, pollution, and invasive alien species pose multiple risks to human, and ecosystems health, including to the ocean and seas. They have environmental, social and economic consequences, and challenges the resilience of the blue economy sectors. Pollution in all its forms poses a particular risk for marine ecosystems, which has consequences on the resilience of the fisheries sector.

A clean ocean is an ocean free from all forms of pollution. The main forms of pollution are:

- eutrophication (excess of nutrients pollution/ agricultural runoffs);
- contaminants (chemicals, pesticides, heavy metals, toxins);
- underwater noise (oil drilling, shipping);
- marine litter (plastic, wood, metal etc.).

2.6.2. A clean and healthy ocean at EU level

To restore ocean health, the EU aims to regenerate and recover European marine ecosystems by taking action to achieve cleaner, more resilient and productive marine waters, restore their rich biodiversity and make the blue economy climate friendly. The 2030 Biodiversity Strategy under the European Green Deal and the proposal for the EU Nature Restoration Law[115] play a key role in translating the aims into concrete action.

A local Bulgarian community was trained to reduce pollution and prevent poaching.
Mobilising and training volunteers to prevent poaching | FARNET (europa.eu)

On 12 May 2021, the European Commission adopted the **zero pollution vision** to reduce air, water and soil pollution to levels no longer considered harmful to health and natural ecosystems, that respect the boundaries with which the planet can cope, and create a toxic-

114 IPBES (2019), Summary for policymakers, pp. 17-19, B.10-B.14; European Environment Agency (2019), The European environment – state and outlook 2020.

115 https://environment.ec.europa.eu/topics/nature-and-biodiversity/nature-restoration-law_en.

free environment. Its Zero Pollution Action Plan[116], a key deliverable of the European Green Deal, includes the bold but achievable ambition to reduce plastic litter and microplastics by 50% and 30% respectively by 2030. It also aims to achieve zero pollution in all aquatic ecosystems.

The recent Sustainable Blue Economy Communication[117] also highlights marine pollution as a significant pressure on the marine ecosystem, threatening the health of the marine environment with corresponding impacts on commercial and recreational activities.

In September 2021, the European Commission launched five new 'EU missions' to tackle big challenges in health, climate and the environment. One of the five missions, Mission 'Restore our Ocean and Waters by 2030'[118] will take a systemic approach to address ocean and waters as one and play a key role in achieving climate neutrality and restoring nature. The Mission will finance demonstration projects that can later be scaled up to speed up progress in achieving the objectives of the European Green Deal by:

- protecting 30% of the EU's sea area;
- restoring marine ecosystems and 25 000 km of free flowing rivers;
- reducing plastic litter at sea, nutrient losses and the use of chemical pesticides; and
- making the blue economy climate-neutral and circular with zero-net maritime emissions.

The EU has taken specific action to address different forms of pollution and improve the circular design and monitoring of fishing gear. It has focused on:

- adopting a Single use Plastics Directive[119] which introduces a combination of measures ensuring that single-use plastic products for which more sustainable alternatives are available and affordable cannot be placed on the market, obliging the producers and importers of fishing gear to take responsibility for safe handling and disposal of end-of-life fishing gear including reporting what is placed on the market and what is collected as waste[120]
- engaging CEN, the European Committee for Standardisation organisations to develop standards for the circular design of fishing gears to encourage their re-use and facilitate recyclability at end of life
- improving the circular design of fishing gear to encourage re-use and recycling at end of life, working with standardisation organisations;

116 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Pathway to a Healthy Planet for All EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil'*, COM/2021/400 final.

117 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a new approach for a sustainable blue economy in the EU Transforming the EU's Blue Economy for a Sustainable Future COM/2021/240 final.

118 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on European Missions

119 Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment

120 Commission Implementing Decision (EU) 2021/958 of 31 May 2021 laying down the format for reporting data and information on fishing gear placed on the market and waste fishing gear collected in Member States and the format for the quality check report in accordance with Articles 13(1)(d) and 13(2) of Directive (EU) 2019/904 of the European Parliament and of the Council.

- encouraging ship operators to deliver all waste to ports under the Port Reception Facilities Directive[121], including waste caught up in nets during normal fishing operations;
- further improving the marking of fishing gear, retrieval and notification of lost gear;
- tackling the issue of conventional, chemical and explosive munitions dumped at sea;
- developing tools to determine the acoustic impact of human activities on the marine underwater soundscape and to support Member States in setting threshold values for allowable underwater noise good environmental status descriptor[122] under the Marine strategy framework directive.

> The pilot project ORFISH on 'Innovative, low impact offshore fishing practices for small-scale vessels in the outermost regions' aimed to promote the exchange of knowledge on eco-efficient fishing techniques, problems encountered and solutions adopted. It contributed to promoting the development of offshore fishing in all outermost regions by increasing their economic and environmental effectiveness, therefore facilitating alleviation of fishing pressure in the more coastal fish resources.

Several Member States did not accurately transpose the Single-Use Plastics Directive into their national legislation within the deadline of two years after entry into force on 3 July 2019. Therefore, in September 2022 the Commission took legal steps against 11 Member States, calling on them to step up implementation of the Directive in order to reduce the impact of certain plastic products on the environment and on human health.

2.6.3. Clean and healthy oceans at international level

The Commission has actively supported the adoption of provisions to reduce marine litter and plastics in several RFMOs, such as the IOTC, the WCPFC or the Convention on Conservation of Antarctic Marine Living Resources[123].

In the Mediterranean, the GFCM adopted its 2030 Strategy[124], which set five specific targets that each contribute to the overarching vision for sustainability:

- healthy seas and productive fisheries;
- level playing field to eradicate all IUU fishing;
- the growth of aquaculture as a sustainable and resilient sector;
- support to livelihoods and
- fostering capacity development.

The EU was the driving force for shaping this strategy, including contributions from the Mediterranean Advisory Council and NGOs. The strategy is well equipped to tackle the

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121 Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (Text with EEA relevance) OJ L 151, 7.6.2019, p. 116–142

122 Descriptor 11: Introduction of energy, including underwater noise, is at levels that do not adversely affect the marine environment.

123 https://www.ccamlr.org/.

124 FAO, GFCM 2030 Strategy for sustainable fisheries and aquaculture in the Mediterranean and the Black Sea, Rome, 2021.

numerous challenges ahead, namely persisting overfishing and the growing threats to marine environment caused by human activities, the impact of pollution and the impact of climate change (i.e. impact of invasive species). The new strategy also integrates the latest international and EU policy developments on the green transition (the 2030 Agenda for Sustainable Development, the EU Green Deal, the Farm to Fork and the Biodiversity Strategy).

Mindful of the specific needs of the GFCM region, the new strategy brings together different sectors of the blue economy and promotes a multidisciplinary approach. The aim is to achieve the green transition (following the EU Green Deal) and protect biodiversity (following the principles set out in the EU Biodiversity Strategy). One of the expected outcomes from implementing the strategy is specifically to minimise and mitigate any form of pollution caused by the activities of the fishing sector, in particular abandoned, lost or otherwise discarded fishing gear. To do so it will involve the sector in testing new technologies to remove litter (in particular plastics) from the marine environment.

The Commission is also stepping up its commitment to reduce marine litter at international level, including in the UN, G7, G20 and other international fora. It promotes cooperation with Regional Sea Conventions. Reaching a global agreement on plastics remains a high priority for the EU and its Member States and the EU is strongly committed to negotiating a legally binding instrument on plastics, including in the marine environment, by the end of 2024.

2.6.4. Opportunities and challenges

To achieve these goals contributing to a clean ocean, Member States and economic operators at sea, including fishers, ship operators, processing operators, seafood farmers, must accelerate action to implement the CFP and at the same time contribute to other EU policies. These operators can be solution providers and help transition their operations towards more environmentally friendly practices within the areas of focus listed in section 2.6.2.

The Commission is also driving research into creating innovative and impactful solutions for a clean and healthy ocean. An example is the work under the second objective of Mission ‘Restore our Ocean and Water’ to prevent and eliminate pollution through its ‘lighthouse’ in the Mediterranean Sea basin. The EMFAF also makes it a priority to strengthen international ocean governance and enable seas and oceans to be clean and sustainably managed. The EMFAF provides support to develop solutions for restoring and maintaining ocean health and for reducing marine litter. The fund can compensate fishers for bringing ashore waste caught in their nets rather than dumping it back into the sea and supports action to improve the environmental performance of aquaculture.

Having and maintaining clean and healthy oceans is mentioned as important for all stakeholders. Fishers are particularly aware of the fact that the ocean is their workplace, since they depend on the good health of marine ecosystems. Stakeholders are concerned by the fact that marine litter is a major threat to marine species and to the environment. Many initiatives have been taken up to prevent litter pollution highlighted by the stakeholders, including:

- the obligation for fishers to mark and identify gear, to have the equipment they need to retrieve lost gear and to inform coastal authorities if gear is lost;
- increasing the use of biodegradable ropes, nets and gear components;

- voluntary participation of fishers in marine litter collection and prevention activities (e.g. 'Fishing for Litter').

2.7. Climate change

2.7.1. Introduction

The ocean-climate nexus is essential to EU action. It forms an integral part of its policies, particularly the European Green Deal and the EU Agenda on International Ocean Governance.

The EU must achieve a sharp reduction in greenhouse gas emissions coupled with sustained and robust action on climate adaptation. In 2021, the EU adopted an ambitious Climate Law[125] setting binding targets for the continent to reach climate neutrality by 2050. The EU also agreed to reduce greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels. The EU has also adopted a strategy on adaptation to face the unavoidable impacts of climate change. The ocean, being an important carbon sink, plays an integral part of the EU Strategy on Adaptation to Climate Change[126], which includes fisheries and aquaculture.

From a fisheries and aquaculture perspective, addressing the challenges of climate change means taking action to pursue the following two objectives:

- adapting the fishery and aquaculture sectors, as well as the overall governance and management, to changes in climatic and environmental conditions;
- reducing greenhouse gas emissions and the environmental footprint from the fishery and aquaculture sectors, to mitigate the magnitude of climate change.

To its approach to adapting fisheries to the challenges of climate change, the Commission contracted two studies on climate change and the CFP[127], and the post-harvest value chain[128]. The Commission also assessed the feedback provided by stakeholders, such as the advice sent in 2021 by the North Western Waters Advisory Council (NWWAC) on the impact of climate change in the North Western Waters, which showed stakeholders' commitment on this topic of utmost importance. In 2021, the Mediterranean Advisory Council also produced an opinion on the impact of climate change in the Mediterranean Sea basin, which was timely input into the discussions on the GFCM 2030 Strategy.

125 Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), PE/27/2021/REV/1.

126 Communication from the Commission to the European Parliament, the Council, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Forging a climate-resilient Europe - the new EU Strategy on Adaptation to Climate Change*, COM(2021)82 final.

127 European Commission, European Climate, Infrastructure and Environment Executive Agency, Bastardie, F., Feary, D., Kell, L., et al., *Climate change and the common fisheries policy: adaptation and building resilience to the effects of climate change on fisheries and reducing emissions of greenhouse gases from fishing: final report*, Publications Office of the European Union, 2022, https://data.europa.eu/doi/10.2926/155626.

128 Adapting postharvest activities in the value chain of fisheries and aquaculture to the effects of climate change and mitigating their climate footprint through the reduction of greenhouse gas emissions, aim publication early 2023.

As regards aquaculture, the Commission strategic guidelines[129] adopted in 2021 envisage the development of guidance documents on environmental performance (including the reduction of carbon-foot print of aquaculture activities) and on climate change. The guidelines also note that non-fed aquaculture has a lower carbon footprint than other types of aquaculture and that certain types of aquaculture have the potential to mitigate climate change. The results of studies[130] financed by the EMFAF to estimate the potential of shellfish and algae farming to recycle nutrients and the greenhouse gas emissions generated by their production will be available in early 2023.

2.7.2. Background: from 2009 to the state of play in 2022

In the discussions on the 2013 reform, the 2009 Green Paper recognised that climate change would have a severe impact on the marine environment. It stated that climate change was an added stress that made marine ecosystems more vulnerable, and that made it even more urgent to reduce fishing pressure to sustainable levels. It suggested that the reformed CFP would have a role to play in facilitating action to adapt to climate change and the impacts in the marine environment. The objectives and tools adopted in the 2013 reform enshrined environmental and conservation measures that contribute to building up the resilience of marine ecosystems to a changing climate and put a stop to overfishing.

In 2020, the Farm to Fork Strategy openly recognized '*that farmed fish and seafood generate a lower carbon footprint than animal production on land',* still, it calls to further accelerate the shift to sustainable fish and seafood production via stepping up the implementation of the CFP[131].

2.7.3. Impacts of climate change on European fisheries and aquaculture

Environmental changes caused by climate change will bring uncertainties to marine ecosystems and fish stocks. The effects of these changes may decrease the long-term productivity of stocks due to changes in the state of ecosystems. They may also increase the probability of short-term shocks such as oxygen depletion events, marine heatwaves, recruitment failures or toxic algal blooms, which can undermine the productivity of fish stocks in the short-term and have a significant impact on aquaculture. Cumulative pressures and environmental drivers such as sea surface temperature increases, changes in salinity and oxygen levels and subsequent changes in prey distributions and abundance are already having effects on ocean ecosystems and on the biological functions of fish stocks. Recruitment, spawning times, growth, maturation and mortality may alter under these changing circumstances and affect the productivity of stocks and of the oceanic ecosystems in general.

Sea surface warming will also affect changes in the distribution of fish populations. The distribution of fish stocks will change as certain species move northwards or into deeper water. In the North-East Atlantic, the productivity of colder-water fish such as cod and

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129 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategic guidelines for a more sustainable and competitive EU aquaculture for the period 2021 to 2030*, COM(2021)236 final.

130 https://webgate.ec.europa.eu/maritimeforum/en/node/7174.

131 Communication from the Commission to the European parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system* (COM/2020/381 final)

herring is already decreasing[132] while the productivity of warmer-water species such as hake in the Mediterranean and potentially invasive species such as lionfish and lizardfish is increasing[133]. Overall productivity of fish stocks in mid-latitudes is expected to decrease. The direct stresses are caused not only by higher temperatures but also by higher acidity and lower oxygen levels, which in turn affect the plankton on which the fish feed. These changes will be more severe in partially enclosed seas such as the Black Sea, the Baltic Sea and the Mediterranean Sea[134135,].

These challenges are also concerning for fishing communities, stakeholders and public authorities. This was demonstrated by the numerous replies received to the targeted stakeholder consultation. As fish spend more energy on survival when living in warmer waters, their growth and reproduction levels will decrease. Lower productivity, together with distributional changes in fish populations, will then reduce fishing opportunities for fishers, resulting in less raw material for the post-harvest value chain. Measures to build up the resilience and adaptation of fish stocks are therefore also useful to build sustainable economic resilience for the sector along the whole supply chain.

The EU's outermost regions, most of which are remote islands, are even more strongly exposed to the impacts of climate change. In some places such as French Guiana, small-scale coastal fisheries are heavily affected by algal blooms (such as sargassum).

The aquaculture sector will also need to adapt to the many disruptive impacts of climate change (e.g. extreme weather events, algae blooms) and improve its resilience[136]. Equally, action is needed to minimise any potential negative contribution made by aquaculture to climate change. Energy consumption and carbon emissions from production, transport and processing must be reduced as much as possible. The potential of aquaculture to mitigate climate change also needs to be supported. When carried out under a suitable framework, certain types of aquaculture such as seaweed and mollusc cultivation can provide climate-mitigation services (such as carbon sequestration) and climate-adaptation services (such as nature-based coastal protection). Other types of aquaculture, when managed appropriately, can help preserve ecosystems such as ponds or wetlands. These ecosystems provide protection against climate-change impacts such as sea-level rise and floods and therefore these types of aquaculture should be promoted.

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132 ICES, 'Greater North Sea Ecoregion – Ecosystem overview', *ICES Advice: Ecosystem Overviews*, Report, Section 9.1, 2021, https://doi.org/10.17895/ices.advice.9434.

133 EastMed, *Report of the Sub-Regional Technical meeting on the Lessepsian migration and its impact on Eastern Mediterranean fishery*, GCP/INT/041/EC – GRE – ITA/TD-04, 2010, https://www.fao.org/3/ap961e/ap961e.pdf.

134 IPCC, *IPCC Special Report on the Ocean and Cryosphere in a Changing Climate* [Pörtner, H.-O., Roberts, D.C., Masson-Delmotte, V., Zhai, P., Tignor, M., Poloczanska, E., Mintenbeck, K., Alegría, A., Nicolai, M., Okem, A., Petzold, J., Rama, B., Weyer, N.M. (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, 2019, pp. 755, https://doi.org/10.1017/9781009157964.

135 Peck, M.A., Catalán, I.A., Damalas, D., Elliott, M., Ferreira, J.G., Hamon, K.G., Kamermans, P., Kay, S., Kreiß, C.M., Pinnegar, J.K., Sailley, S.F., Taylor, N.G.H., *Climate Change and European Fisheries and Aquaculture: 'CERES' Project Synthesis Report*, Hamburg, 2020, https://ceresproject.eu/wp-content/uploads/2020/05/CERES-Synthesis-Report-18-05-2020_format.pdf.

136 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategic guidelines for a more sustainable and competitive EU aquaculture for the period 2021 to 2030*, COM/2021/236 final.

2.7.4. A flexible and adaptive fisheries management framework to build resilience to climate change

To tackle these uncertainties and the challenges that climate change will bring, it is essential to build up the resilience of marine ecosystems and of the fishing sector to enable both mitigation and adaptation. Moving towards a flexible and adaptive fisheries management framework can contribute to this objective, and it must be guided by a solid scientific and evidence base. The CFP as a flexible policy lays the ground for such endeavours.

The first prerequisite for stocks to be resilient to climate change both in the short term and in the long term is for them to be managed sustainably, in line with sound scientific advice. This implies the need for more research, science and data that provides for dynamic assessment models that regularly update biological/conservation reference points[137]. Conservation measures under the CFP are taken on the basis of scientific assessment models built on reference points that have steadily improved over the years. Taking into account more environmental factors, available biomass and stock productivity changes will help improve the robustness and accuracy of assessments in a changing context. Since fish populations do not evolve in isolation and are part of an ecosystem that must also be resilient, it is necessary to further integrate climate and ecosystem indicators in stock assessments, following the ecosystem-based approaches to fisheries management. This means factoring in the need to anticipate and detect climate shocks and vulnerabilities along different trophic interactions.

Scientific bodies such as the ICES are increasingly including ecosystem elements in their assessments, while regular benchmark assessments are carried out over five-year cycle periods to review reference points. These cycles also avoid erratic changes in the perception of stocks over a certain period. The Commission welcomes the integration of such broader ecosystem interactions parameters in scientific assessments. In particular, the work carried out by ICES in the Irish Sea, which now provides catch scenarios based on F_{eco}[138] is a welcome example of evolutions in the scientific processes to integrate ecosystem factors in single-stock assessments.

Healthy and well-assessed stocks are more resilient to climate impacts, while stocks in a poor state will suffer more from climate change. To build resilience, the first key enablers are to manage stocks in line with the maximum sustainable yield, follow scientific advice, ensure control, monitoring and enforcement and apply a precautionary approach to fisheries management. Moving to adaptive management of fisheries based on sound scientific advice that integrates ecosystem indicators also means adapting conservation measures to changes in stock assessments and perceptions, to ensure that total allowable catch figures are in line with actual levels of stock productivity.

The common fisheries policy also provides scope to manage stocks to lower fishing mortality levels such as F_{MSY} lower[139] when the applicable biological and legal conditions are met and in line with scientific advice. There is also scope to take further management measures to lower fishing mortality levels, if justified by scientific assessments and agreed by

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137 As defined by Article 4(1)(18) of the CFP Regulation, 'conservation reference point' means values of fish stock population parameters (such as biomass or fishing mortality rate) used in fisheries management, for example in respect of an acceptable level of biological risk or a desired level of yield.

138 F_{eco} is an approach to allow ecosystem information or outputs of ecosystem models to be used to tune the F_{target} to account for medium term ecosystem driven variability in productivity.

139 F_{MSY} lower is the lower bound of the F_{MSY} range.

management plans and proper consultation. In the wake of a short-term climatic event, adopting such measures have been shown to reduce the amplitude of a climatic shock on a stock, enabling the stock to better resist[140]and to recuperate faster.

Under the current governance framework, flexible and adaptive management of fisheries provides the means to mitigate the impacts of climate change on fisheries, including the climate-induced displacement of fish populations and changes in species composition. Changes to the reference points will trigger a fisheries management reaction[141]. These changes must also be considered in the context of international sharing arrangements with third countries, where most EU stocks are now shared in bilateral and multilateral settings. To alleviate certain constraints on quotas, quota swapping mechanisms between Member States, and between Member States and third countries, have been permitted since 1983 and have successfully allowed certain fisheries to benefit from additional flexibility.

Pooling mechanisms for Member States with no quotas for certain stocks in mixed fisheries were also brought in to respond to choke situations[142] as the landing obligation came into full force in 2019 (see section 3.3 landing obligation). In 2019, the Member States' regional groups successfully addressed potential choke situations solutions developed with the Commission and other stakeholders. For example, certain Member States agreed to set up a quota exchange pooling mechanism allowing them to swap quotas for unavoidable by-catch where certain Member States lacked a quota. The pooling mechanism has been used successfully since then.

That same year, unavoidable by-catch only TACs were adopted to alleviate potential choke situations, which were to be accompanied by by-catch reduction measures. However, the STECF assessed that some of the by-catch reduction plans were not effective enough. In 2020, the Council therefore adopted some additional intrinsically linked remedial measures in subsequent regulations governing fishing opportunities. Since 2019, unavoidable by-catch only TACs have been adopted to alleviate specific choke risks, while a Court judgement (Case C-259/21) recently confirmed that the Council can include such measures in the annual fishing opportunities regulations, provided that they are of temporary nature until the Commission adopts a delegated act which includes such measures. Pursuing such mechanisms and improving their transparency will be important to continue alleviating choke situations that are likely to increase due to displaced fish stocks and changes to species compositions caused by climate change. It will also prevent certain fishing operations from having to cease prematurely.

At international level, the Commission actively promotes work to integrate climate change considerations into scientific advice and management policies in RFMOs. The Convention on Conservation of Antarctic Marine Living Resources[143] is proposing to designate two new marine protected areas in the Southern Ocean (in East Antarctica and in the Weddell Sea). The purpose of these marine protected areas is also to increase marine resilience to climate

140 https://op.europa.eu/en/publication-detail/-/publication/74753858-3fab-11ed-92ed-01aa75ed71a1/language-en.

141 Management reactions are the adaptation of conservation measures following changes to scientific advice.

142 'A species for which the available quota is exhausted (long) before the quotas are exhausted of (some of) the other species that are caught together in a (mixed) fishery' according to Zimmermann, C., Kraak, S., Krumme, U., Santos, J., Stotera, S., Nordheim, L. Research for PECH Committee – *Options of handling choke species in the view of the EU landing obligation – the Baltic plaice example*, European Parliament (p. 100), 2015, https://doi.org/10.2861/808965.

143 https://www.ccamlr.org/.

change. In the framework of the GFCM 2030 Strategy, it is expected that the work on climate change and non-indigenous species will be consolidated, improving the initial assessments of these threats and the potential impacts of it on the sector, reinforcing monitoring programmes and integrating adaptive measures under management plans. An adaptation strategy is planned to tackle the potential effects of climate change and non-indigenous species on fisheries and on the marine environment and ecosystems, by integrating adequate mitigation and adaptation measures in management plans. In 2022, the GFCM decided to launch a pilot study on non-indigenous species in the Eastern Mediterranean and to create an observatory for non-indigenous species, as a regional discussion forum on best practices in managing these species.

The targeted stakeholder consultation provided many clear solutions for adapting to a changing environment. The solutions included increasing the resilience of vulnerable ecosystems, shifting towards products with a lower carbon footprint and more flexibility and responsiveness in fisheries governance to adapt to changing conditions.

The uncertainties and challenges brought by climate change will therefore require careful, regular and accurate scientific monitoring, coupled with appropriate and adaptive management reactions to ensure the long-term resilience of stocks and sustainable fisheries.

2.7.5. Improving the fuel efficiency of fishing and reducing the fleet's carbon emissions

Currently, almost all vessels in the EU fishing fleet use marine diesel for their operations, and small vessels may use gasoline. This current reliance on fossil fuels is a major threat to the fleet's socioeconomic performance and its resilience to fuel price increases. It is one of the highest impact ways to improve the environmental sustainability of fisheries products[144].

The economic consequences of this fossil fuel dependency became abundantly clear when marine diesel prices started to increase over the course of 2021 and went up to record highs in the course of 2022[145]. With fuel expenses being one of the main cost items in EU fisheries[146], this resulted in a serious negative impact on the socioeconomic performance of the fleet, with many fishers being unable to cover their operational costs. Estimates indicate that with the current fuel consumption, a 10 euro-cent increase in the fuel price leads to a total of around EUR 185 million loss in gross profit[147]. This means that the economic benefits of stock recovery can be offset by higher costs after only marginal increases in fuel prices.

Given these costs, and considering the current uncertain geopolitical circumstances with energy prices expected to remain high and volatile, it is clearly important to reduce the reliance of the sector on fossil fuels by increasing fuel efficiency and switching to clean and alternative sources of energy. To boost socioeconomic resilience and reduce the carbon

144 Gephart, J.A., Henriksson, P.J.G., Parker, R.W.R. *et al.* Environmental performance of blue foods. *Nature* 597, 360-365, 2021. https://doi.org/10.1038/s41586-021-03889-2.

145 Marine fuel prices rose by 48% from 2020 to 2021 and even further to record high levels in 2022, with peaks well above EUR 1.00/litre. In the first nine months of 2022, the average marine fuel price was around EUR 1.00/litre; more than double the average price in 2021 (based on 2022 EUMOFA data).

146 In 2019, energy costs accounted for around 15% of revenue in EU fisheries, with substantial differences between the different fleet segments. In some segments and vessels such as trawlers, energy expenses accounted for over a quarter of revenue in 2019, rising to over half of revenue in 2022.

147 Based on analyses of economic data collected under the EU Data Collection Framework (Regulation (EU) 2017/1004).

emission of the sector, the Commission has adopted a communication[148] with an action plan to accelerate the energy transition in the EU fisheries and aquaculture sector.

2.8. International ocean governance agenda

2.8.1. Introduction

Some of the central components of the international ocean governance agenda aim to strengthen the ocean governance framework at global, regional and bilateral levels, to promote sustainable fisheries beyond the EU's jurisdiction in international fora and bodies and through bilateral relations, and to stop IUU fishing. International governance is based on international rules and obligations, CFP principles and objectives, together with some specific objectives such as policy coherence and promoting a level-playing field.

2.8.2. Background: from 2009 to the state of play in 2022

Both the 2009 Green Paper and the 2011 Commission proposal highlighted the importance for the EU to continue actively participating in international fora such as the UN General Assembly and the Food and Agricultural Organization (FAO).

The EU has continued to implement its agenda on international ocean governance for the conservation and sustainable use of oceans and seas. The EU also actively participates in the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean, which entered into force in 2021. The strong involvement of the EU enabled an agreement in World Trade Organization on ending unsustainable fisheries subsidies and decisive progress on environmental sustainability and the High Seas Biodiversity Treaty.

On 24 June 2022, the European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy unveiled the new EU agenda on International Ocean Governance[149]. It proposes a series of **actions to achieve a secure, clean and sustainably managed ocean.** Under this policy, the EU confirms its active role in international ocean governance and its commitment to strengthen implementation of the UN 2030 Agenda and its Sustainable Development Goal 14 on Life Below Water[150]. The new agenda has an important role in achieving the aims under the blue part of the European Green Deal and updates the 2016 Joint Communication[151]. It also takes on board the recommendations issued in 2018 by the LDAC on the role of the European Union in International Fisheries Governance.

The new agenda **reflects several significant global developments** since 2016, such as:

- the urgent need to act on the triple crisis of climate, biodiversity and pollution;
- the increasingly recognised role that the ocean plays in our lives and profound changes to the ocean caused by climate change and unsustainable human activity at sea;

148 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the energy transition of the EU fisheries and aquaculture sector COM(2023)100.

149 JOIN(2022) 28 final.

150 https://www.un.org/sustainabledevelopment/oceans/.

151 https://oceans-and-fisheries.ec.europa.eu/ocean/international-ocean-governance_en.

- the need to better protect the ocean as one of the greatest sources of life and biodiversity on Earth;
- the heightened focus on food security; and
- maritime security, which has come to the fore with Russia's unprovoked aggression against Ukraine.

The new agenda sets out a number of **key EU priorities to**:

- halt and reverse the loss of marine biodiversity,
- take action on climate change and marine pollution to achieve a healthy ocean,
- protect the seabed from harmful practices,
- ensure a sustainable blue economy,
- build up ocean knowledge,
- ensure security and safety at sea, and
- ensure compliance with international rules and standards.

2.8.3. Opportunities and challenges

A challenge and an opportunity is to further improve the sustainability of fisheries and of other uses of the seas, in a context where different sectors increasingly compete for maritime space. Protecting particularly sensitive ecosystems, such as the high seas, deep-sea ecosystems, or the Arctic, remains especially important. In the Arctic, the entry into force of the Agreement to prevent Unregulated High Seas Fisheries in the Central Arctic Ocean is an important milestone to ensure that any future fishing in the central Arctic Ocean is carried out sustainably. The EU is also pushing strongly for the conclusion of the Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ) agreement in 2023, which is an opportunity to improve coherence between different sectors.

3. APPLYING THE CFP REGULATION

3.1. Fisheries management measures for conserving and sustainably exploiting marine biological resources

To achieve the objectives of the CFP in respect of the conservation and sustainable exploitation of marine biological resources as set out in Article 2 of the CFP Regulation, the EU must adopt conservation measures as set out in Article 7. The Commission must consult the relevant advisory bodies and scientific bodies. The conservation measures adopted must take into account available scientific, technical and economic advice, including, where relevant, reports drawn up by STECF and other advisory bodies, advice received from Advisory Councils and joint recommendations made by Member States[152]. This is also emphasised in the principles of good governance,[153] which guides the CFP.

3.2. Multiannual plans

3.2.1. Introduction

Managing stocks sustainably requires a long-term approach based on scientific, technical and economic advice. The CFP Regulation highlights the importance of drawing up multiannual

152 Article 6 of the CFP Regulation.
153 Article 3 of the CFP Regulation.

plans reflecting the specific features of the fish stocks in different regions, recognising that the objective of sustainable exploitation of marine biological resources is more effectively achieved by taking a multiannual approach to fisheries management.

3.2.2. Background: from 2009 to the state of play in 2022

The 2009 Green Paper recommended drawing up and implementing additional long-term management plans to reduce fishing pressure on overexploited stocks and restore them to maximum sustainable yield levels. The 2011 Commission proposal emphasised that multiannual plans, ideally covering more stocks in fewer plans, were needed to manage resources at levels capable of producing MSY to better preserve marine biological recourses.

Following the adoption of the 2013 CFP Regulation, the agreement in the interinstitutional task force on multiannual plans between the European Parliament and the Council in 2014[154] paved the way to adopt the first multiannual management plan in 2016 for the Baltic Sea[155]. In 2018, this was followed by the plan for the North Sea[156], and in 2019 for the Western Waters[157] and for the Western Mediterranean[158]. The 2017 Commission proposal for small pelagic stocks in the Adriatic Sea[159] was never adopted and withdrawn on 29 September 2020.

Articles 9 and 10 of the CFP Regulation set out the principles, objectives and content of such plans. The objectives of the multiannual plans are to:

- achieve conservation measures to restore and maintain fish stocks above levels that can produce maximum sustainable yield;
- contribute to eliminating discards by avoiding and reducing unwanted catches;
- contribute to the implementation of the landing obligation for the relevant species;
- implement an ecosystem-based approach to minimise the negative effects of fishing activities on the environment.

The co-legislators decided that the target fishing mortality rate within the multiannual plans should be set as a range of values (with upper and lower limits) consistent with achieving the maximum sustainable yield (MSY). Those ranges, based on scientific advice, are needed to provide flexibility to adjust to developments in scientific advice, to help implement the landing obligation and to take into account the characteristics of mixed fisheries. For example, F_{MSY} ranges within single-stock assessments allow fisheries management to take into

154 Document 8529/14, *Limité Pêche 117*, Codec 1004 of 3 April 2014, Council of the European Union.

155 Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007.

156 Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179, 16.7.2018, p. 1).

157 Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008.

158 Regulation (EU) 2019/1022 of the European Parliament and of the Council of 20 June 2019 establishing a multiannual plan for the fisheries exploiting demersal stocks in the western Mediterranean Sea and amending Regulation (EU) No 508/2014.

159 Commission proposal for a regulation of the European Parliament and of the Council establishing a multiannual plan for small pelagic stocks in the Adriatic Sea and the fisheries exploiting those stocks COM(2017) 0097.

consideration the situation of ailing stocks when they are fished together with healthier stocks in mixed fisheries situations. To minimise the pressure and negative effects of fishing activities on the ailing stocks, the lower range of the fishing mortality rate can be used on the healthier stock.

The F_{MSY} ranges have been calculated by ICES on the basis of a number of considerations. The ranges are calculated to result in no more than a 5% reduction in the long-term yield compared to the MSY. The upper limit of the range is capped, so that the probability of the stock falling below the limit spawning stock biomass reference point is no more than 5%. That upper limit also follows the ICES advice rule, which indicates that when the spawning stock biomass is below the minimum spawning stock biomass reference point, the fishing mortality rate must be reduced to a value that does not exceed an upper limit equal to the F_{MSY} point value multiplied by the spawning stock biomass in the TAC year, divided by MSY $B_{trigger}$.

The ICES uses these calculations and the advice rule when providing scientific advice on fishing mortality rate and catch options. The multiannual plans have transparent rules for setting fishing opportunities for fish stocks with an assessment for achieving the MSY. Some multiannual plans also empower the Commission to adopt delegated acts regarding certain by-catch stocks, exemptions from the landing obligation and technical measures. As carried out in all the sea basins covered by MAPs, the STECF and ICES conduct annual assessments of the stocks to adapt the management decisions to the best available scientific knowledge.

3.2.3. Baltic multiannual plan

The Baltic MAP covers fish species representing 95% of all catches in the Baltic Sea. The fisheries management in the Baltic Sea was a frontrunner in achieving the MSY for these stocks. However, the condition of many fish stocks has unfortunately significantly deteriorated since 2019, resulting in a negative impact for the fishing segments concerned. Scientists do not fully understand the reasons for the decline in fish stocks.

Some stakeholders blame the Baltic MAP and its implementation. As stated in the report on implementation of the Baltic MAP,[160] the opinions of the different stakeholders diverge significantly as to the merits of the Baltic MAP. The fishing sector and other interest groups alike were very critical, though for diametrically opposite reasons: the fishing sector criticised the alleged lack of flexibility to set higher TACs, and other interest groups criticised the alleged excessive flexibility. For the Member States, the report was issued too soon as the Baltic MAP had only been implemented for three fishing seasons when the consultation was run. For the Commission, the MAP has generally shown to be a very helpful tool to implement the CFP. It provides a stable long-term, transparent and region-specific legal framework, which creates a safety net for ailing stocks and flexibility for healthy stocks. For stocks under pressure, managers must decrease the TAC and adopt additional remedial measures. This framework made difficult decisions in the Council possible. On the other hand, the TAC for healthy and well managed stocks might be set higher under certain conditions. It should be acknowledged that, despite the action taken since 2019, the ailing fish stocks have not yet recovered.

[160] Report from the Commission to the European Parliament and the Council First report on the implementation of the Multiannual Plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, COM/2020/494 final.

Further to recent audits carried out in the Baltic Member States, it is the view of the Commission that the derogation to the margin of tolerance provided in the Baltic MAP played a major role in facilitating misreporting of species under the MAP, which contributed to the current status of the stocks. In its proposal to revise the control system[161] the Commission proposed amending the Baltic MAP, currently allowing a 10% margin of tolerance on the estimated catches calculated on all species on board. It also proposed reinstating the standard rule of 10% margin of tolerance calculated per each species on board, as set out in Article 14(3) of Regulation (EC) No 1224/2009.

3.2.4. North Sea multiannual plan and the Western Waters multiannual plan

The North Sea MAP for demersal[162] fish stocks has been in place since 2018. It requires the Commission to report on the results and impacts of the plan by 6 August 2023, and every five years thereafter. The Western Waters MAP comprises both the North and South Western Waters, as well as the waters around Madeira and the Canary Islands. It came into force in 2019 and requires the Commission to report on the results and impacts of the plan by 27 March 2024 and every five years thereafter.

As part of the process to withdraw from the EU, the UK currently retained the provisions of both the North Sea and Western Waters MAPs. However, the UK has started to develop its own domestic fisheries management plans with a view to completely replacing the MAPs in due course. The UK fisheries bill of 2021 repealed Articles 9 and 10 of the CFP Regulation, which are the main articles covering implementation of the MAPs. As a result, the UK is already taking different approaches to setting total allowable catches of shared stocks and to applying any necessary remedial measures, especially for mixed fisheries and the management of vulnerable (zero-catch) stocks. Despite this, the North Sea and Western Waters MAPs are still key tools to guide the EU's approaches to managing shared stocks, in its cooperation with the UK, as well as the continued use in managing EU-only stocks in EU waters.

In the context of highly formalised cooperation under the EU-UK Trade and Cooperation Agreement, the Commission (on behalf of the EU) has based the EU's position on many of the principles and provisions set out in the MAPs. This includes the use of the F_{MSY} ranges and TAC constraints (avoiding excessive fluctuations between years), as well as approaches to deal with the complexities of mixed fisheries.

3.2.5. Western Mediterranean multiannual plan

The first ever EU multiannual plan for the Mediterranean[163] entered into force on 16 July 2019. It regulates trawling activities that target key demersal stocks and their by-catches in the Western Mediterranean by setting a fishing effort regime and taking additional management measures. The plan provides for a 40% reduction in maximum trawling effort during the first five years of implementation. The MAP also introduces a derogation to the 'MSY by 2020' rule by giving five additional years to reach the MSY for the relevant stocks, due to specific

161 COM(2018) 368 final.

162 Species that live and feed near the bottom of seas.

163 Regulation (EU) 2019/1022 of the European Parliament and of the Council of 20 June 2019 establishing a multiannual plan for the fisheries exploiting demersal stocks in the western Mediterranean Sea and amending Regulation (EU) No 508/2014.

socioeconomic features in the Mediterranean and the impossibility to achieve the MSY for all stocks covered by this plan within the CFP legal deadline. Each year, the Council adopts fishing opportunities based on the MAP.

The first two years of implementing the MAP saw a cumulative 17.5% reduction in fishing effort (10% in 2020 and an additional 7.5% in 2021). In 2022, the MAP achieved a further 6% effort reduction for trawlers combined with a reward mechanism granting additional fishing days for vessels that improved their selectivity or respected closure areas. Since the launch of the MAP, trawling fishing effort has fallen by 23.5%, as part of the 40% target set under the plan. In addition, the Fishing Opportunities Regulation for 2022 set maximum catch limits for deep-water shrimp stocks and an effort threshold for longliners. The Commission has been successful in promoting a global approach, making use of all the tools of the MAP to ensure a better framework to fish stock management, creating a better probability for the stocks to recover.

Since 2020, the Western Mediterranean MAP has established a seasonal coastal closure to trawling within 6 nautical miles from the coast or 100 m depth, for three months every year in the coastal areas of Spain, France and Italy. Under certain conditions and on the basis of STECF's advice, Member States may establish other closure areas, provided that they reduce catches of juvenile hake by at least 20% in each geographical sub-area. By 17 July 2021, Member States had the obligation to establish other closure areas where there is evidence of a high concentration of juvenile fish, below the minimum conservation reference size (MCRS), and evidence of spawning grounds of demersal stocks. In March 2022, the STECF evaluated the existing closure areas of Spain, France and Italy. Only the closure areas in the Gulf of Lion, where French vessels and some Spanish vessels are active, were shown to be effective in protecting juveniles and spawners of hake.

In terms of evaluating the management measures in the Western Mediterranean Sea, the MAP provides for:

- Permanent evaluation by the STECF. Since 2018, three expert working groups are organised every year to evaluate the situation and the management measures to improve the state of the stocks while minimising the socioeconomic impacts. The STECF reports are available online and can be attended by observers, providing full transparency on the work carried out by the experts.
- The Commission to issue a report on the results and impact of the MAP by 17 July 2024.

3.2.6. Multiannual plans in the Mediterranean and the Black Sea in the GFCM framework

In the Mediterranean, most fish stocks are shared with third countries. Therefore, to adopt common measures with all parties involved, ensure stock recovery and a level playing field for all countries, the EU puts forward proposals for multiannual management plans in the context of the GFCM, based on Article 33 of CFP and an EU position adopted by the Council.

In the framework of the GFCM, multiannual management plans are essential tools for fisheries management. They include a number of management measures (e.g. spatio-temporal restrictions, effort and catch limitations, technical measures), and specify adaptive mechanisms to be implemented to achieve specific objectives within desired timeframes and maintain results over time. These mechanisms are adaptive, to adjust to changing and evolving stocks, fisheries and environments. The management measures set out in the plans

are accompanied by control measures, notably strengthened cooperation in implementing five inspection schemes set up with support from the European Fisheries Control Agency (EFCA).

Since the creation of the first comprehensive GFCM multiannual management plan – for small pelagic fisheries in the Adriatic Sea in 2013 – the GFCM has adopted 10 adaptive multiannual management plans (for turbot in the Black Sea, deep-water shrimp in the Levant sea, deep-water shrimp in the Straight of Sicily, hake and shrimp in the Straight of Sicily, deep-water shrimp in the Ionian sea, demersal in the Adriatic, small pelagic in the Adriatic, eel, red coral and Blackspot seabream). While some are clearly structured and outline specific long-term measures, others are still in development and set out preliminary transitional measures pending the collection of new scientific data to underpin longer-term measures.

3.3. Landing obligation

3.3.1. Introduction

This new provision in the CFP Regulation contributes to the CFP objective of eliminating discards by encouraging fishers to fish in a more selective manner and avoid and reduce, as far as possible, unwanted catches in the first place, by obliging them to land everything they catch. Discarding is a term specifically used for catches of species that are returned to the sea and are not kept on board and landed. Selective fishing means using fishing methods or gear that target and capture organisms by size or species during the fishing operation, allowing fishers to avoid or release unharmed non-target organisms. Fishing selectively can be improved by fishing gear- and methods. For example, by selecting fishing areas where unwanted catches such as protected, endangered and threatened species, below minimum conservation reference size species, fish without commercial value or species for which the fisher has no quota, is expected or known to be low, at the time of the year considered.

In the run-up to the 2013 reform, it was estimated[164] that in European fisheries, 1.7 million tonnes (of all species) are discarded annually, corresponding to 23% of total catches. This has a serious negative environment impact, not only on the target species but also on non-targeted by-catch. Many stakeholders saw discarding as a non-sustainable practice that must change.

One of the objectives of the European Green Deal – specifically the Farm to Fork Strategy – aims to make food systems fair, healthy and environmentally friendly. Food systems cannot be resilient to crises if they are not sustainable. With (rapid) population growth giving rise to an increase in global demand for additional food, there is a need to increase food production sustainably, but also to ensure responsible consumption, to minimise food waste and for fisheries to eliminate discarding.

Eliminating the practice of discarding aims to make fishing more sustainable by encouraging more responsible practices such as the development and use of more selective fishing gear and methods. Decreasing unwanted catches, ending discarding and minimising the negative impact on the marine ecosystems combined with the precautionary and ecosystem approach will contribute to the good environmental status of the seas under the Marine strategy framework directive.

164 From SEC(2011) 891 final, Eurostat data.

3.3.2. Background: from 2009 to the state of play in 2022

As highlighted by the 2009 Green Paper, the previous system management of landing quotas was proven to be suboptimal in several ways. In mixed fisheries, targeting several species of fish creates unwanted by-catches when the quota of one species is exhausted but quotas for other species remain gives fishers no choice but to discard the fish that they are no longer allowed to land. In addition to being a waste of a precious resource, discarding has prevented several stocks from recovering, despite the low quotas set. Therefore, eliminating discards contribute to sustainable fisheries and reaching the commitments to keep to maximum sustainable yield numbers.

Under the 2011 Commission proposal, a core element for conservation was to end the practice of discarding and reduce unwanted catches. The proposal introduced the obligation to land all catches of specific stocks, with a precise timeline for implementing this obligation and setting out flanking measures. To enforce the new landing obligation to avoid unwanted catches and eliminate discards, the Commission proposed monitoring and control obligations. In particular, this involved fully documenting fishery data and running pilot projects on new fisheries control technologies that promote sustainable fishing.

The landing obligation, brought in as a tool to eliminate discarding, has required significant action since the 2013 reform to ensure its implementation. It is a very important subject for all stakeholders, as shown in the stakeholder consultation. By-catch, discarding and (compliance with) the landing obligation were the most commented on topics and high priorities for NGOs, the fisheries sector, public authorities and academic and research institutions.

The move to eliminate discards aims to reduce unseen discards of small fish and over-quota fish. This should promote a much higher rate of recovery of EU fish stocks and an sizeable improvement in the F_{MSY} indicator for a number of stocks, as highlighted in the impact assessment[165] accompanying the 2011 Commission proposal. Another specific change is to the change in mesh size, which leads to a shift in selectivity to catch older age classes of fish. The effect is greater than that achieved by simply reducing discards and leads to a higher sustainable fishing mortality (i.e. a higher F_{MSY}). Setting a higher sustainable fishing mortality rate, combined with scrapping the minimum landing size (so that there are no discards), results in a higher retained catch, while still promoting the recovery of the stock.

This 2011 Commission impact assessment showed that bringing in an anti-discard policy based on more effective technical measures and removing ineffective technical measures that encourage discarding would result in short-term economic losses but medium to long-term additional gains, primarily in environmental and economic terms.

3.3.3. Increased cooperation and knowledge on (implementing) the landing obligation

There has been increasing cooperation between stakeholders and scientists to improve knowledge about the policy tool. All stakeholders have made significant efforts to facilitate implementation of the landing obligation, in particular on strategies to avoid unwanted catches and to eliminate discarding. The Horizon 2020 research projects DiscardLess[166] and MINOUW[167] are two such examples. These projects resulted in very specific tools such as:

165 SEC(2011) 891 final.

166 http://www.discardless.eu/www.discardless.eu/deliverables.html.

167 https://minouw-project.eu/.

- an online atlas linking and mapping discard data from the STECF, the ICES and the GFCM for selected European fisheries in a synthetic manner;
- a catalogue of selectivity tools;
- solutions proposed by fishers, broken down by technical solutions (gear changes), tactical (fishing behaviour changes) and management solutions;
- getting more insight into the on-board handling of unwanted, unavoidable catches and on how unavoidable, unwanted catches could be used once they are landed, following the landing obligation.

Following Article 14(2) of the CFP Regulation, Member States and scientists developed a *discard atlas* providing evidence of discard patterns for different fishing fleets. The atlas was produced in 2014 by the Scheveningen Group (North Sea), the North Western Waters group, and the South Western Waters group. This information assisted regional managers in identifying the fisheries that need more focused attention and to specify measures in discard plans and multiannual plans.

The Advisory Councils were extremely helpful in identifying potential choke situations, solutions and the best available tools to deal with them such as increased swaps, inter-area and inter-species flexibility. They helped develop choke mitigation tools (NSAC[168] and NWWAC)[169] to identify choke species, to identify the various types of potential choke situations and to identify their causes and responsibility.

The European Fisheries Control Agency, in close collaboration with the Member States, also carried out work to improve control and enforcement. For example, in 2019 they issued technical guidelines and specifications for implementing remote electronic monitoring in certain fisheries[170].

These research projects and cooperation generated valuable lessons on discard management in the context of the landing obligation and on cooperation with stakeholders, cooperation between Member States and how to design and implement discard mitigation strategies. They built up knowledge through comparative examination at global level on implementing discard bans and on by-catch management practices in general. For example, such comparative examination is thoroughly described in the book resulted of the DiscardLess project[171]. The study concludes that countries as the United States of America, Norway, Iceland, Argentina, Chile and New Zealand have established different approaches to eliminate discarding. The effectiveness of these approaches depends on many factors and all require effective cross-sectoral collaboration. As well as a comprehensive monitoring and control system which ensures regulatory compliance and collection of adequate data to address scientific and management information n needs. Through the comparison of the different countries via case studies from selected fisheries around the world, scientists consider the importance of finding the balance between top-down and bottom-up processes, looking carefully at different the

168 https://www.nsrac.org/wp-content/uploads/2021/12/02-2122-NSAC-Advice-on-Choke-Identification-Tool.pdf.

169 https://www.nwwac.org/publications/north-western-waters-choke-species-analysis.2365.html.

170 https://www.efca.europa.eu/sites/default/files/Technical%20guidelines%20and%20specifications%20for%20the%20implementation%20of%20Remote%20Electronic%20Monitoring%20%28REM%29%20in%20EU%20fisheries.pdf .

171 The European Landing Obligation, reducing discards in complex, multi-species and multi-jurisdictional fisheries. https://link.springer.com/book/10.1007/978-3-030-03308-8

different policy and management measures available, factors which encourage or discourage innovation and collaborative problem solving, monitoring and accountability. The various projects and cooperation also increased knowledge of the (mitigation) tools, of the catch situation in different fisheries and sea basins and how to avoid unwanted catches through more selective fishing gear or techniques, either by taking area- or time-specific measures, or by real-time closures.

In order to enable, to the extent possible, the use of fishing opportunities in mixed fisheries and adapt to the changes caused by climate change, it is seen appropriate to create a pool of quota exchanges for Member States that have no quota to cover unavoidable by-catches[172]. The STECF analysed the by-catch reduction plan of the Member States in 2019[173] and concluded that the measures were not effective enough to increase selectivity and therefore reduce by-catches. Therefore, the Commission sought to link remedial measures and control measures to the by-catch quota pool in the subsequent years in the fishing opportunities regulations.

3.3.4. Implementation of the landing obligation and socioeconomic impact

A recent study[174] concluded there was no evidence of changes to the discarding practice in fisheries and that discarding was still taking place. Stakeholders contributing to the study identified the main reasons for this: complex legislation, numerous exemptions in the various Commission delegated regulations and the substantial amount of work to be done on board due to the landing obligation. The study results include suggestions on how improving logbooks and providing training could help alleviate this problem, something that all stakeholders had worked on during the transition phase but that could be further improved. According to the stakeholders interviewed in the study, e-logbooks were perceived as effective tools to facilitate the implementation of the landing obligation. Full adaptation of the e-logbook software to facilitate the implementation of the landing obligation is needed, particularly concerning reporting of exemptions. According to the study's results, this has progressed since the phasing in of the landing obligation but improvements on these technologies can still be made. Participation of the fishers in further development of these tools are essential to the stakeholders' view. In the study, respondents evaluated positively the amount of information and the means employed to inform about the features of the landing obligation implementation by Member States'- and control authorities to fishing operators. Numerous regional – and national initiatives for national inspectors have been provided. This was also the conclusion reached in another study[175] covering the Mediterranean and the Black Sea. Apparently, further work is needed to boost communication and awareness raising in the sector, involving multiple stakeholders and bodies as well as researchers, administrations, consumers, industry and market organisations.

Implementing the landing obligation, and its challenges, was also the topic of a recent European Parliament Initiative report[176]. This report emphasised the socioeconomic impact of

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172 Recital 7 and Article 9 of Council Regulation (EU) 2022/109 of 27 January 2022 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters.

173 https://stecf.jrc.ec.europa.eu/reports/plenary.

174 https://cinea.ec.europa.eu/publications/synthesis-landing-obligation-measures-and-discard-rates_en.

175 https://cinea.ec.europa.eu/publications/synthesis-landing-obligation-measures-and-discard-rates-mediterranean-and-black-sea_en.

176 https://www.europarl.europa.eu/doceo/document/TA-9-2021-0227_EN.html.

the landing obligation on the industry, and the need for the Commission to evaluate the impact. This particular aspect was studied in detail by STECF EWG 22-05, for which experts provided a very comprehensive overview of current scientific information and assessments of the socioeconomic impacts of the landing obligation. The majority of the reviewed literature provides an *ex ante* assessment of possible socioeconomic impacts based on simulations using bioeconomic models, interviews and literature. One of the main concerns voiced by the Member States and the fishing industry is the impact of choke species. Most of the *ex ante* modelling exercises to assess socioeconomic impacts assume full implementation of and compliance with the landing obligation, showing that choke effects are the main problems of the landing obligation in these analyses and the accompanying literature. Current studies based on practical implementation instead of modelling seem to indicate that the socioeconomic impacts of the landing obligation were rather limited.

The CFP Regulation recognises the difficulty in implementing the landing obligation in mixed fisheries in which more than one species is present and where different species are likely to be caught in the same fishing operation. Stakeholders from the industry, trade unions and public authorities all mentioned in the stakeholder consultation carried out by DG MARE the complex difficulties with choke situations. Management decisions relating to maximum sustainable yield in mixed fisheries should factor in the difficulty of fishing all stocks in a mixed fishery at maximum sustainable yield at the same time, in particular where scientific advice indicates that it is very difficult to avoid the phenomenon of choke species by increasing the selectivity of the fishing gear- and methods used.

In cases where unwanted catches are unavoidable, even when all measures to reduce them are applied, where it is very difficult to increase selectivity, the CFP Regulation caters for certain *de minimis* exemptions from the landing obligation. The *de minimis* exemptions can also apply in cases to avoid disproportionate costs from handling unwanted catches. The second exemption the CFP Regulation allows to the landing obligation is for species for which scientific evidence demonstrates high survival rates. The third and fourth type of exemptions are prohibited species and species damaged by predators.

Article 15(4) and (5) of the CFP Regulation sets out the conditions for these exemptions that can be adopted by the Commission as delegated acts based on joint recommendations developed by the Member States Regional Group, in consultation with the Advisory Councils[177]. These exemptions are primarily set under multiannual plans. If there is no multiannual plan for the fishery in question, Article 15(6) of the CFP empowers the Commission to adopt delegated acts to make temporary exemptions to the landing obligation in the discard plans, based on joint recommendations developed by the Member States Regional Groups after consulting the Advisory Councils, and following a STECF assessment of the scientific evidence. To facilitate implementation of the landing obligation during the phasing-in period, these discard plans were set up for three years. Because multiannual plans were not in place everywhere when the discard plans were close to expiry, Article 15(6) was amended in 2017[178] to enable the discard plans to be renewed for a further three years.

[177] Following the regionalisation process of Article 18 of the CFP Regulation, see section 3.11 on regionalisation.

[178] Regulation (EU) 2017/2092 of the European Parliament and of the Council of 15 November 2017 amending Regulation (EU) No 1380/2013 on the common fisheries policy.

Currently, the landing obligation has been legally fully in force since 2019 and multiannual plans have been adopted for most waters[179]. This means a shift from setting out exemptions from the landing obligation under the CFP via temporary discard plans[180] to a more stable approach with the multiannual plans as a legal basis. This shift was completed in 2020-2021 with eight delegated acts[181] currently in force covering the sea basins[182] where there are multiannual plans[183]. Most exemptions are in mixed fisheries, as the CFP Regulation recognises management decisions to tackle the difficulties faced by these fisheries. The multiannual plans may contain specific measures to address the specific problems faced by mixed fisheries.

Since 2014, Member States Regional Groups cooperate with scientific institutions and the advisory councils when submitting joint recommendations on exemptions based on scientific evidence. This has resulted in temporary discard plans and temporary exemptions to certain conditions pending the collation of more scientific evidence. With these conditions in mind and new research results coming in step by step, annual amendments of the delegated regulations were necessary for the STECF to reassess the joint recommendations containing new scientific evidence. Slowly but surely, more knowledge is created to underpin the exemptions needed. The roadmap linked to the exemption due to the high survivability rate of skate and ray in the northeast Atlantic, to build up evidence of the discard survival rate of skate and ray and to increase selectivity and survival of skates and rays is an example of this work and of increased knowledge in this field[184].

The results of the 2021 report on the EMFF and the landing obligation by FAME[185] state that, although there continues to be an increase in selectivity projects supported by the EMFF, there has also been an increase in scientific projects run to support exemptions. The emphasis placed by Member States and industry on seeking exemptions instead of adopting measures to increase selectivity is not due to a lack of practical and technical innovative solutions. The need for exemptions to the landing obligation seems more related to the implications of short-term losses, the lack of actual uptake, the difficulty in achieving the uptake of the researched innovative gear by a large group of fishers, and the operational changes needed (including changes to the legislative framework[186]).

3.3.5. Challenges and opportunities

3.3.5.1. Compliance and concerns over control and enforcement

Control and enforcement of the landing obligation remains a serious issue. Overall, Member States have not adopted the measures needed to achieve proper control and enforcement.

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179 Western Mediterranean MAP, the Western Waters MAP, the North Sea MAP, and the Baltic MAP, see section 3.2 on multiannual plans.

180 Article 15(6) of the CFP Regulation.

181 See Annex 5 for an overview.

182 Excluding delegated regulations on exemptions established under Article 15(2) of the CFP for the purpose of implementing international obligations into EU law, including, in particular, exemptions from the landing obligation.

183 Except for the *de minimis* exemptions in the Adriatic and South-eastern Mediterranean Sea, as those areas do not have a multiannual plan in place and are adopted under Article 15(7) CFP, and the high survivability rate for turbot in the Black Sea, which has been renewed for one year, until 2023, adopted under Article 15(6) CFP.

184 By Scheveningen Group and North Western Waters Group – and the NSAC and NWWAC.

185 https://oceans-and-fisheries.ec.europa.eu/funding/fisheries-and-aquaculture-monitoring-and-evaluation-fame_en.

186 See Chapter 3.5 on technical measures.

Significant undocumented discarding of catches by operators is an ongoing problem. As indicated by the Commission's audits and initiatives run by the EFCA[187], compliance remains weak. In response to these findings, the Commission started in 2021 infringement proceedings against several Member States over their failure to comply with the Control Regulation[188]. These Member States were found to have failed to control and prevent activities that breached the landing obligation and the detailed and accurate documentation of all fishing trips and associated data.

So far, the most effective and cost-efficient way to monitor the landing obligation are considered to be Remote Electronic Monitoring tools, as demonstrated by Member States' trials and by the adoption of Remote Electronic Monitoring by multiple countries around the world. Remote Electronic Monitoring incorporating closed-circuit television systems, sensors and automatic recognition software reviewing technologies, is another tool that is increasingly used as a dependable system for monitoring compliance and ensuring the accurate documentation of catches. The Commission has supported the use of modern control tools in its proposal for a revised fisheries control system[189] and will continue working with the European Parliament and the Council to reach an agreement.

Opinions regarding control and enforcement are divided, as shown during the stakeholder consultation. In general, the fisheries sector is concerned at the prospect of installing Closed Circuit Television for control purposes, while NGOs strongly support it to achieve a robust control system.

Given the above, it is vital that Member States fulfil their responsibilities under EU legislation and ensure that catches and discards (in line with the exemptions granted) are documented and that the landing obligation is properly controlled and enforced. As a result of the failure to adopt the tools needed, such as REM, to control and enforce the landing obligation, indications suggest that catches are still discarded illegally. The difficulties for Member States in achieving a detailed and accurate documentation of catches (and discards) in all trips represents a significant risk, as emphasised by the STECF. It is vital to maintain and improve data collection and reporting of catches (landings, unwanted catches and discards). If the data reported do not reflect the actual catch, it will significantly undermine the quality of scientific advice and may compromise the achievement of the maximum sustainable yield objective.

3.3.5.2. Opportunities and need for continued improvement

The primary focus when implementing the landing obligation should be to avoid unwanted catches by improving selectivity or taking other conservation and management measures. While recognising that increasing the selectivity can result in some reduction in revenue, these short-term losses should be offset by the broader medium-term gains in stocks expected as a result of increased selectivity, the reduced risk of choke events and better utilisation of quota to land a higher proportion of more valuable catch.

In 2023, the Commission together with the Member States, the Advisory Councils and the STECF will carry out a full review of the exemptions requested by the Member States.

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187 https://www.efca.europa.eu/en/content/compliance-evaluation.

188 For France and Spain, see https://ec.europa.eu/commission/presscorner/detail/en/inf_21_4681. For Ireland, Belgium and the Netherlands, see https://ec.europa.eu/commission/presscorner/detail/en/inf_21_5342.

189 Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1224/2009, and amending Council Regulations (EC) No 768/2005, (EC) No 1967/2006, (EC) No 1005/2008, and Regulation (EU) No 2016/1139 of the European Parliament and of the Council as regards fisheries control COM/2018/368 final.

The results of the study contracted by the European Climate, Infrastructure and Environment Executive Agency on behalf of DG MARE enabled the Commission to evaluate whether or not discarding patterns have changed (reduced) as a result of implementing the landing obligation. To measure the success of the landing obligation, tools and methods were developed for this study to clean, filter and display data on discards in the STECF Fisheries Dependent Information database. This included an interactive app (**ShinyApp**) on overall trends in discard patterns. The study concludes that the discard rates did not show clear trends or patterns as a result of full implementation of the landing obligation. This could be due to the short time-series of available information.

In conclusion, cooperation between stakeholders and knowledge about the landing obligation has increased tremendously. Now, on the basis of all the knowledge collected, it is time for all stakeholders to work on a range of practices to put the findings into practice. First and foremost, the Member States must ensure proper control and enforcement, which is essential to develop a culture of compliance and cooperation among all operators and fishers with the landing obligation. Secondly, the quality and consistency of catch data (to support exemptions) should improve. A commitment from Member States and industry is needed to achieve this objective, with the support of the Commission.

Several exemptions have been granted on the basis of justifications on best available scientific advice enshrined in the delegated regulations specifying the details on how to implement the landing obligation. The number and range of these exemptions complicate control and enforcement as they blur the distinction between legal and illegal discarding. This is especially so in cases when Member States depend on conventional controls such as inspections at sea and aerial surveillance. Efforts to improve the situation are needed (by Member States and industry) as well as support for the ongoing negotiations on the Control Regulation, with the Commission's proposal supporting the use of modern control tools[190].

Continued implementation of the landing obligation must also be sensitive to potential developments on the UK side for shared stocks, where there are indications that the UK may take different approaches. It will be important to monitor such changes, not only in terms of assessing how this may affect the ability to meet the specific objectives of the CFP but also in terms of practical application by industry should the approaches to discards diverge for the shared stocks.

3.4. Scientific advice

3.4.1. Introduction

The guiding principles for CFP management include decision-making based on best available scientific advice[191]. This requires independent, high-quality structures to provide advice and reliable and complete data underpinning the scientific work.

As outlined in recital 49 of the CFP Regulation, policy-oriented fisheries science should be strengthened by means of:

190 COM/2018/368 final.

191 Recital 14 and Article 3c of the CFP Regulation.

- nationally-adopted, regionally-coordinated scientific data collection, in dialogue with end users of scientific data,
- research and innovation programmes implemented in coordination with other Member States and with EU research and innovation frameworks.

3.4.2. Background: from 2009 to the state of play in 2022

The 2009 Green Paper highlighted the importance of scientific knowledge and data to the CFP, because policy decisions must be based on robust and sound knowledge of the level of exploitation that stocks can sustain, of the effects of fishing on marine ecosystems and of the impacts of changes such as climate change. The Green Paper mentioned several shortcomings, including the limited human and institutional resources available to provide this advice and that the questions to address have become more numerous and complex.

In particular, long-term CFP-oriented research programmes had to tackle new challenges such as the need to promote synergies at EU, national and regional level, to integrate fisheries policy with other maritime issues (especially the ecosystem approach and climate change) and further develop policy instruments and governance. The 2011 Commission proposal cited the need to improve data collection and scientific advice for the knowledge base underpinning conservation policy.

Currently, when proposing new fisheries rules and regulations or reviewing existing rules, the Commission seeks the best available scientific advice from several scientific bodies. This includes the STECF, a Commission expert group whose work is also supported by the Commission's Joint Research Centre and ICES, an intergovernmental body that provides scientific advice for the sustainable management of fisheries and marine resources, mainly in the Northeast Atlantic. Scientific advice and management recommendations are also provided by the scientific bodies of RFMOs and regional fisheries bodies, such as the Scientific Advisory Committee in the GFCM and the ICCAT, to which the EU is a contracting party, and scientific committees for multispecies SFPAs.

EU countries collect data under the Data Collection Framework[192] (DCF), which outlines the Member States' obligations to collect, manage and make available a wide range of fisheries and aquaculture data needed for scientific advice, and forms the basis for the work of these advice providers. The data collected includes biological, environmental, economic and social data and is financially supported by the EU through the EMFF and EMFAF. The Report on the implementation and functioning of the DCF[193] concludes that it is a well-established regulatory regime. It concludes that the DCF provides the right structure, tools and flexibility to enable the Member States to collect data in the fisheries and aquaculture sectors, in support of science and scientific advice. It also concluded on the need to address challenges such as collection of data on protected, endangered and threatened species or broader ecosystem knowledge.

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192 Regulation (EU) 2017/1004 of the European Parliament and of the Council of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy.

193 Report from the Commission to the European Parliament and the Council Report on the implementation and functioning of Regulation (EU) 2017/1004 of the European Parliament and of the Council of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy and repealing Council Regulation (EC) No 199/2008 (recast), COM(2020) 664 final.

The short-term needs for additional knowledge can be addressed through the EMFF and EMFAF-funded scientific advice studies[194]. Long-term research projects on fisheries management receive support under EU research framework programmes. The new funding programme Horizon Europe[195] includes a new approach – a mission to restore our ocean and waters by 2030. The aim of the mission is to protect and restore marine and freshwater biodiversity and ecosystems, eliminate pollution and make the blue economy carbon neutral and circular. Two enabling conditions are needed to achieve these objectives: an ocean and waters knowledge system (created by the Digital Twin Ocean project) and public mobilisation and engagement. The Commission also processes and manages data to support knowledge-based decision making (EMODnet[196] and the Atlas of the Seas)[197].

3.4.3. Future developments for scientific advice and data collection

A range of development needs have been identified to adjust the scientific advice currently provided to underpin action under the CFP. They include making it fit to respond to upcoming challenges such as the impacts of climate and ocean changes, increasing ecosystem considerations, and increasing calls for more transparency and stakeholder involvement in fisheries science and management.

3.4.4. Promote greater stakeholder involvement

A strong recurrent message emerged from the recent stakeholder consultation organised to prepare the report on the functioning of the CFP (see Annex 1), and during the recent DG MARE Science Seminar on an ecosystem-based approach to fisheries management[198]. The message was a plea for greater stakeholder participation in the decision-making process, including on data collection, which could help improve implementation of the CFP. Moreover, fishers play a key role in enhancing environmental protection and should also be involved, since this role is often largely under-exploited.

One of the stakeholders' demands is to enable them to contribute to the scientific process, in particular by providing information. This includes taking into account the observations made directly by fishers, who are in a unique position to document changes in the marine environment. Fishers increasingly argue that they have a substantial volume of information that is rarely used by scientists in practice. The multiplication of data-collecting sensors deployed by fishers has significant scope to improve the data available to scientists. Some positive examples of such mutual benefits include when the pelagic sector provided data to scientists to improve the evaluation of pelagic stocks. Similarly, acoustic data used by fishers to estimate the quantities of tropical tuna under fish aggregating devices has allowed scientists and managers to gain a better understanding of the dynamics of bigeye and

194 Commission Staff Working Document Evaluation Interim Evaluation of direct management component of the European Maritime and Fisheries Fund (EMFF) {SWD(2020) 222 final

195 https://research-and-innovation.ec.europa.eu/funding/funding-opportunities/funding-programmes-and-open-calls/horizon-europe_en.

196 https://emodnet.ec.europa.eu/en.

197 https://ec.europa.eu/maritimeaffairs/atlas/maritime_atlas/#lang=EN;p=w;bkgd=1;theme=2:0.75;c=617910.1422549905 6661522.512668013;z=4.

198 DG MARE 2022 Seminar (Webinar) on Fisheries Science: Implementation of an Ecosystem Approach to Fisheries Management, https://www.fisheriesscienceseminar.eu/.

yellowfin tuna in the Atlantic. This type of information has so far been often largely under-exploited despite the potential for multiple benefits. It can potentially provide missing data or additional contextual data for scientists, including on the ecosystems. It can contribute to improving the quality of data required for scientific assessments of fish stocks, and reduce the uncertainties associated with the advice. In addition, the approach of involving stakeholders in the scientific process would help build support, confidence and trust in the decision-making process.

Making progress on this will require engaging with both scientists and stakeholders to identify the main criteria for data quality (type of data that would be useful, to establish sampling and data transmission protocols and to develop user-friendly electronic platforms to submit the data). This should form the basis for developing a wider strategy to harness the potential of the digital transition (including artificial intelligence) and citizen science to support the scientific process.

Another aspect to develop with respect to stakeholder involvement is providing greater transparency on the process of preparing and delivering scientific advice. While stakeholders are already involved in the scientific process, for example as observers in ICES and STECF work, there is scope to involve stakeholders' representatives in scientific meetings to actively bring in their views on and knowledge of specific aspects of the biology of the stocks concerned for which there can be a paucity of information (e.g. spatio-temporal distribution, predator-prey relations). This process can be facilitated by offering training to stakeholders on scientific processes (capacity building, for instance on the benefits and constraints of various stocks assessments methods, but also on the characteristics and key processes involved in implementing an ecosystem-based approach).

A more effective dialogue between stakeholders, scientists and managers could be created by setting up a forum for regular exchanges to discuss science and management objectives to feed into both the scientific process and the decision-making process. Working together to develop a common research agenda should deepen the conversation between stakeholders, scientists and managers, and provide an opportunity to set up feedback mechanisms ensuring relationships are based on genuine and effective dialogue (and not parallel monologues).

Regular dialogue has been a key feature of the success in adopting harvest strategies for internationally managed stocks and for overall implementation of the CFP. Channels for dialogue between the different stakeholders and scientists are not new. For example, in 26 June 2020, the Commission organised a roundtable discussion on the preventing by-catch of dolphins and harbour porpoises in fisheries (Baltic Sea and Bay of Biscay). The purpose of the meeting was to collect and present scientific advice, listen to the views of NGOs and fishing sectors and present a political and administrative view from Parliament and the Commission. It helped build a better shared understanding of the challenges and discuss options to address them. A similar dialogue was organised in summer 2022 on protecting vulnerable marine ecosystems and fisheries measures impacting those ecosystems.

3.4.5. Reinforce implementation of an ecosystem approach to fisheries management

The 2022 MARE seminar on fisheries science emphasised the importance of gaining a better understanding of overall ecosystem trends and to refine or qualify the scientific advice in order to respond to global changes to the climate and the oceans. As previously mentioned, a valuable source of information could come from involving stakeholders (fishers' knowledge) and also the general public (citizen science).

Another priority in this context is the need for scientific advice to support progress on reducing the impact of fisheries on marine ecosystems, in particular on sensitive species and habitats. The Marine Action Plan[199] identified a range of targeted actions, notably to strengthen the knowledge base and increase support for research and innovation to enhance the sustainability of fisheries. The DCF establishes rules for the collection of *i.a.* environmental data[200] through the setting of a multiannual Union programme and requires the Member States to develop a national work plan containing a detailed description of the 'data to be collected in accordance with the multiannual Union programme'

To ensure the availability of appropriate data, work between the Commission and the Member States will focus on ensuring that data collection under the Data Collection Framework is fit for purpose to meet these challenges. This includes:

- Working with Member States and through the regional coordination groups, reviewing how stakeholders, and fishers in particular, already contribute to the collection of scientific data under the DCF and how this process can be improved.

- Working with data end users and Member States, reviewing how to integrate ecosystem data into ecosystem indicators and the role the DCF can play in this process. This can include maximising the use of data already collected (collect once, use multiple times) and facilitating additional ecosystem data collection through, for example, DCF surveys. It also includes assessing the data needs for evaluating climate change impacts and how data collected under the DCF can help improve the scientific advice on the impacts of climate change on fisheries;

- Working in close cooperation with scientific advisory bodies, reviewing the data needs for socioeconomic analyses, identifying any gaps and proposing improvements to ensure equitable evaluations of the socioeconomic impacts of fisheries management decisions.

3.5. Technical measures

3.5.1. Introduction

The decisions made by fishers on where, how and when to fish naturally affect the species that are caught but they also affect interactions with the broader ecosystem.

The 2013 CFP Regulation put a special emphasis on technical measures as a tool for conservation. These measures are enshrined as an integral part of the CFP Regulation in Article 7 listing the types of conservation measures available[201]. Technical measures also play a very important rule in the contribution of the CFP to EU environmental legislation. As tools of the CFP, they play a major role in achieving its objectives. Maintaining or reducing fishing mortality at or below maximum sustainable yield levels will contribute to healthier fish

199 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - EU Action Plan: Protecting and restoring marine ecosystems for sustainable and resilient fisheries COM(2023)102

200 Article 5(2)(b): *The multiannual Union programme shall establish data to assess the impact of Union fisheries on the marine ecosystem in and outside Union waters, including data on by-catch of non-target species, in particular species protected under Union or international law, data on impacts of fisheries on marine habitats, including vulnerable marine areas, and data on impacts of fisheries on food webs*.

201 Fish stock recovery areas to protect juveniles or spawning aggregations (Article 8), minimum conservation reference sizes (Article 7(1)(g) and Article 7(1)(j) referring to the list of technical measures – Article 7(2).

populations. Ensuring that fishing activities are highly selective so that only targeted species, certain quantities, ages and sizes of fish are caught will contribute to this objective. Last but not least, ensuring that fishing activities are carried out mindful of the broader ecological considerations means taking measures that minimise the impacts of fishing gear on the ecosystem (e.g. mitigation measures or area closures).

To achieve the set aims, a combination of effective technical conservation measures are needed (i.e. measures that regulate the operation and design of fishing gear, minimum conservation reference sizes and spatial/temporal closures), along with a greater commitment to these measures taken by the master of a fishing vessel, as the decisions made by the fishers will have a direct effect on the long-term sustainability of the resource.

3.5.2. Background: from previous framework to the state of play in 2022

Traditionally, technical measures have been designed with a generic objective to increase the selectivity of fishing gear. As a result, since 1980 European fishers had to adapt to over 90 different regulations, attempting to control too many details. Stakeholders reported that one of the benefits of the previous legislative framework was the harmonisation of rules across EU fisheries (e.g. rules that set similar minimum conservation reference sizes). Nonetheless, evidence (including the retrospective evaluation in the impact assessment)[202] showed that the format in which technical measures were developed had not achieved the objectives of the CFP effectively and several problems were identified.

At the time of the 2013 reform, the framework on technical measures was laid down in Council Regulation 850/98 along with a suite of other regulations that made it very complex to apply and understand all the rules. In an attempt to simplify the rules and remedy existing challenges, in 2008 the Commission issued a proposal[203] to replace Council Regulation 850/98 with a more coherent framework. However, at the end of 2009, the Council failed to reach a final agreement and rejected the proposal.

After the CFP Regulation entered into force and the regional approach under the CFP started, it became even more urgent to change the legislative framework for technical measures. The 2016 proposal included all the above considerations. It was designed to simplify the existing framework, moving from a top-down to a results-based approach, in line with conclusions of preparatory works that the STECF[204] carried out.

The new Regulation entered into force in August 2019. The aim was to prescribe only the baseline measures to grant a minimum conservation standard and a level playing field. It brought in results-based management while presenting the need to progress on the objectives, it gives freedom to stakeholders on how to achieve them using one of the most important tools: regionalisation. However, in return for this flexibility, the Regulation presents another pivotal aspect: the obligation for the Commission to report on progress in reaching the objectives. Assessing progress is vital to check whether the measures in place are adequate and fit for purpose. Measuring progress comes with clear and accurate objectives on the specifics of each target, some of which are concrete (achieving a maximum sustainable yield,

202 Proposal for a Regulation of the European Parliament and of the Council on the conservation of fishery resources and the protection of marine ecosystems through technical measures. COM/2016/0134 final - 2016/074 (COD).

203 Proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures COM/2008/0324 final.

204 STECF EWG 12-12, 13-01.

for example). The objectives include protecting juvenile fish stock and spawning aggregations, minimising incidental catches of sensitive species, minimising the negative impacts of fishing on marine habitats and contributing to compliance with the Marine strategy framework directive, in particular to achieve good environmental status.

3.5.3. Opportunities and challenges

The Commission adopted the first report on implementation of the Technical Measures Regulation in September 2021[205]. Considering the short time since the Regulation was adopted and since the first reporting obligation, the report focused on the impact of previous measures, on assessing the current situation, on how to measure progress, and the action planned for the near future to implement the Regulation, linked to the marine action plan (as discussed in section 3.8). The report set out how the CFP will contribute to the marine action plan, highlighting the areas where more action is needed. As such, this is an opportunity to align fisheries with the broader EU policy context (environmental, social and economic).

As outlined in the conclusions of the report, the Technical Measures Regulation and the current governance system are adequate and fit for purpose to achieve the objectives and targets set by the Regulation. As mentioned in section 3.11, the regionalisation approach gave a quantitative and qualitative boost to the participation of stakeholders in designing the measures with which they will have to comply. The report also showed the commitment of stakeholders to research and innovation, making use of the provisions of the regulation designed to boost the involvement of the sector.

However, challenges remain, and they need to be addressed, as identified in the marine action plan. Regarding progress to protect juveniles and optimise exploitation patterns, it is essential that the fishing industry plays an active role and commits to implement more selective fishing. The adoption of measures needs to speed up. To account for this, and underpinned by scientific work, it is necessary to show the increased yields expected as a result of optimising fishing patterns, acting as a driver for positive change, and sharing ownership of the future measures implemented. Scientific work with STECF has started to provide evidence of significant gains achieved in several stocks[206], and will continue in the future.

There are shortcomings to address in implementation in terms of the protection of sensitive species and habitats, where more action is needed. For the very first time, the design of new technical conservation measures must factor in action to minimise the negative impacts on sensitive species and sensitive habitats. In addition to the measures designed to promote fishing practices that help rebuild stocks and minimise their negative effects, the Technical Measures Regulation facilitates scientific research. Most importantly, it provides incentives to involve industry in research to generate results that will benefit industry too. The Regulation includes provisions to encourage and facilitate scientific research, in particular pilot projects, and provisions on scientific research and innovative gear, as described in the following sections.

For the Mediterranean, the aim of the GFCM 2030 strategy is to encourage the use of by-catch and impact-reduction technical measures, such as those designed to improve fishing

[205] Report from the Commission to the European Parliament and the Council, *Implementation of the Technical Measures Regulation* (Article 31 of Regulation (EU) 2019/1241) COM/2021/583 final.

[206] STECF 20-02 and, mainly, STECF 21-07.

selectivity, deter depredation and reduce the mortality rate of incidentally caught vulnerable species.

The UK has started to develop its own framework for technical measures in UK waters, which will apply to EU fishers fishing in those waters. Work is ongoing in the Specialised Committee on Fisheries established by the Trade and Cooperation Agreement to develop joint new and aligned measures in the Celtic Sea and to develop multi-year strategies for shared non-quota stocks. These measures should try to maximise synergies and alignments between the approaches taken by the Parties to specific fisheries and sea basins. Such work will likely continue to be a feature of bilateral cooperation, because joint measures are more effective from a conservation perspective than divergent measures, and they are also less burdensome for fishers.

In line with Article 31 of the Technical Measures Regulation, the Commission plans to issue a second report on implementation of the Technical Measures Regulation in 2024.

3.6. Fishing opportunities

3.6.1. Introduction

Under Article 43(3) TFEU, '*the Council on a proposal from the Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities*'. These opportunities are set within the context of the CFP objectives. Where relevant, specific objectives and targets are set in the multiannual plans. Advisory Councils actively participate in this work by issuing advice as follow-up to the Communication from the Commission on fishing opportunities for the following year, and by providing numerous pieces of advice on specific stocks.

The fishing opportunities available are set each year for fishing in EU waters and apply to EU fishing vessels in certain non-EU waters, to certain fish stocks and to groups of fish stocks. These include catch limits[207] and fishing effort limits. The total allowable catch is the quantity of fish in each stock that may be caught each year, and in fisheries covered by the exemption to the landing obligation, the quantity of fish in each stock that may be landed each year[208]. Total allowable catch volumes are set in the related annual regulations, with Council Regulation (EU) 2022/109 being the most recent. The proportion of catch allocated to the Member State is called the quota.

3.6.2. Background: from 2009 to the state of play in 2022

As indicated in the 2009 Green Paper, before the 2013 reform, the CFP lacked clear indicators and yardsticks that could provide more specific guidance on its objectives. To help measure policy achievements, the 2013 CFP now includes more specific targets and objectives. It specifies that reaching the maximum sustainable yield is a concrete objective for the policy and for setting fishing opportunities. The concept of maximum sustainable yield was accepted

[207] Article 4(1)(15) of the CFP regulation: 'catch limit' means, as appropriate, either a quantitative limit on catches of a fish stock or group of fish stocks over a given period where such fish stocks or group of fish stocks are subject to an obligation to land, or a quantitative limit on landings of a fish stock or group of fish stocks over a given period for which the obligation to land does not apply.

[208] As defined by Article 3(d) of Council Regulation (EU) 2022/109 of 27 January 2022 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters.

by all Member States at the 2002 World Summit on Sustainable Development as an objective to achieve by 2015. It was also part of the 1995 UN Fish Stocks Agreement. This international commitment has been enshrined since 2013 as a principle for stock management in the CFP, guiding decision makers especially when setting fishing opportunities.

In line with Article 50 of the CFP Regulation, the Commission reports each year on the progress made towards sustainable fishing in the EU. As set out in more details in the most recent Annual Communication[209], remarkable improvements have been achieved. First of all, in the North East Atlantic, where the F_{MSY} indicator fell for the first time below 1 for all stocks with maximum sustainable yield advice. This means that overall, stock exploitation levels are, on average, in line or below the maximum sustainable yield. This is the result of all efforts made by the sector over the past years. Progress has also been made in the Mediterranean, with the indicator now below 2. This progress should be recognised, though further action is needed to reach the maximum sustainable yield objective by 2025 in line with the Western Mediterranean multiannual plan, and for the other Mediterranean and Black sea stocks not regulated under this multiannual plan. In the Baltic, the situation is also concerning. This calls for different policy domains to work hand in hand to address the deteriorating environmental condition of that sea basin.

3.6.3. Allocation of fishing opportunities

Articles 16 and 17 of the CFP Regulation lay down rules for allocating fishing opportunities by the Member States. In particular, Article 16(6) sets out that each Member State must decide how to allocate the fishing opportunities available to it, that are not subject to a system of transferable fishing concessions[210], to vessels flying its flag. Article 17 stipulates that when allocating the fishing opportunities available, Member States must use transparent and objective criteria, including criteria of an environmental, social and economic nature.

In 2009, the Green Paper identified unclear and conflicting objectives of the previous CFP as a key structural failing. No priority was set for these objectives and, though it makes direct references to adopting a precautionary and an ecosystem approach, it is not clear how this relates to economic and social conditions. There are no clear indicators and yardsticks that could provide more concrete guidance or help measure policy achievements.

The Green Paper also highlighted overcapacity as one of the policy's failings. It suggested that '*market instruments such as transferable rights …may be a more efficient and less expensive way to reduce overcapacity*'. In 2011, the Commission proposed implementing a system of transferable fishing concessions at national level for all species under quota or effort limits. The proposal for transferable fishing concessions was dropped and the alternative was to return to the traditional scheme, which allowed Member States to allocate national quotas as they see fit. Environmental NGOs and small-scale fishers supported a mandatory use of social and environmental criteria when allocating fishing opportunities as a means to meet the CFP policy objectives. This resulted in a compromise in the 2013 CFP

209 Communication from the Commission to the European Parliament and the Council, *Towards more sustainable fishing in the EU: state of play and orientations for 2023*, COM/2022/253 final.

210 As defined by Article 4(1)(23) of the CFP Regulation 'transferable fishing concession' means a revocable user entitlement to a specific part of fishing opportunities allocated to a Member State or established in a management plan adopted by a Member State in accordance with Article 19 of Council Regulation (EC) No 1967/2006 (18), which the holder may transfer.

reform, where Member States would still be able to allocate quotas as they see fit following some general principles and with an obligation to provide transparency.

In 2016, 2020 and 2022 the Commission asked Member States to provide information on their methods to allocate fishing opportunities under Article 16(6) and Article 17 of the CFP. All 22 Member States with a commercial marine fishery consulted in 2022 replied to the questionnaire, though the type, amount of information and level of detail provided varied widely. The replies from Member States indicate that there is a wide variety in the methods used to allocate fishing opportunities, with some Member States using transferable fishing concessions only, others implementing a mixed system with transferable fishing concessions and a criteria-based allocation. A few Member States reported that they also apply criteria to the transferable fishing concessions (e.g. Denmark, Estonia, Latvia and Sweden).

Approximately half of the Member States allocate fishing opportunities on the basis of criteria. The allocation methods used differ from one Member State to the other. The most frequently reported criterion applied was historical catches. Many allocation systems use a criterion related to vessel size (or multiple criteria) to allocate fishing opportunities between large-scale and small-scale fleets. Several Member States apply environmental criteria, mainly relating to fishing gear type (e.g. Denmark, France, Greece, Ireland, Malta and Sweden), allocate a share of quota for the purpose of unintended by-catch (e.g. Croatia, Cyprus, Denmark, Greece, Malta and Spain) or use active acoustic devices to repel cetaceans (e.g. Bulgaria). Several Member States use social criteria, allocating opportunities to young fishers (e.g. Bulgaria, Denmark and Greece) and to support newcomers in the fishing industry (e.g. Germany and Malta). Some Member States reported using economic criteria, for example market situation (e.g. France, Germany and Ireland) and quota uptake (e.g. Bulgaria and Romania).

In general, some Member States indicated that the specific criteria applied depended on the fleet segment, species and/or fishing techniques used (e.g. Croatia, Greece, Ireland and Sweden). In some cases, the information provided did not clearly indicate whether the criteria applied to all species for which there was a quota or only to the example given. Most Member States did not describe how each criterion was weighted (i.e. which criterion has priority and/or the order of priority given to each criterion). A few Member States indicated that they allocated fishing opportunities based on an evaluation of criteria to which they applied a points system (e.g. Bulgaria and Greece).

3.6.4. Opportunities and challenges

The use of social criteria in allocating fishing opportunities was assessed in a STECF report on the social dimension[211] of the CFP. The report documents many examples of Member States using social criteria to allocate fishing opportunities. The assessment revealed that there was no clear trend in the use of social criteria based on geography, type of fishing opportunity or political culture. The report highlighted the great diversity and complexity of systems to allocate fishing opportunities used by the Member States, indicating that no two Member States use the same system to allocate fishing opportunities. The study emphasises that the use of social criteria in EU fisheries is a new area of study which makes an assessment challenging as it requires a level of detailed understanding and confidence regarding each

[211] STECF 20-14, – *Social dimension of the CFP (STECF-20-14).*

national system. Another challenge observed by STEFC when analysing the criteria was that no definition of social criteria is provided in EU fisheries regulations, nor in the literature.

The stakeholder analysis showed that two-thirds of respondents from all stakeholder groups are of the opinion that the requirements in Articles 16 and 17 of the CFP Regulation are not implemented in a satisfactory manner. Stakeholders are of the opinion that allocation methods are not transparent and that environmental, economic and social criteria are not considered sufficiently when allocating fishing opportunities. Due to current allocation methods, for instance based on historical catches, Member States fail to harness the full potential of Article 17 to provide incentives for more sustainable, low-impact and small-scale fisheries. It is evident that transparency on the factors and criteria applied when allocating fishing opportunities can be further improved within and across all Member States.

3.7. Emergency measures

3.7.1. Introduction

In view of the exclusive competence and the nature of the common resource, the CFP provides for tools to address emergency situations in a swift and effective manner.

3.7.2. Background: from 2009 to the state of play in 2022

The 2013 reform maintained the provisions for emergency measures when conservation of the marine biological resources is threatened, either at the request of a Member State or at the initiative of the Commission. In addition, the reform introduced a new provision for fisheries measures in the context of Union environmental law obligations.

The use of these instruments is strictly conditioned, and may can only be taken if on duly justified imperative grounds of urgency relating to a serious threat to the conservation of marine biological resources. In such cases, the Commission at the reasoned request of a Member State or on its own initiative, may, in order to alleviate this threat, adopt such emergency measures in the form of immediately applicable implementing acts applicable for a maximum period of six months.

Since the entry into force of the CFP Regulation, the Commission had twice to revert to the use of emergency measures, once in 2015 to alleviate a serious threat to the conservation of the sea bass (Dicentrarchus labrax) stock in the Celtic Sea, Channel, Irish Sea and southern North Sea[212], and once in 2019 concerning the Eastern Baltic cod[213].

3.7.3. Opportunities and challenges

The possibility to adopt emergency measures remains essential and the Commission will not refrain from taking such measures where relevant and justifed. In view of the serious impact that such measures may have also for operators, strict adherence to the requirements as set by the legislators is needed.

[212] Commission Implementing Regulation (EU) 2015/111 of 26 January 2015 establishing measures to alleviate a serious threat to the conservation of the sea bass (Dicentrarchus labrax) stock in the Celtic Sea, Channel, Irish Sea and southern North Sea

[213] Commission Implementing Regulation (EU) 2019/1248 of 22 July 2019 establishing measures to alleviate a serious threat to the conservation of the eastern Baltic cod (Gadus morhua) stock

3.8. Conservation measures necessary for complying with obligations under EU environmental legislation

3.8.1. Introduction

Under the CFP, the EU has a solid legislative framework that embeds environmental objectives and complements EU environmental legislation. In particular, Article 2(5)(j) of the CFP set out that *'the CFP shall be coherent with the Union environmental legislation, in particular with the objective of achieving a good environmental status by 2020 as set out in Article 1(1) of Directive 2008/56/EC'* (Marine strategy framework directive). As set out in the marine action plan, major steps have been made in recent years to better implement the environmental legislation and to strengthen the CFP's contribution thereto.

Member States have clear responsibilities and obligations under EU environmental legislation. With the 2013 reform, the CFP clarifies the obligations of Member States to contribute to these obligations and provides tools to implement the fisheries measures needed to help meet them. In particular, the regionalisation approach in the CFP provides the basis for all stakeholders to work together to define and agree on the fisheries measures adapted to the local or regional context.

3.8.2. Background: from 2009 to the state of play in 2022

One of the main changes made to the CFP in 2002 was to make a greater commitment to integrate environmental concerns into fisheries management. Despite the progress made since the 2002 reform, the policy and its implementation had not met the objective to achieve the environmental dimension of sustainable fisheries and the Green Paper identified several structural shortcomings. It acknowledged that ecological sustainability is a basic premise for the economic and social future of European fisheries. The Green Paper recognised that marine ecosystems and biodiversity were under pressure from pollution and overfishing and would also be affected by climate change. Thus, it called for the CFP to be reformed to reach the following aims:

i. adopt a precautionary and ecosystem approach to fisheries management,
ii. facilitate climate change adaptation efforts concerning impacts in the marine environment,
iii. achieve coherence with other EU policies, including EU environmental policy.

Fisheries could no longer be seen in isolation from the broader maritime environment and from other policies that cover maritime activities. Thus, the Green Paper in 2009 suggested that the upcoming reform of the CFP should continue to be integrated with the Integrated Maritime Policy including support to implement the Marine strategy framework directive to ensure environmental protection of marine ecosystems. It noted that small-scale fishing could also be harmful to sensitive coastal habitats and its aggregated impacts could be significant. Therefore it suggested differentiating the fishing regime for small and large-scale fleets to protect the ecological sustainability of fish stocks.

The Commission's 2011 proposal therefore sought to remedy the lack of focus in the policy objectives on environmental sustainability as a result of overfishing and insufficient integration of environmental concerns into the policy. The overall objective was to ensure that fishing and aquaculture activities meet long-term sustainable environmental conditions and contribute to the availability of food supplies. The proposal included environmental sustainability as a precondition to achieve overall sustainability, focusing on environmental sustainability while creating sufficient flexibility to give the fishing sector time to adapt to

ambitious environmental objectives. Minimising the negative impact on marine ecosystems combined with the precautionary and ecosystem approach to fisheries management would contribute to achieving good environmental status[214] of the seas under the MSDF.

The proposal brought in new provisions for fisheries measures for the conservation of marine biological resources and the protection of the marine environment. These provisions were needed for compliance with the EU's environmental obligations under the Birds Directive, Habitats Directive and the Marine strategy framework directive to alleviate the impact from fishing activities in protected areas. These provisions were needed to provide Member States with tools to adopt fisheries measures needed to ensure compliance with their obligations under the Birds Directive, Habitats Directive and the Marine strategy framework directive as regards special protection areas, special areas of conservation and marine protected areas, respectively. As a result, the CFP now includes the possibility for Member States to adopt, in the waters under their sovereignty or jurisdiction, conservation measures necessary to comply with their obligations. The regulation stipulates that, where such measures might affect fisheries interests of other Member States, the measures are to be adopted by Commission on the basis of joint recommendations from Member States regional groups.

Member States have taken into account fisheries management measures that contribute to the achievement of the environmental objectives for decades but the 2013 CFP reform brought in new mechanisms, such as the regionalisation approach and new tools, such as Article 11 of the CFP Regulation. Article 11, which complements the specific possibilities that Member States have to adopt measures for their waters or their fishing vessels under Articles 19 and 20, provides a clear basis for Member States to act under the CFP to contribute to certain of their obligations under environmental law. This scope was extended and specified by the new Technical Measures Regulation in 2019.

In 2018, to facilitate the work of Member States, the Commission published guidance[215] on Article 11 of the CFP Regulation on adopting conservation measures for Natura 2000 sites and for the purposes of the Marine strategy framework directive. The guidance included good practices to be considered.

Regionalisation has shown to be a good tool to adopt region-specific measures. With the regional groups set up and cooperation underway in the regional sea basins, it has proven to be the most effective way to ensure the bottom-up transition from the political ambition to real implementation on the ground. The study on regionalisation concluded that regionalisation helps achieve the objective set out in Article 2(5)(j) of the CFP Regulation: to be coherent with other EU policies. Member States are empowered to take more initiative in developing measures to meet the objectives on fisheries and waters. Together with Article 11, Article 18 of the CFP Regulation can facilitate transboundary cooperation between Member States and promote coherence with EU environmental policy.

While from the outset the regional approach mainly focused on implementing the landing obligation, it has also proven to be effective in adopting the conservation measures needed for compliance with obligations under EU environmental legislation, notably under Article 13(4) of the Marine strategy framework directive, Article 4 of the Birds Directive and Article 6 of

[214] Eleven qualitative descriptors describe what the environment looks like when good environmental status has been achieved. Specifically descriptors 1, 3, 4 and 6 contribute to the objectives of the CFP.

[215] Commission staff working document on the establishment of conservation measures under the Common Fisheries Policy for Natura 2000 sites and for Marine Strategy Framework Directive purposes staff working document (2018)288.

the Habitats Directive. Adopting the first joint recommendations paved the way for greater cooperation between administrations and stakeholders within a given Member State and with other Member States that have a direct management interest. In particular, since the Technical Measures Regulation was adopted in 2019, implementation has taken off and a range of measures have been put in place or are under discussion by the regional groups (Figure 1).

To date, in total seven delegated regulations related to Article 11 have been adopted (of which one was rejected by Parliament during the scrutiny period and thus never came into force and one no longer in force)[216]. 14 delegated regulations were adopted under the Technical Measures Regulation[217], created by in total 29 joint recommendations issued as a result of the work carried out by 14 Member States[218]. These include area-specific measures for the Baltic Sea, North Sea, South Western Waters, the English Channel, the Celtic Sea, the Irish Sea, the West of Scotland and the Skagerrak. They covered, for example, a prohibition on all or some fishing activities (e.g. using bottom contacting gear) and additional restrictions on the use of certain gear. Member State action was complemented by measures agreed at EU level, for example with the adoption in 2016 of the 'deep sea access regulation'[219] as a means to implement in EU waters the UN Resolutions to protect vulnerable deep-sea marine ecosystems from the impact of bottom fishing gear[220], as implemented in 2022 with the specific implementing regulation[221].

216 These measures are currently included in Delegated acts (EU) 2017/117 stablishing fisheries conservation measures for the protection of the marine environment in the Baltic Sea and (EU) 2017/118 establishing fisheries conservation measures for the protection of the marine environment in the North Sea.

217 These measures are currently in Commission Delegated Regulation (EU) 2022/1357, Commission Delegated Regulation (EU) 2022/826, Commission Delegated Regulation (EU) 2022/303, Commission Delegated Regulation (EU) 2022/199, Commission Delegated Regulation (EU) 2022/200, Commission Delegated Regulation (EU) 2021/2324, Commission Delegated Regulation (EU) 2021/1160, Commission Delegated Regulation (EU) 2020/2013, Commission Delegated Regulation (EU) 2019/2201, and Commission Delegated Regulation (EU)2018/47.

218 Belgium, Denmark, Estonia, Finland, Germany, Ireland, France, Latvia, Lithuania, Netherlands, Poland, Portugal, Spain, Sweden.

219 Regulation (EU) 2016/2336 of the European Parliament and of the Council of 14 December 2016 establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) No 2347/2002.

220 Resolutions adopted by the General Assembly of the United Nations, in particular Resolutions 61/105 and 64/72.

221 Commission Implementing Regulation (EU) 2022/1614 of 15 September 2022 determining the existing deep-sea fishing areas and establishing a list of areas where vulnerable marine ecosystems are known to occur or are likely to occur.

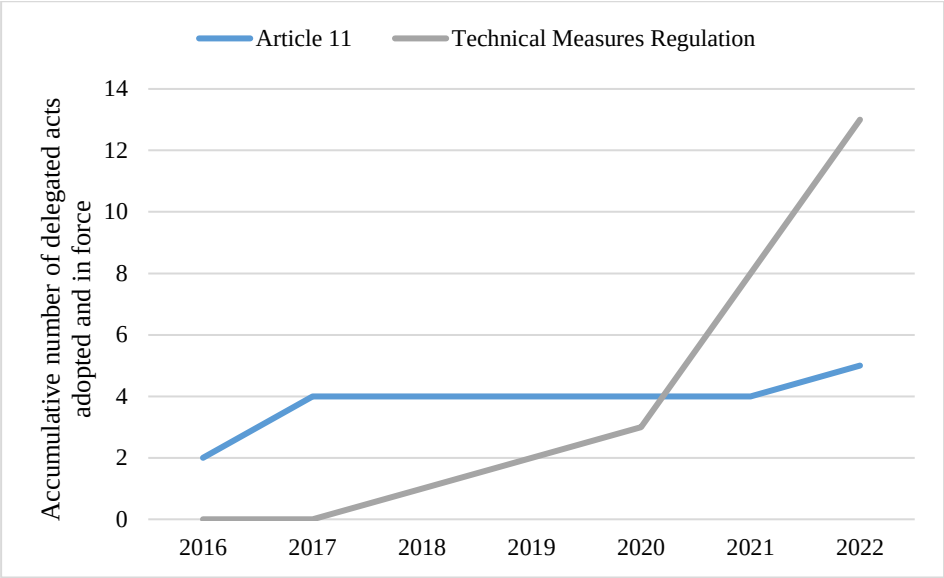

Figure 1 Timeline of accumulative number of delegated acts which are currently in force.

In the Mediterranean Sea, work has progressed on the level of protection of sensitive habitats and nursery areas. The Mediterranean Regulation was adopted prior to the 2013 reform and was unique in the sense that at the time it was the only CFP instrument that provided for fisheries restrictions in coastal areas (a ban on trawling within 3 nautical miles from the coast / 50 m isobath) and above certain protected habitats (e.g. sea-grass beds (*Posidonia*), maërl, coralligenous). In the framework of the GFCM, a number of recommendations include measures for the protection of sensitive habitats and vulnerable marine ecosystems, which are applicable to the EU and its Member States, as contracting parties to the GFCM. The GFCM 2030 strategy also demonstrates the progress on this issue as it aims to establish effective area-based measures to minimise and mitigate impacts on vulnerable species, sensitive habitats and essential fish habitats to meet international spatial conservation targets. It also aims to calculate the fishing footprint of bottom contact fisheries and their potential interactions with essential fish habitats, sensitive habitats and vulnerable marine ecosystems.

In addition, Member States are empowered to take measures within the 12 nautical miles zone for the conservation and management of fish stocks and to maintain or improve the conservation status of marine ecosystems. The Member States have adopted such measures under Articles 19 and 20 of the CFP Regulation. Together with the measures under Article 11 of the Technical Measures Regulation, other tools mentioned in this chapter and the emergency measures under Articles 12 and 13 of the CFP Regulation to alleviate a serious threat to the conservation of marine biological resources or to the marine ecosystem, they form a comprehensive toolbox of fisheries-related measures to help meet the EU's environmental objectives.

3.8.3. Opportunities and challenges

Addressing the triple planetary crisis and the accelerating loss of marine biodiversity and ecosystem integrity requires significantly stepping up the speed and ambition of regionalisation, as detailed in the marine action plan. It is also vital to continue to put forward proposals and adopt regulations as and where relevant and required in view of the EU's environmental obligations.

More recently, as part of action to implement the European Green Deal and the biodiversity strategy, the Commission has issued a marine action plan and a proposal for a nature

restoration law that seek to increase and strengthen the efforts to achieve a more coherent and joined-up implementation of the EU's environmental policy and legislation. The aim is to improve alignment between the CFP and the three pillars of sustainability and to provide a forward-looking strategy on how to better apply the ecosystem-based approach to fisheries management

3.9. Management of fishing capacity

3.9.1. Introduction

Managing fishing capacity is one of the conservation measures listed under Article 7 of the CFP Regulation. Under the CFP, the total fishing capacity of each national fleet is capped and under Article 22, Member States must adjust their fleet's fishing capacity[222] to the available fishing opportunities. This is to ensure that fishing activities are environmentally sustainable in the long-term and managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies over time.

3.9.2. Background: from 2009 to the state of play in 2022

Fleet capacity that is out of balance with the resources they fish for has been an important factor behind the historic overexploitation of resources in European waters. For many years, there has been a problem of overcapacity of the European fishing fleet, which was highlighted in the 2009 Green Paper. This structural overcapacity has undermined both the sustainability of fish stocks and the long-term viability of the fishing sector and put too high of a pressure on the marine ecosystems and habitats. Reducing fishing overcapacity and managing fishing capacity in general has been a recurrent theme in reforms of the CFP.

The 2011 Commission proposal maintained the general obligation for Member States to adjust the fleet capacity to the fishing opportunities and brought in a system of Transferable Fishing Concessions (TFCs). These concessions were seen to constitute a major driver to adjust fleet capacity, eliminate overcapacity and improve economic results of the fishing industry. The proposal highlighted that a basic fleet management policy remained necessary with overall fishing capacity ceilings per Member State set by the Commission. TFCs would accelerate the process of reducing fleet capacity, justifying that Member States should be allowed to exclude vessels with such concessions from the capacity ceiling.

The 2013 reform brought in a specific fleet policy. Article 22(1) of the CFP Regulation requires Member States to '*put in place measures to adjust the fishing capacity of their fleet to their fishing opportunities over time, taking into account trends and based on best scientific advice, with the objective of achieving a stable and enduring balance between them*'. Under Article 22(2) of the Regulation, '*Member States shall send to the Commission, by 31 May each year, a report on the balance between the fishing capacity of their fleets and their fishing opportunities [which] shall contain the annual capacity assessment of the national fleet and of all fleet segments of the Member State*'.

[222] Fishing capacity is a vessel's gross tonnage (GT) and power in kilowatts (kW), as defined in Articles 4 and 5 of Council Regulation (EEC) No 2930/86. 'GT' actually measures a vessel's enclosed volume, and 'kW' measures the maximum engine power available for propulsion.

That assessment must be carried out against the biological, economic and technical indicators specified in the Commission's guidelines. Article 22(4) provides that '*if the assessment clearly demonstrates that the fishing capacity is not effectively balanced with fishing opportunities, the Member State shall prepare and include in its report an action plan for the fleet segments with identified structural overcapacity [which] shall set out the adjustment targets and tools to achieve a balance and a clear timeframe for its implementation*'.

The Member States provide fleet assessments in their annual fleet reports sent to the Commission by 31 May each year. The reports are made public on the Europa website[223] and assessed by the STEFC.

To ensure a common approach in all annual national fleet reports, in 2014 the Commission issued guidelines for the Member States[224] to analyse the balance between fishing capacity and fishing opportunities. These guidelines[225] are defined in and follow the best possible scientific, economic and technical practices. They ensure compatibility with standard biological, economic and social assessments with the goal of providing an assessment of the imbalance between each fleet segment and the stocks they rely on.

These indicators are designed to be used together to assess whether there is an imbalance for each fleet separately. In general, fleet segments that rely on healthy stocks are also profitable both in the short- and long-term and are likely to be in balance. The CFP Regulation refers to balance (and imbalance) over time, so it is appropriate to assess several years rather than a single year.

Based on Article 26 of the CFP Regulation, the Commission consults the STECF to review the Member States' annual fleet reports. Each year, the STECF is requested to carry out its own assessment of the balance between fishing capacity and the fishing opportunities for the EU fleet segments but also to review the annual fleet reports and associated action plans (see below) submitted by the Member States. The final assessment is published on the STECF website in November each year. When the assessment in an annual fleet report demonstrates an imbalance, the Member State is reminded of its obligation to prepare an action plan for the fleet segments with identified structural overcapacity, in accordance with Article 22(4) of the CFP Regulation. This plan sets adjustment targets and tools to achieve a balance and a clear time frame for its implementation.

Each year, as part of the Communication launching the consultation on fishing opportunities, the Commission issues a report on the balance between the fishing capacity of the Member States' fleets and their fishing opportunities. This report is published in June each year.

The size of the EU fleet has been steadily decreasing since 1996. Today, all Member States report an overall fishing fleet capacity that is well within the capacity ceilings set by the CFP Regulation.

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223 Fleet capacity reports 2020: https://oceans-and-fisheries.ec.europa.eu/fisheries/rules/fishing-fleet-capacities/fleet-capacity-reports-2020_en.

224 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R1022.

225 As defined in COM(2014) 545.

3.9.3. Fishing capacity ceilings

Since the creation of the common fisheries policy, the EU fishing fleet has evolved significantly. Its nominal capacity has decreased but studies[226] suggest that technological progress has boosted effective efficiency. An important way to prevent fishing capacity from increasing is the entry/exit scheme (Article 23). The entry/exit scheme sets out that the entry into the fleet of new capacity without public aid must be offset by the prior withdrawal of capacity without public aid of at least the same amount.

To ensure that the European fleet does not expand and thus remains sustainable and profitable, since 2013 the Member States must ensure that their fleet does not exceed at any time the fishing capacity ceilings (in terms of overall gross tonnage and kilowatt) initially set out in the CFP Regulation. They must also ensure that fishing capacity corresponding to fishing vessels withdrawn with public aid is not be replaced. This leads to a lowering of the fishing capacity ceilings for both gross tonnage and kilowatt. An updated list of fishing capacity ceilings is provided in Annex 4 to this document. The current fishing capacity ceilings are mostly higher than the capacity of the active fleet, leaving Member States a relatively comfortable margin in which to manage their fleet.

3.9.4. Fishing fleet register

To help monitor fishing capacity management and provide information for control and inspection, the Member States are required to record information on the characteristics and activity of the fishing vessels flying their flag in the EU fishing fleet register[227]. Updates from national registers are made almost in real time.

In 2019, a Commission evaluation of the entry/exit scheme,[228] concluded that the scheme is fit for purpose as an instrument to prevent fishing capacity from increasing. The entry/exit scheme has proven effective in contexts where other conservation and management measures alone are insufficient to regulate the use of fishing capacity through enforceable input (such as licences) and output measures (such as quotas). A Commission study on engine power verification[229] brought to surface concerns regarding control and enforcement by the Member States. It highlighted that for some Member States, the data on engine power might be closer to the capacity ceilings. In 2022, the Commission set up a technical working group on engine power with the aim of supporting Member States' work on engine power controls by developing common harmonised standards and technical guidelines on engine power monitoring, certification and verification. The technical working group involves Member State experts and stakeholders in the field of engine power controls (e.g. certifying entities, classification societies, engine manufactures).

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226 For example, Villasante, S. and U.S. Sumaila (2010), *Estimating the effects of technological efficiency on the European fishing fleet*, Marine Policy (2010) 720-722.

227 https://webgate.ec.europa.eu/fleet-europa/index_en.

228 Commission staff working document, Executive summary of the evaluation of the Entry/Exit scheme in accordance with Article 23(3) of Regulation (EU) 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy. Staff working document (2019) 312 final.

229 European Commission, Directorate-General for Maritime Affairs and Fisheries, Study on engine power verification by Member States: final report, Publications Office, 2019, https://data.europa.eu/doi/10.2771/945320.

As the vessel information contained in the Fleet Register is uploaded directly by the Member States, this information may not always be fully accurate or entirely up-to-date. The Commission carried out quality checks and, where relevant, Member States are asked to verify the situation and update the register. The EU fleet register will enable validation of historical information entered by the Member States for each vessel.

3.9.5. Fishing fleets in the outermost regions

The state of the fleet in some outermost regions is a challenge for the future of the fishing sector; it is sometimes necessary to invest in new vessels. The rules under the CFP Regulation allow for the construction of new fishing vessels with private funds, along with safeguards to prevent the fleet's fishing capacity from increasing.

Considering the particular status of the outermost regions under Article 349 of the Treaty and the prevailing challenges to their socioeconomic development due to the specific factors set out in that Article, the Guidelines for the examination of State aid for fisheries and aquaculture sectors ("State aid Guidelines") were amended[230] in November 2018 to introduce the possibility for State aid for the renewal of fishing fleets in the outermost regions. Such change followed-up the Communication from the Commission on a stronger and renewed strategic partnership with the EU's Outermost regions of October 2017[231]. The granting of such aid is subject to specific conditions including that there is balance between the fishing capacity and fishing opportunities in the fleet segment of the outermost region to which the new vessel will belong. In line with the State aid guidelines for fisheries and aquaculture[232] and the CFP Regulation, this balance must be demonstrated in the latest annual fleet report prepared by the Member State in accordance with Article 22(2) and (3) of Regulation (EU) No 1380/2013, taking account of biological, economic and vessel use indicators set out in the Fleet Indicators guidelines[233]

Since this provision was included in the State aid guidelines, Member States have started to explore the scope to grant aid for the renewal of vessels for some fleet segments in some outermost regions. A key challenge is the need for the Member States to improve the data underpinning the assessments of the balance in their national reports.

To help clarify the data needs and support the Member States, in 2022 the Commission sought expertise from the STECF via an ad hoc contract. The objective of the contract was to provide the Member States concerned (Spain, France, Portugal) with a scientific opinion on the

[230] Communication from the Commission amending the Guidelines for the examination of State aid to the fishery and aquaculture sector, OJ C 422, 22.11.2018, p. 1

[231] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, " A stronger and renewed strategic partnership with the EU's outermost regions" COM/2017/0623 final

[232] Communication from the Commission – Guidelines for the examination of State aid to the fishery and aquaculture sector, OJ C 217, 2 July 2015, p. 1, as amended by the Communication published in OJ C 422, 22.11.2018, p. 1. The new State aid Guidelines endorsed by the Commission are available here: https://competition-policy.ec.europa.eu/sectors/agriculture/legislation_en

[233] Guidelines for the analysis of the balance between fishing capacity and fishing opportunities according to Art 22 of Regulation (EU) No 1380/2013 of the European Parliament and the Council on the Common Fisheries Policy (COM(2014) 545 final).

potential actions they could take in the short term to improve data collection and the quality of reporting on the balance between their fishing capacity and the fishing opportunities available in certain segments.

3.9.6. Opportunities and challenges

The EU fishing fleet is currently at a crossroads: climate change, technological creep[234], economic sustainability challenged by the depletion of natural resources (including fish stocks) as well as increasing fuel prices, the need for safer conditions on board are only a few examples of the drivers.

The Member States are invited to ensure the data needed to prepare the annual fleet report based on the guidelines is collected[235].

It is essential to implement the current rules in full to ensure a level playing field. The Commission continues to follow up with Member States to address concerns and, where relevant, draft action plans to remedy any imbalances and to ensure correct implementation, control and enforcement of the entry-exit rules and registrations in the fishing fleet register. The EU rules on fishing capacity management also grant flexibility to Member States to manage the allocation of their available fishing capacity within a ceiling and subject to the entry/exit scheme and several Member States have inactive fishing capacity, which is available for allocation to the fleet.

The Commission continues to encourage Member States to increase transparency, make full use of the opportunities under the Regulation to manage their fleet in a way to effectively address existing challenges and provide impetus for innovation. In addition, for fleets in outermost regions, the Commission will continue discussions with Member States and help them bridge data gaps, increase the quality of their reports and bring the fleets in balance with the fishing opportunities available.

3.10. Aquaculture

3.10.1. Introduction

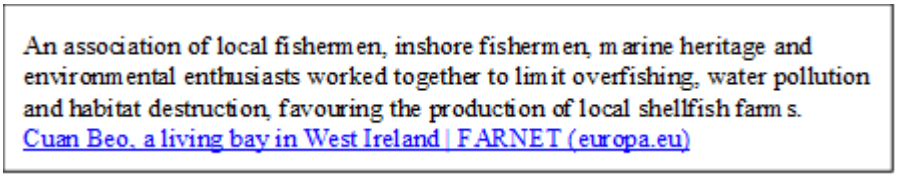
Aquaculture, unlike fisheries, falls under exclusive EU competence only as regards market and financial measures[236]. For other aspects, it falls under shared competence between the EU and the Member States[237] under the same conditions applicable to agricultural policy. 'Aquaculture products' are included in the broader scope of 'agricultural products'.

A number of other horizontal EU policies, such as those ensuring environmental protection or human and animal health, also apply to aquaculture. However, with a few exceptions (notably for the control of diseases in aquatic animals), the EU regulatory framework developed under most of these horizontal policies is not designed to addressing specifically a given economic

234 'Technological creep' is the term given to this method of advancing fishing capacity.
235 COM(2014) 545.
236 Article 1(1)(b) of the CFP Regulation.
237 Article 4(d) of the Treaty of the functioning of the EU.

sector such as aquaculture. However, this framework can have a direct and significant impact on the development and evolution of this type of activity in the EU.

3.10.2.



Background: from 2009 to the state of play of 2022

In the 2009 Green Paper, the need for a new strategy on aquaculture addressing the bottlenecks that prevent the sector from developing was highlighted and the European Commission adopted in 2009 a Communication on aquaculture[238]. This new strategy also emphasised the importance of considering this need in the process of the 2013 CFP reform. The previous CFP Regulation (Reg. No 2371/2002) only provided under Article 1(2), that, *'The Common fisheries policy shall provide for coherent measures concerning: (…) Aquaculture.'* In practice however, the EU intervention under the 'fisheries policy' for aquaculture mainly consisted in possibilities for support under the 'structural pillar' (namely the European Fisheries Fund)[239]. Providing support and setting the priorities remained totally for national or even regional authorities. Aquaculture products were also partly covered by some measures under the 'market pillar' of the CFP, such as labelling requirements.

The 2011 Commission proposal highlighted this problem and justified the need for a reform to promote the development of aquaculture. The 2013 CFP reform brought in for the first time the sustainable development of aquaculture as a pillar of the CFP '*with a view to promoting sustainability and contributing to food security and supplies, growth and employment' (para 1 of Article 34).* Since Member States have competence on most issues related to aquaculture, Article 34 set up a system of strategic coordination to achieve this objective across Member States.

With the aim of facilitating aquaculture development in the EU, Article 34 mandated the Commission to adopt non-binding EU strategic guidelines on common priorities and targets to develop sustainable aquaculture activities in the EU[240]. Those guidelines were adopted in 2013[241]. Article 34 also brought in an obligation for Member States to draw up multiannual national strategic plans to develop aquaculture in their territories using the strategic guidelines as a basis[242]. All Member States, except Luxembourg, had adopted a plan by 2015.

In addition to these two main instruments of strategic coordination, Article 34 establishes the exchange of information and best practices among Member States through the open method of coordination of the national measures contained in multiannual national strategic plans. This

238 'Building a sustainable future for aquaculture – A new impetus for the Strategy for the Sustainable Development of European Aquaculture' (COM(2009) 162).

239 Commission Regulation (EC) No 498/2007 of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund.

240 This article identifies the objectives of such guidelines (i.e. increasing competitiveness and supporting development and innovation, reducing administrative burden and making the implementation of EU legislation more efficient and responsive to the needs of stakeholders, encouraging economic activity, diversification and improvement of the quality of life in coastal and inland areas, and integrating aquaculture activities in spatial planning).

241 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategic Guidelines for the sustainable development of EU aquaculture*, COM/2013/0229 final.

242 Article 34 provides that these plans must include the Member State's objectives and the measures and the timetables necessary to achieve them. Article 34(4) lists the aims of those plans.

exchange was mainly carried out in technical seminars of Member State experts on aquaculture organised by the European Commission.

The Commission undertook an interim evaluation of the open method of coordination for the sustainable development of EU aquaculture based on an independent evaluation report prepared by external consultants[243]. As a follow up to the conclusions of this evaluation, the Commission decided to work on new strategic guidelines for EU aquaculture, in close consultation with Member States and stakeholders.

The Commission adopted in 2021 strategic guidelines for a more sustainable and competitive EU aquaculture[244], following close consultations with Member States and stakeholders and a strong involvement of the Aquaculture Advisory Council. The guidelines acknowledge that progress has been made to overcome the obstacles and unlock the potential of sustainable aquaculture in the EU under Article 34 of the CFP Regulation, as well as the support of EU funding. Nonetheless, the EU aquaculture sector is still far from reaching its full potential in terms of growth and meeting the increasing demand for more sustainable seafood. Realising this potential has become even more important in the context of the European Green Deal agenda, the Farm to Fork Strategy and the need to ensure food security given the recent crises.

3.10.3. Opportunities and challenges

Member States have reviewed their multiannual strategic plans for aquaculture (MNSPA) in light of the new guidelines and trends in the sector. They have also provided for support to aquaculture in their EMFAF programmes. The Commission will assess the progress made under the new strategic guidelines in 2025 at the latest[245]. This will also be the opportunity to assess progress in implementing new multiannual strategic plans for aquaculture and implementing Article 34 of the CFP Regulation.

The Farm to Fork Strategy and the new strategic guidelines on EU aquaculture recognise the enormous potential of algae to contribute to multiple objectives of the European Green Deal. The Commission has adopted a specific Communication to support the sustainable production, safe consumption and innovative use of algae and algae-based products[246]. This initiative will address the challenges and opportunities of algae farming and propose concrete action.

In the Mediterranean, the GFCM has consolidated the objective to develop sustainable aquaculture activities with the adoption of guidelines on different aspects of aquaculture as part of the implementation of the 2017 strategy for the sustainable development of

243 https://publications.europa.eu/en/publication-detail/-/publication/83f2aed6-b33c-11e9-9d01-01aa75ed71a1/language-en, SWD 2020/7 final.

244 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee and the Committee of the Regions, *Strategic guidelines for a more sustainable and competitive EU aquaculture for the period 2021 to 2030*, COM/2021/236 final.

245 '*The Commission will undertake, not later than four years after the publication of this Communication, an assessment of: (i) the progress made in developing the recommended actions in the annex; and (ii) the efficiency of these actions in helping achieve the objectives laid down in these new strategic guidelines, with the possibility of adapting actions accordingly. By 2029, an evaluation of the new Strategic Guidelines will be carried out, which will assess their efficiency, effectiveness, coherence, relevance and EU added value, to provide the evidence base and support the decision on the next steps after 2030.*'

246 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Towards a Strong and Sustainable EU Algae Sector*, COM/2022/592 final.

Mediterranean and Black Sea aquaculture. The new 2030 strategy includes a specific target of growth of aquaculture as a sustainable and resilient sector. Aquaculture is an important sector in this region as it plays a major role in food security, employment and economic development, in the face of the rising demand for seafood, while delivering social and economic benefits, including diversification solutions to coastal communities.

Through its Communication on the energy transition in the EU fisheries and aquaculture sector [247] , the Commission aims toincreasing the sectors' economic resilience and unlock the potential of aquatic foods as a sustainable source of food.

3.11. Regional cooperation on conservation measures – Regionalisation

3.11.1. Introduction

The aim of regionalisation is to enable a bottom-up approach to fisheries governance by enabling lower-level authorities and stakeholders to step into the fisheries management process and design tailor-made management on a regional scale[248]. It should also lead to a greater involvement of stakeholders in the fisheries management process. The CFP Regulation recognises that dialogue with stakeholders has proven to be essential to achieve the CFP objectives[249].

3.11.2. Background: from 2009 to the state of play in 2022

The 2009 Green Paper discussed the scope to take a regional approach to the CFP to address complaints about 'micro-management from Brussels', and the rigid top-down approach in EU fisheries management that lacked flexibility and adaptation to local and regional conditions. The 2013 CFP reform brought in a regional approach to governance. Given the diverse conditions throughout EU waters and the rise in the regional approach to the CFP, Advisory Councils were designed to enable the CFP to draw on the knowledge and experience of all stakeholders[250]. This is also emphasised in the principles of good governance[251] that guides the CFP.

The key aspects covered by regionalisation include[252]:

(i) adopting the conservation measures needed for Member States to comply with certain environmental obligations;
(ii) adapting the landing obligation to comply with the EU's international obligations;
(ii) extending the landing obligation to other species;
(iii) adopting specific temporary discard plans, and details on implementing the landing obligation in MAPs;

247 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the energy transition of the EU fisheries and aquaculture sector COM(2023)100

248 Recital 39 of the CFP Regulation: Member States should cooperate at regional level in order to adopt joint recommendations and other instruments for the development and implementation of conservation measures and measures affecting fishing activity in areas protected by environmental law.

249 Recital 65 of the CFP Regulation.

250 Recital 65 of the CFP Regulation.

251 Article 3 of the CFP Regulation.

252 Recital 67 of the CFP Regulation.

(iv) adopting *de minimis* exemptions to the landing obligation if no other implementation measure for that obligation has been adopted;
(v) drawing up measures and rules on the functioning of Advisory Councils; and
(vi) adopting new technical measures to improve selectivity, establish area closures or minimum conservation reference sizes.

In each sea basin, multiple Member States cooperate on conservation measures for their fisheries within Member State regional groups. Seven groups[253] have been set up:

1. BaltFish covering the Baltic Sea (Estonia, Latvia, Lithuania, Poland, Germany, Denmark, Sweden and Finland)
2. The North Western Waters Group covering North Western Waters (Ireland, France, Spain, Belgium, the Netherlands);
3. the Scheveningen Group covering the North Sea (Belgium, Denmark, Germany, France, the Netherlands, Sweden);
4. the South Western Waters Group covering the South Western Waters (Belgium, France, Portugal, Spain);
5. PescaMed covering Western Mediterranean Sea (France, Italy, Spain);
6. Adriatica covering the Adriatic Sea (Croatia, Italy, Slovenia); and
7. SudestMed covering the south-eastern Mediterranean Sea (Cyprus, Greece, Italy, Malta)

These groups are not permanent bodies, they do not have a secretariat and are not recognised with an official role by law. They typically operate on the basis of a Memorandum of Understanding between the Member States concerned. Most regional groups have three subgroups: a technical group; a control expert group (despite the fact that there is no regionalisation on control); and a high-level group.

Article 18 of the CFP Regulation provides for rules governing the regionalisation process. The process covers work by the Member States' regional groups, the Advisory Councils and the European Commission, which need to work together to operationalise the process. This approach enables Member States with a management interest to propose detailed conservation (including technical) measures in joint recommendations, having consulted the Advisory Councils. The measures can be implemented into EU law by the Commission as delegated or implementing acts, on the basis of scientific, technical and economic advice provided by advisory bodies such as the STECF. After a delegated act is adopted by the Commission, it is transmitted to the Parliament (via the responsible committee) and the Council (via the relevant working party). If the European Parliament or the Council objects to the delegated act within two months, the act does not enter into force. The co-legislators may request an extension of this period by a further two months.

The new landing obligation, which was phased in as of 2015, resulted in a large increase in the number of measures related to discard plans since 2016. First, as these measures had an immediate impact on fishing practices, they are extremely relevant to the fishing industry and to Member States, and therefore it was the focus of much work over the last couple of years. Second, at the same time, the focus on the landing obligation might have had an impact on the delivery and capacity for other topics. Measures adopted in the early transition phase related

253 The Black Sea with only two Member States, does not have a formal regional group but follows the same the same article 18 procedure of the CFP Regulation

to the landing obligation are no longer in force because of their temporary nature and they were either repealed or amended via delegated regulations during implementation of the landing obligation. One of the reasons is that scientific evidence demonstrating high survival rates, or evaluating requirements for *de minimis* regulations, was not available for all species/areas/gear in the first years of the landing obligation. This required the stakeholders to submit new joint recommendations in the subsequent years on the basis of new scientific, technical and economic advice which were then adopted by the Commission as delegated acts specifying details of implementation of the landing obligation.

New scientific evidence gradually came in to underpin joint recommendations submitted by the Member States and Advisory Councils. The joint recommendations were then evaluated by the STECF and if considered sufficiently justified by the Commission, incorporated into legislation. There has been a recent increase in the number of delegated acts that contribute to the environmental objectives under Article 11 of the CFP Regulation (conservation measures necessary for compliance with obligations under EU environmental legislation) and under the Technical Measures Regulation.

Since 2014, the Commission has adopted 82 delegated acts in total (including those 'adopted and in force', 'adopted and subject to scrutiny', 'no longer in force', 'adopted but Parliament objected'; Figure 2). Of these delegated acts, 41 are no longer in force. In addition, 12 delegated acts are being prepared but not yet adopted (classified as 'upcoming'). The highest numbers of delegated acts adopted so far cover the North Sea.

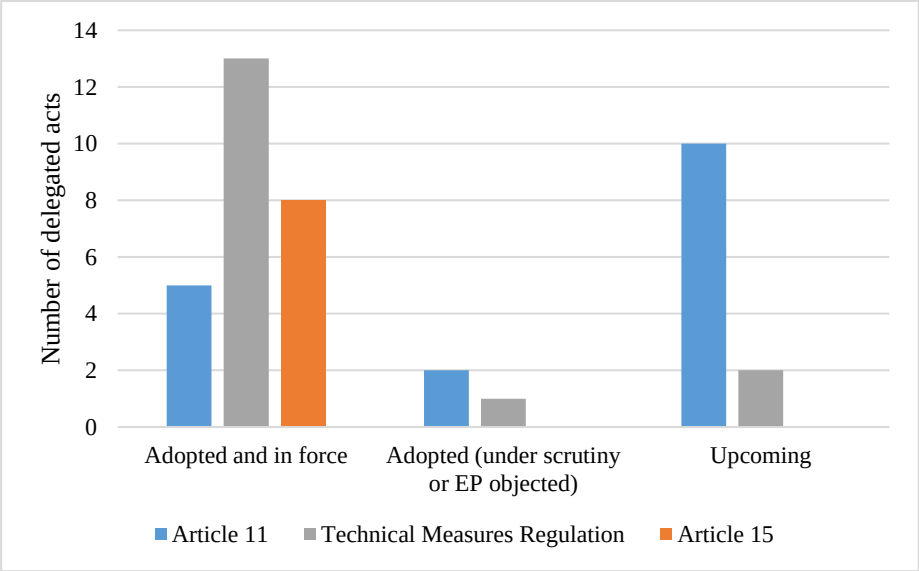


Figure 2 Number of current delegated acts in force and upcoming delegated acts related to Articles 11 and 15 and to the Technical Measures Regulation of the CFP Regulation. Article 15 relates to the landing obligation and Article 11 relates to environmental obligations that Member States are obligated to fulfil in their sovereign waters under the Habitats Directive (Article 6 of Directive 92/43/EC), the Birds Directive (Article 4 of Directive 2009/147/EC), and the Marine strategy framework directive (Article 13(4) of Directive 2008/56/EC).

However, regionalisation has yielded more than drafted or adopted legislation. In a recent study[254], the Advisory Councils and the Member States regional groups were consulted to provide a comprehensive overview of how the regionalisation process works under the CFP.

[254] European Commission, European Climate, Infrastructure and Environment Executive Agency, Van Bogaert, N., Lemey, L., De Peuter, S., et al., *CFP regionalisation: final report*, Hintzen, N.(editor), Wakeford, R.(editor), Publications Office of the European Union, 2022.

The study concluded that overall, regionalisation has fulfilled its expectations, though not in all fields. While it is seen as an improvement to the system used before 2004, stakeholders agree that more work is needed to apply regionalisation in practice. Concerning the objective under the good governance principle of 'better involvement of stakeholders' the study shows that the structure, procedures and experience of stakeholder involvement in the CFP are there, but that its functioning can be improved. This could be achieved by strengthening their capacity and improving engagement protocols, especially between Advisory Councils and Member States regional groups. The study also found that there are wide differences in how Member States regional groups operate and whether they have formal working procedures. The Advisory Councils have clear working procedures, websites, and by and large their work is transparent. This is not the case for the Member States regional groups, for which a lot of information on their structure, working procedures and meeting outcomes are not publicly available.

Overall, stakeholders feel that regionalisation improved implementation of the CFP in terms of data collection, implementation of the technical measures and the landing obligation. It has provided a useful channel for individuals to put their points across and discuss them with a broader spectrum of stakeholders, which has worked better than writing position papers or lobbying. They found the distribution of the Advisory Councils and Member States regional groups in the different sea basins an improvement as it provides an EU-wide fora for discussions on fisheries management issues. The direct and close cooperation among different institutions (European Commission, Advisory Councils, scientists, Member States regional groups) is also seen as an advantage of regionalisation. However, stakeholders also feel that many of the perceived benefits from the regionalisation process have not yet been realised. The study concluded that some stakeholders stated that regionalisation has contributed to a watering down of the management objectives of the CFP. Some indicated a general dissatisfaction that their advice is not sufficiently incorporated and therefore found their involvement to be a loss (or waste). Assessment based on the objectives of Article 2 shows that establishment of the ACs and MSGs through the structure of regionalisation (Article 18 of the CFP) and the management measures taken in this context have influenced the attainment of different CFP policy objectives since 2013.

In conclusion, consolidating the role of the Advisory Councils and setting up regional groups participating in the structure governing the regionalisation (process) and the management measures taken have influenced the attainment of theCFP policy objectives listed in Article 2 of the CFP Regulation since 2013.

3.11.3. Regional coordination under the Data Collection Framework

The Member States located in the same sea basin or sharing the same fisheries coordinate data collection in regional coordination groups[255]. These groups agree on common data collection methodologies and approaches to respond to calls for data, they agree to share the tasks and costs of scientific surveys run by Member States, coordinate sampling activities, tackle data quality issues and coordinate work on regional databases. Their decisions and actions are laid down in recommendations, followed up with the scientific community and the Commission.

[255] There are six regional coordination groups: Baltic (RCG BAL); North Atlantic, North Sea & Eastern Arctic (RCG NANSEA); Mediterranean & Black Sea (RCG MED&BS); Large Pelagics (RCG LP); Long-distance fisheries (RCG LDF), on the economic issues (RCG ECON).

The regional coordination of sampling schemes and research surveys can generate overall cost savings and helps avoid duplicating or excessive data collection. Agreements reached in the regional coordination groups are incorporated into national work plans on data collection. Eventually, it will lead to regional work plans, harmonised data collection and action to tackle specific issues at regional level.

The regional coordination groups are also a forum for dialogue with the main end users of data, including the RFMOs, on issues related to their data needs, data calls, and data quality.

3.11.4. Opportunities and challenges

Regionalisation has helped bring clarity to distinguish principles from implementation. The Council can now work with the European Commission and the European Parliament on long-term principles, while regional bodies (Member State groups involving Advisory Councils) work on implementing these principles once agreed by the co-legislators. Therefore the regionalisation as such contributes to addressing one of the five structural failings of the CFP as noted in the 2009 Green Paper: the focus on short-term political goals. It facilitates a focus on longer-term goals linked to environmental, economic and social sustainability.

This results-based regional approach was designed under the CFP to bring the decision-making process closer to the fishers. It also encourages Member States and the fishing sector to play an active role in making and implementing decisions. The range of joint recommendations already put forward demonstrates that regionalisation can be effective in and suitable for providing targeted and tailor-made technical measures. Member States have demonstrated that regional cooperation can be swift and efficient. However, improvements are needed in terms of speed and ambition to develop and agree on joint recommendations on measures to improve selectivity or to regulate fisheries in order for Member States to comply with their obligations stemming from EU environmental legislation.

The regionalisation approach under the CFP has been applied to shaping and refining regional measures in the EU in this decision-making process, but it does not include third countries (e.g. Norway or the UK). This can pose challenges for the Commission representing the EU in international consultations and negotiations for fisheries both in terms of timing and content. Since the majority of fish stocks are now under shared management with third countries, this needs to be reflected upon.

For cooperation with the UK, the Trade and Cooperation Agreement obliges each party to notify the other of measures they intend to take, and to provide sufficient time to the other party to provide comments and request clarifications before implementation. Such measures must comply with the principles and objectives set out in Articles 494 of the Trade and Cooperation Agreement, which resemble the core principles of the CFP itself.

The Trade and Cooperation Agreement also establishes the Specialised Committee on Fisheries as a forum for cooperation between the Parties, including on questions of measures for fisheries management and conservation. The changing landscape for the EU's shared stocks with the UK will challenge the way that both the regional Member State groups and Advisory Councils operate and how it effectively feeds into the decision-making processes. It is likely that considerable adaptation will be needed, both in terms of formal processes and in the way that new approaches are designed, in possible cooperation with a third country.

3.12. Advisory Councils

3.12.1. Introduction

Advisory Councils[256] are stakeholder organisations composed of operators in the fishery and aquaculture sector and other interest groups that have a link with the CFP. They were created by the 2002 CFP reform, a long time before the introduction of a regionalised approach for the CFP in 2013. The objective was to provide the Commission and Member States with advice and information on issues related to the implementation of the CFP. Seven Regional Advisory Councils (RACs) were established through a Council Decision in 2004 in their respective areas of competence[257] (Figure 3).

3.12.2. Background: from 2011 to the state of play in 2022

In 2011, the Commission proposed to consolidate and where possible extend the experience with RACs under the CFP. The Commission recommended renaming the RACs Advisory Councils to remove the regional character. It also advised creating an Advisory Council for Aquaculture (AAC) and an Advisory Council for the Black Sea (BLSAC). Lastly, the Commission recognised the role of the RACs as instruments to foster dialogue and consensus between stakeholders, and to provide insight to the Commission into policy decisions. Dialogue with stakeholders was considered essential to draw on their knowledge and experience in developing the policy and to receive their support afterwards. A bottom-up involvement of stakeholders from the design of CFP measures to implementation was considered more suitable to achieve the objectives. However, as some RACs were not yet fully operational in 2012, there were concerns that stakeholder representation was too narrow.

The 2013 CFP reform transformed the seven RACs into Advisory Councils and included aquaculture in their mandate. As proposed by the Commission, the AAC was created to focus on the specific nature of aquaculture and the need to consult stakeholders on aspects of EU policies that could affect aquaculture. The BLSAC was created to provide advice on conservation policy in the Black Sea and boost cooperation between Romania, Bulgaria and their sea-basin neighbours. In addition, the 2013 CFP reform created an Advisory Council for Markets (MAC) and an Advisory Council for the outermost regions (CC RUP) to focus on these specific issues.

256 https://oceans-and-fisheries.ec.europa.eu/fisheries/scientific-input/advisory-councils_en.

257 Council Decision 2004/585/EC of 19 July 2004 (OJ L 256, 3.8.2004, p. 17).

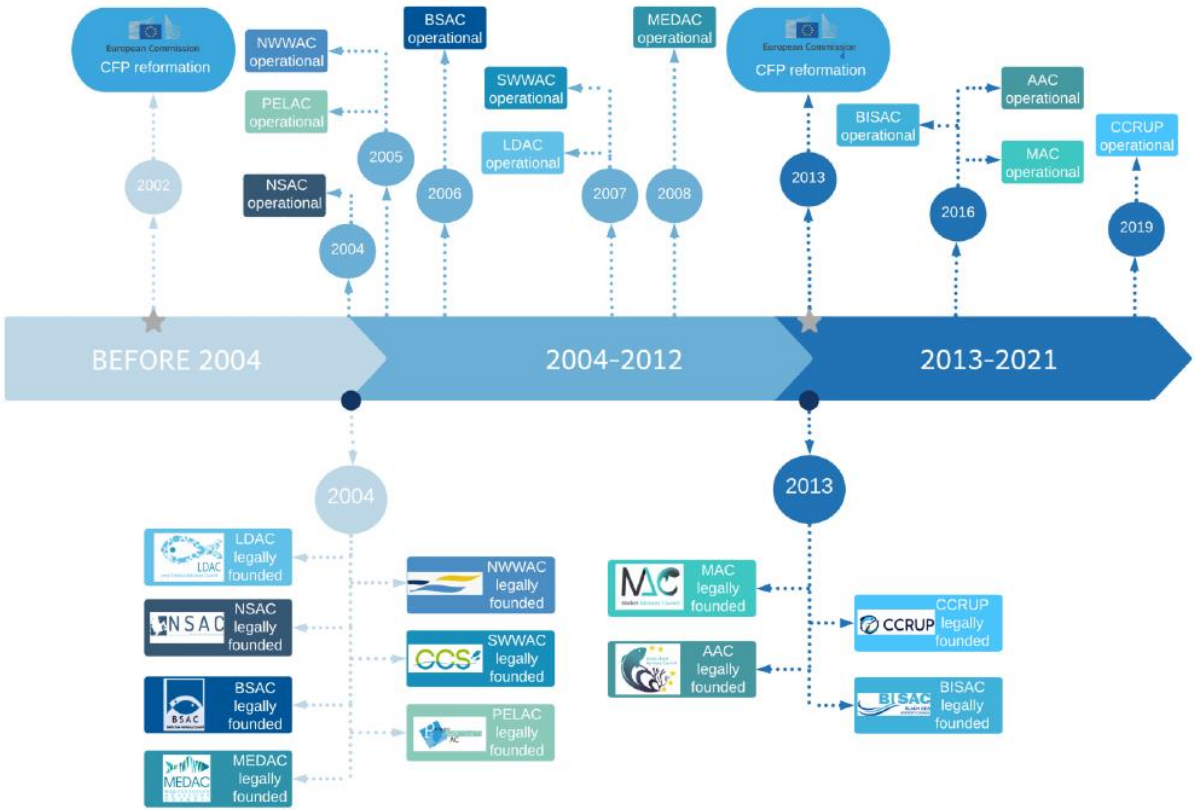


Figure 3: Timeline representing when each Advisory Council was founded (legally and operationally; image: study on CFP regionalisation[258]*).*

3.12.3. The role of the Advisory Councils

The role Advisory Councils play has increased as a result of the more regionalised approach to the CFP. Since 2013, Member States regional groups are obliged to consult the Advisory Councils on joint recommendations under preparation at regional level. The Advisory Councils may also submit recommendations on CFP matters and inform the Commission and Member States of problems in their area of competence[259]. The Advisory Councils are regularly invited to provide input to public consultations launched by the Commission, in particular on new legislative proposals.

With 11 Advisory Councils fully operational since 2020, the number of recommendations has steadily increased over the past few years. Since 2018, more than 100 advice notes have been submitted each year. These recommendations cover a very wide range of subjects and are essential for the CFP as they provide the Commission with the experience and knowledge needed. The Commission's replies are then published on the Advisory Councils' websites.

To improve transparency and give stakeholders feedback on their advice, more visibility could be given to the work of the Advisory Councils by systematically including references to

258 European Commission, European Climate, Infrastructure and Environment Executive Agency, Van Bogaert, N., Lemey, L., De Peuter, S., et al., *CFP regionalisation: final report*, Hintzen, N.(editor), Wakeford, R.(editor), Publications Office of the European Union, 2022.

259 The Commission and Member States are obliged to reply within two months to any recommendation received and to take the advice by Advisory Councils into account. When final measures diverge from the advice received, the Commission and where relevant the Member State concerned must state the reasons for divergence.

the discussions held or recommendations received in new measures adopted. The Commission should also continue giving feedback on the role played by the Advisory Councils whenever possible, as it currently does in the staff working document accompanying the annual communication on fishing opportunities.

Recommendations are prepared in working groups and voted on in Executive Committees. The Commission is often invited to such meetings and attends whenever needed and possible. With the increase in the number of meetings, attendance by the Commission has sometimes been challenging. In order to have all the Advisory Councils present at the same time, receiving the same information and contributing together to discussions, since 2021 the Commission has organised two to three inter-Advisory Council meetings a year. These meetings focus on policy discussions, exchanging best practices and updating all stakeholders on policy files or new developments, which feed into their reflections and recommendations. Regular meetings are also held with secretariats to deal with financial and organisational issues. To facilitate attendance by the Commission to meetings, Advisory Councils have been invited since 2021 to forward plan their meetings and requests for Commission participation. All these efforts, combined with the benefits of online digital meetings, have made it possible for the Commission to continue to attend in a more rationalised way, in line with the greening policy of the Commission.

3.12.4. Functioning of the Advisory Councils

The rules governing the functioning of Advisory Councils are often the source of difficulties in the Councils. A first difficulty is the consensus rule. Since the set-up of the RACs in 2004, recommendations by Advisory Councils must be adopted by Executive Committee members by consensus. If no consensus can be reached, dissenting opinions must be recorded in the recommendations adopted by the majority of the members present and voting.

While providing consensus advice is one of the pillars of the Advisory Councils, the process of reaching a consensus has its disadvantages. To achieve consensus, the risk is that recommendations might become very general and poor. They might also be submitted too late to take them on board or not submitted at all due to the lack of consensus. To avoid these risks, the Commission informs the Advisory Councils of their work programme well in advance to enable the Advisory Councils to start preparing their recommendation or advice. The Commission is also mindful to register dissenting opinions if the consensus cannot be reached, so that each opinion is brought forward.

Another problem comes from the unequal weight of each group of stakeholders, as defined in the CFP Regulation. To promote a balanced representation of all stakeholders, the 2013 CFP reform increased the weight of other interest groups[260] in the Advisory Councils from one thirds to 40% of votes. 60% of votes must be allocated to sector organisations[261]. This means

[260] An organisation is classified as an 'other interest group' when it does not meet any of the criteria laid down in paragraph 1 and: (a) is primarily active in the field of environment, consumers and human rights, health, promotion of equality, animal health or welfare or recreational or sport fishing; or (b) represents or has direct or indirect economic interests linked to the use of the marine environment or maritime space other than commercial fishing, aquaculture or the processing, marketing, distribution and retail of seafood.' According to Commission Delegated Regulation (EU) 2022/204 of 8 December 2021 amending Delegated Regulation (EU) 2015/242 laying down detailed rules on the functioning of the Advisory Councils under the Common Fisheries Policy C/2021/8734.

[261] An organisation is classified as a 'sector organisation' when at least one of the following criteria is met: (a) the organisation represents or has direct or indirect economic interests in the sectors of commercial fishing, aquaculture, processing, marketing, distribution or retail of seafood; (b) a majority of the members of the

however that if a vote is held on a recommendation because no consensus could be reached, the industry will still win the vote as they are always the largest group attending and voting. This measure brought in by the CFP reform has proven to be not very efficient as other interest group organisations such as environmental NGOs lack the means to use these votes. A study carried out in November 2019 on civil dialogue groups in the common agricultural policy, which used the Advisory Councils as a case study[262], identified these problems. The solutions proposed by this study were either to assign higher voting rights to other interest group members to reach 40% or to have a third group in addition to the industry and other interest groups.

The Commission also has a role to play in the functioning of the Advisory Councils as the 2013 CFP reform empowered it to lay down detailed rules on the functioning of the Advisory Councils. In 2014, it adopted a first delegated regulation[263] laying down these rules, which was mainly a carry-over of existing rules, with additional rules on small-scale fleet representation and on third countries attending meetings. This regulation was amended in 2017 and in 2022 to adapt the rules to good practices developed in some Advisory Councils and to improve the Advisory Councils' functioning.

The aim of the 2017 amendment[264] was to grant each category of stakeholders the right to decide autonomously on their representation in the Executive Committee and to encourage the involvement of the small-scale fleet in these Committees. The aim of the 2022 amendment[265] was to increase transparency, achieve a balanced representation of all stakeholders and respect all opinions. Criteria to classify members into two categories of stakeholders, the requirement to have a vice-chair from the other interest group and the obligation to carry out performance reviews are practices that some Advisory Councils already followed. They were put in place as new common rules to facilitate the functioning of the Advisory Councils and to give each stakeholder the assurance that their voice is properly heard. However, the Commission has always rejected this idea of setting common rules of procedures and statutes for all Advisory Councils because each Council has its own specific needs.

3.12.5. Opportunities and challenges

Since the Advisory Councils were set up in 2004, they have received an EU grant covering part of their functioning costs, which is directly managed by the Commission. For many

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organisation, either natural or legal persons, represent or have direct or indirect economic interests in the sectors of commercial fishing, aquaculture, processing, marketing, distribution or retail of seafood; (c) the organisation represents employees in the sectors related to commercial fishing, aquaculture, processing, marketing, distribution or retail of seafood; (d) at least 50% of the organisation's funding originates from undertakings active in the field of commercial fishing, aquaculture, processing, marketing, distribution or retail of seafood; (e) the organisation fulfils at least one of the criteria listed in point 1(a) to 1(d) and is active in the field of environment, consumers and human rights, health, promotion of equality or animal health or welfare. According to Commission Delegated Regulation (EU) 2022/204 of 8 December 2021 amending Delegated Regulation (EU) 2015/242 laying down detailed rules on the functioning of the Advisory Councils under the Common Fisheries Policy C/2021/8734.

262 https://op.europa.eu/en/publication-detail/-/publication/42188fa9-5464-11ea-aece-01aa75ed71a1/language-en/format-PDF/source-search.

263 Commission Delegated Regulation (EU) 2015/242 of 9 October 2014 laying down detailed rules on the functioning of the Advisory Councils under the Common Fisheries Policy.

264 Commission Delegated Regulation (EU) 2017/1575 of 23 June 2017 amending Delegated Regulation (EU) 2015/242 laying down detailed rules on the functioning of the Advisory Councils under the common fisheries policy C/2017/4238.

265 Commission Delegated Regulation (EU) 2022/204 of 8 December 2021 amending Delegated Regulation (EU) 2015/242 laying down detailed rules on the functioning of the Advisory Councils under the Common Fisheries Policy C/2021/8734.

years, reimbursement of costs has been based on real costs incurred. Each Advisory Council had to prepare a detailed budget to be approved by the General Assembly before being sent to the Commission. Final payment was subject to verification by the Commission that the costs were eligible and in line with the financial rules.

In order to put the emphasis on overall output rather than on costs incurred and to shift from a quantitative to a qualitative approach, the Commission decided in 2022 to use lump sums for the reimbursement of costs incurred by the Advisory Councils. This means that the grant reimbursement is based on results and outputs instead of real costs. The new methodology is progressively being applied to each Advisory Council, which must set out in advance the planned number of meetings and recommendations (outputs to be achieved) together with its budgetary needs for the following year. The final payment is made on the basis of outputs achieved. Only if the overall number of recommendations and meetings significantly deviates from the accepted number can the lump-sum amount be reduced at the moment of the balance payment. This methodology makes the budgetary discussions in Advisory Councils much simpler, leaving more space and time to Advisory Council members to deal with CFP policy issues, prepare recommendations and reach consensus. It also avoids the relatively high costs of monitoring the costs incurred in operating grants with a low risk of irregularities.

With the reinforcement of the role of the Advisory Councils with the 2013 CFP reform and the fact that all are now fully operational, their role and importance have steadily increased over the past few years. Despite challenging conditions since 2020, they have continued to function as key stakeholder consultation bodies and contributed to all aspects of the CFP, including the market pillar, social aspects, food supply and security, and the impact of climate change on the state of stocks. Some recommendations received on implementation of the European Green Deal, the Biodiversity Strategy or the Farm to Fork Strategy raised very relevant concerns or issues. These recommendations are always considered in the context of preparations for new legislation or policy development. The Advisory Councils have increasingly worked together in recent years to draft advice on horizontal issues such as climate change, the blue economy and maritime spatial planning, though they have not resulted in any joint recommendations issued by the Member States.

The Commission has always been very committed to the Advisory Councils and is ready to support them in practical ways such as looking at the recommendations received, grant agreements, participating in meetings and organising inter-Advisory Council meetings. The Commission is also always ready to step in if needed to improve transparency and dialogue.

Given the many files under development in the fisheries and maritime domain, a future challenge for the Advisory Councils will be to carefully assess and prioritise their tasks. Another challenge might be the need to engage with stakeholders competing for different uses of the sea, including for energy production, extraction, tourism or conservation purposes and seeking to join the Advisory Councils as other interest groups in order to get involved in their tasks.

3.13. **External dimension**

3.13.1. Introduction

The international dimension of the CFP Regulation focuses on three areas:

- Preventing, deterring and eliminating illegal, unreported and unregulated fishing (IUU Regulation)[266], with the EU actively supporting reforms of fisheries controls by partner countries to effectively fight against IUU fishing in line with their international obligations to ensure compliance with conservation and management measures.
- The EU concludes SFPAs with third countries in order to secure access for EU fleets to an appropriate share of surplus in the exclusive economic zone of these third countries. In exchange, the EU must provide a fair financial contribution, including specific support to the sustainable fishery policy of the third country. These agreements should generate mutual benefits while enhancing fisheries governance.
- The EU, represented by the Commission, plays an active role in RFMOs and RFBs. These organisations promote the long-term sustainability of stocks under their purview, mainly in the high seas.

In addition to its involvement in RFMOs and SFPAs, the EU is also bound by Article 33 of the CFP Regulation to engage with third countries on stocks of common interest in order to ensure that those stocks are managed in a sustainable manner. In particular, the EU endeavours to conclude bilateral or multilateral agreements with third countries on joint management of stocks, including:

- regulating, where appropriate, access to waters and resources and conditions for such access;
- the harmonisation of conservation measures;
- the exchange of fishing opportunities.

Each year, the Commission on behalf of the EU engages in bilateral or multilateral negotiations with non-EU countries such as Norway, the UK, the Faroe Islands and other coastal countries.

3.13.2. Background: from 2009 to the state of play in 2022

The 2009 Green Paper highlighted the need to strengthen the external dimension of the CFP. It emphasised the importance of extending the principles of the CFP's core objective (i.e. to promote responsible and sustainable fisheries) at international level and to endorse better global governance of the sea, in particular fisheries. The Green Paper identified several fields for improvement, including action to make the external component more coherent across policies. Due to difficulties in adopting conservation measures to achieve a more sustainable use of the sea, the 2009 Green Paper recommended stepping up the commitment and the overall performance of RMFOs and to continue working with international partners.

Many countries reported difficulties in implementing the Fisheries Partnership Agreements due to political turmoil or the slow uptake of policy assistance. The Green Paper recommended action to scientific analysis and research capacity. The Green Paper also stated that external fisheries policies should take better account of food security strategies in third countries. It suggested revising the structure of agreements to explore alternative forms of arrangements with third countries that would better meet the needs of industry and partners.

266 https://eur-lex.europa.eu/eli/reg/2008/1005/oj.

In 2011, the Commission proposed to fully integrate the external policy into the CFP Regulation, and for the EU to advocate best available science-based positions, to contribute to the development of scientific knowledge, and to cooperate to strengthen compliance in the international context. The Commission's proposal also included several recommendations concerning relations with third countries through Sustainable Fisheries Agreements to promote the CFP principles and objectives at international level. In 2017, the new Regulation on Sustainable management of external fishing fleets[267] entered into force. The objective is for catches by EU vessels outside EU waters (10% of total EU vessels' catches) to follow the same control rules and sustainability standards as catches inside EU waters, even outside the framework of fisheries agreements and outside the scope of RFMOs.

3.13.3. Illegal, unreported and unregulated fishing

In 2008, the EU drew up a comprehensive framework to tackle IUU fishing, which includes a catch certification scheme to ensure that fishery products obtained from IUU fishing activities occurring anywhere in the world do not reach the EU market. In 2018, the Commission proposed the compulsory use of IT tools to manage the catch certification scheme in the context of the Control Regulation revision. The use of IT tools is considered essential to counter the risks inherent in the paper-based management of catch certificates. It is also an opportunity to help achieve a more coherent and uniform implementation of checks by the Member States. The EU implements the Port State Measures Agreement to ensure that its ports are not used to support IUU fishing, and actively cooperates with third countries to promote a zero-tolerance approach to IUU fishing globally.

3.13.4. Sustainable fisheries partnership agreements

The 2013 CFP Regulation refers to the SFPAs as they ensure that EU fishing activities in third country waters are based on the best available scientific advice and relevant information exchange, ensuring the sustainable exploitation of marine biological resources, transparency in determining as regards the determination of the surplus and consequently resource management that is consistent with the objectives of the CFP. These agreements provide for access to resources commensurate with the interests of the EU fleet in exchange for EU financial contribution from the Union and contribute to the high-quality governance framework.

By the end of 2022, there were 13 SFPAs with implementing protocols in force, including four multispecies[268] and nine tuna[269] SFPAs. In addition, there were seven SFPAs without implementing protocols in force, known as 'dormant' SFPAs[270]. Third countries derived significant additional economic benefits from the activities of EU fishing vessels through the supply of goods and services to EU fishing vessels, employment of labour on-board, and the processing of catches. Between 2015 and 2020, over 200 EU vessels fished under the framework of SFPAs per year, involving nearly 300 000 tonnes of catches a year. The sectoral financial support to third countries included in SFPAs boosts the capacity of third country

267 Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008.

268 Greenland, Mauritania, Morocco and Guinea Bissau.

269 Cabo Verde, Cook Islands, Côte d'Ivoire, The Gambia, Gabon, Mauritius, São Tomé-et-Príncipe, Senegal and Seychelles.

270 Equatorial Guinea, Liberia, Kiribati, Federated States of Micronesia, Madagascar, Mozambique and Solomon Islands.

public authorities to monitor, control and surveillance fishing activities, improve scientific research, and provide overall support to fisheries and marine governance policies.

3.13.5. Regional fisheries management organisations

The EU's participation in RFMO meetings has been crucial. The EU has submitted proposals designed to achieve or support the adoption of measures in RFMOs, including to:

- promote the sustainability of fish stocks;
- uphold scientific advice;
- ensure the adoption of monitoring, control and surveillance measures;
- step up work to combat IUU fishing; and
- strengthen governance in those organisations, in line with Commission and CFP objectives.

The EU and its Member States, together with the Mediterranean Advisory Council and the Black Sea Advisory Council, are a driving force in the GFCM to ensure the sustainable management of shared stocks. From a governance point of view, the Mediterranean Sea has long been considered a special case in the CFP Regulation, as management was traditionally decentralised to the local level. The Mediterranean basin and a significant share of its stocks are shared with third countries. The situation has improved in the last years, as a result of the EU's commitment to improving governance and protecting biodiversity in the Mediterranean and the Black Sea.

At the EU's initiative, the MedFish4Ever and Sofia Ministerial Declarations were adopted in 2017 and 2018. This launched a new political momentum to redress the governance of fisheries in the two sea basins. The Declarations were also the basis for adopting sector-specific strategies at GFCM level, namely the regional plan of action against IUU fishing, the regional plan of action for small-scale fisheries and the aquaculture strategy. Together, these five documents provide the structure for EU action for the next years.

This governance process was consolidated with the former GFCM mid-term strategy (2017-2020) and the new GFCM strategy (2021-2030). The strategies created a new dynamic in the functioning of the GFCM, modernising it and strengthening the role of the secretariat, as well as the sub-regional approach with GFCM sub-regional units. Over the last five years, the EU has successfully promoted the adoption of 75 conservation and control measures under the GFCM (with 35 measures adopted in 2021 alone) to address some of the key stocks, as well as important environmental and ecosystem issues in both the Mediterranean and Black Sea. Looking at the situation in the broader region, the latest GFCM report on the State of the Mediterranean and Black Sea fisheries[271] confirmed the first positive results of all these efforts. The report demonstrates that the new management measures have started to make a difference and have started to reverse the trend of overexploitation in the region.

Likewise, in the Atlantic, EU leadership has been crucial to ensure to:

- the successful recovery and sustainable management of bluefin tuna;
- adopt a comprehensive management plan for North Albacore;
- adopt a rebuilding plan for Mediterranean Albacore;

[271] FAO, *The State of Mediterranean and Black Sea Fisheries 2020*, General Fisheries Commission for the Mediterranean, Rome, 2020, p. 172, https://doi.org/10.4060/cb2429en.

- adopt management measures for blue shark and shortfin mako in ICCAT; and
- adopt measures for Greenland sharks in the Northwest Atlantic Fisheries Organization.

In the Pacific, the EU was behind the first measure ever adopted by an RFMO to regulate the squid fishery and the jack-mackerel recovery plan in the South Pacific Regional Fisheries Management Organisation (SPRFMO). In the Atlantic, Pacific and Indian Oceans, the EU has pushed for stricter regulation and better monitoring of fish aggregating devices and actively supported the adoption of harvest control measures, mitigation measures for by-catch, the protection of vulnerable marine ecosystems and the banning of shark finning. In many ways, several of the measures adopted following EU leadership were a milestone in fisheries management and similar measures have subsequently been adopted in other organisations.

3.13.6. Bilateral and multilateral agreements

Brexit has reshaped the fisheries relations in the region. Since the withdrawal of the UK, the vast majority of stocks in the North East Atlantic are managed together with third countries. In the case of shared EU-UK stocks, the TCA provides the framework for determining the joint management, including the setting of fishing opportunities and ongoing cooperation in the Specialised Committee on Fisheries. The TCA commits both Parties to respect the objectives and principles set out in Articles 494 and 496, and in particular the promotion of the long-term sustainability (environmental, social and economic) and optimum utilisation of shared stocks, and grants automatic access to each other's waters until the end of the adjustment period (2026). The TCA principles and objectives are coherent with those of the CFP and is the basis of our cooperation.

A further consequence of the withdrawal of the UK is that the bilateral cooperation between the EU and Norway on jointly managed stocks in the North Sea has now become a trilateral issue, and the UK also acts as an independent coastal State in multilateral negotiations. The Commission should continue to facilitate regional and bilateral cooperation with third countries based on CFP principles to sustainable fisheries and guarantee incomes and stable jobs for fishers.

For certain other third countries, access to EU waters is granted to Seychelles in the outermost region of Mayotte (through a negotiated agreement) and to Venezuela (through a unilateral Council decision) in the waters of French Guiana. These accesses must respect the same sustainability principles and rules as any fishery in EU waters.

3.13.7. Opportunities and challenges

In the work to end illegal, unregulated and unreported (IUU) fishing, controls on long-distance fleets operating far from home ports across all oceans remain a challenge, set in the context of growing demand for fish and competition among fleets. It is crucial to continue IUU dialogues with third countries to improve flag (but also coastal and port) State controls in line with international obligations with the aim of heightening fisheries compliance globally and creating a meaningful level playing field.

The adoption of FAO Voluntary Guidelines for transhipment should trigger further attention by flag, coastal and port States to the at-sea and port transhipment operations that require monitoring, control and surveillance tools to comply with the applicable conservation and

management measures. Effective implementation of the Port State Measures Agreement is the opportunity to close markets to fishery products obtained from IUU fishing. The challenges in implementing the Agreement should be addressed by continuing to build capacity at bilateral, regional and international level, the latter through the EU's contribution to the FAO Port State Measures Agreement Global Capacity Development Umbrella Programme. IT tools in the IUU catch certification scheme should be used to meet the objective of efficient, uniform and risk-focused import controls. To this end, it would be very effective to adopt a legal basis for the compulsory use of IT CATCH.

SFPAs give the EU the opportunity to create a network and make access for the EU fleet stable and predictable and therefore facilitate investment. However, achieving sustainability in SFPAs must not only be an EU commitment but also a commitment made by coastal countries, facing generally important and numerous challenges to control their EEZ or ports, and to support scientific evaluation of stocks and manage them. Civil society generally expects support from the EU for such activities, especially for the stocks it shares with neighbouring countries, which also tend to be stocks of major importance for food security, whether or not these stocks are targeted by EU fleets. The challenge is therefore to create synergies between the SFPAs and other development policies, as called for by the CFP, and to secure a true commitment from coastal countries to use their limited funds to create robust evaluation and management frameworks governing their waters.

SFPAs are also increasingly scrutinised for the benefits they bring to local populations, such as fishers on EU vessels that are active mostly in the exclusive economic zone of African countries and high seas adjacent to these countries' zones. Implementing international labour conventions is a challenge to ensure fair working conditions to all fishers working on board EU vessels.

The challenge for bilateral negotiations is to renew SFPA protocols in time to avoid dormant periods and therefore an interruption in activities. This is not always possible, especially when partner countries have very high expectations in terms of EU funding or shipowners' contributions. These expectations are sometimes not met due to the scope for funding under the EU budget or the willingness of EU fleet operators.

The EU's objectives in RFMOs are based on the principles of the CFP and its external dimension[272], the international ocean governance agenda and the mandates for those organisations. However, since most RFMOs take their decisions by consensus with other parties involved, it is not always possible to achieve the EU's objectives in those organisations. Individual positions taken by other parties in RFMOs do not always support the EU's proposals in full, for instance proposals to adopt marine protected areas in the Southern Ocean or promote the more sustainable management of tropical tuna stocks in the Atlantic or Indian Oceans. This happens despite the EU's efforts to strengthen those organisations and support science and science-based management decisions, including through financial contributions.

Nevertheless, the EU and other bodies (national and local Member States' administrations, responsible fishing industry, civil society, etc.) continue to strive endlessly for sustainability. The EU's alliances with international partners, the planned and ongoing performance review mechanisms in RFMOs and international developments (on an implementing agreement under the United Nations Convention for the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ), FAO, etc.) should

[272] Part VI – External policy of the CFP Regulation.

give RFMOs new opportunities to promote the sustainable management of the stocks and ecosystems under their purview.

3.14. Market and trade (common market organisation)

The Common Market Organisation Regulation[273] (the CMO Regulation) covers five main areas:

1) organisation of the sector
2) marketing standards
3) consumer information
4) competition rules
5) market intelligence.

The common organisation of the markets for fishery and aquaculture products has existed since 1970. It is the oldest pillar of the CFP Regulation and was reformed together with the CFP in 2013. The aim of the CMO Regulation is to contribute to achieving the objectives of the CFP. The reform brought in a series of fundamental changes for the Member States and for industry. It involved a stronger role for producer organisations by empowering operators and drawing up production and marketing plans. Producer organisations are key actors in implementing the CFP in practice. The 2013 reform also brought in new tools supported by the EMFF and the EMFAF to empower producer organisations to promote viable and sustainable fishing activities of their members, avoid unwanted catches, contribute to the traceability of fishery products and access to clear and comprehensive information to consumers, and end illegal, unreported and unregulated fishing. The reform enhanced the role of inter-branch organisations to improve the conditions for making fishery and aquaculture products available on the market.

The CMO lays the ground for fair competition between all products marketed in the EU and ensures that the market is supplied with an increased number of sustainable products by setting common marketing standards. Another objective is to promote more sustainable consumption habits by laying down specific provisions on consumer information that complements the general food labelling rules[274]. As announced in the Farm to Fork strategy, it is important to continue work on the sustainable food system initiative that the Commission plans to propose in 2023 for a harmonised EU approach to sustainable food production.

> With EMFAF support, Spanish octopus fishery became MSC certified, opening new market opportunities for local fleet.
> Certified octopus fishery | FARNET (europa.eu)

273 Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000.

274 Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004.

As regards market intelligence, the Commission set up the European Market Observatory for Fisheries and Aquaculture Products[275] to boost market transparency and provide market intelligence to all bodies in the sector, including policy makers. The Market Advisory Council is very active in providing recommendations on issues concerning the market. The Commission works closely with the Market Advisory Council to better understand market developments, meet its market intelligence needs and globally improve implementation of the CMO objectives. These close and regular exchanges with stakeholders have proven to be crucial assets in times of crisis, in particular to identify needs and frame crisis responses.

The Commission must provide a report on the results of the application of the CMO Regulation by 31 December 2022. It will issue a separate report on these results.

3.15. Structural policy and support: EU funding

By the end of 2024, the Commission must also evaluate the EMFF[276]. As it is one of the European Structural and Investment Funds, the biggest share of the EMFF's budget is managed by the Member States via operational programmes. The EMFF primarily aims to help coastal populations and people working in the fishing and aquaculture sectors to adapt to the reformed EU CFP over the period 2014-2020. Table 1 shows the calculated EMFF contribution[277] to each of the CFP objectives as outlined in Article 2 of the CFP Regulation.

Table 1: EMFF contribution to CFP objectives.

CFP objective	Total EMFF committed by Managing Authority (EUR) (Infosys, 31/12/2021)	Total eligible EMFF expenditure declared by beneficiaries to the Managing Authority (EUR)	Number of operations
CFP Article 2(2.3)	801 527 129	467 883 987	6 911
CFP Article 2(4)	548 730 152	463 039 596	260
CFP Article 2(5 a, b)	97 215 842	68 764 075	3 804
CFP Article 2(5 c)	1 519 861 652	787 930 348	18 320
CFP Article 2(5 d)	297 051 386	259 863 751	33 724
CFP Article 2(5 e)	919 192 634	522 180 022	11 960
CFP Article 2(5 f)	232 583 846	205 650 188	8 869
CFP Article 2(5 g)	154 339 934	112 900 114	1 825
CFP Article 2(5 h)	61 977 405	40 128 630	803
Total	**4 632 479 980**	**2 928 340 712**	**87 476**

275 https://www.eumofa.eu/.

276 Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council.

277 https://oceans-and-fisheries.ec.europa.eu/system/files/2022-11/EMFF-Implementation-report-2021_en.pdf

Regulation (EU) 2020/560 amended the EMFF Regulation and brought in specific measures to mitigate the impact of the COVID-19 pandemic. The pandemic resulted in a significant drop in demand for fishery and aquaculture products with serious socioeconomic consequences for the communities where fishing and aquaculture play a major role. The amended regulation allows the EMFF to provide support for:

- the temporary cessation of fishing activities, including for inland fishing and fishers on foot;
- certain economic losses caused by the pandemic for aquaculture producers, for processing companies and in the outermost regions.

Similarly, following Russia's aggression against Ukraine, in July 2022 a legislative amendment to the EMFF Regulation entered into force to bring in additional crisis measures to allow Member States to support the EU fishery and aquaculture sectors affected by the pandemic. In particular, funding was made readily available to:

- compensate operators in the fishery and aquaculture sectors for additional costs, for income forgone and for the storage of products;
- compensate fishing operators for the temporary cessation of fishing activities due to safety reasons and economic constraints.

Currently, the EMFAF for 2021-2027 is a key instrument for implementing the CFP and achieving its objectives. In helping to protect marine biodiversity, achieve the EU's climate change mitigation objectives and ensure food supply, the EMFAF has four priorities:

1) fostering sustainable fisheries and restoring and conserving aquatic biological resources;
2) fostering sustainable aquaculture activities, processing and marketing fishery and aquaculture products, therefore contributing to food security in the EU;
3) enabling a sustainable blue economy in coastal, island and inland areas, and fostering the development of fishing and aquaculture communities;
4) strengthening international ocean governance and ensuring seas and oceans are safe, secure, clean and sustainably managed.

The EMFAF is designed to provide a simpler structure creating more space for results-based policy and flexibility for the Member States to translate clear policy challenges into targeted types of action. Implementation is also simplified and monitored by a consistent performance framework with output result and performance indicators. The EMFAF puts a stronger focus on the regional dimension, as the programming phase has been accompanied by the regional Sea Basin Analysis[278] providing Member States with a sea basin-specific approach to the key CFP challenges to address through future EMFAF funding.

The EMFAF has a specific focus on the sustainability and profitability of small-scale coastal fishing and on the sustainable development of maritime activities in outermost regions. The specific situation of the EU's outermost regions, their vulnerability to climate change and

[278] Commission staff working document, *Regional sea basin analyses regional challenges in achieving the objectives of the common fisheries policy – a sea basin perspective to guide EUMFF programming*, SWD(2020)206.

natural disasters and their unique assets in terms of biodiversity and renewable energy sources have required specific tools at European level. That is why operations implemented with EMFAF support in the outermost regions are generally eligible for a high rate of public aid (85% against 50% for the mainland EU). The Member States concerned (France, Portugal and Spain) prepare an action plan for each of their outermost regions. The plans set out a strategy for developing sustainable blue economy sectors, including fisheries and aquaculture. Financial resources are then reserved to help implement these action plans.

Both the EMFF and EMFAF regulations also provide for financial compensation to operators in outermost regions to offset the additional costs they face in fishing, farming, processing or marketing of fishery and aquaculture products due to the particular situation of these regions. This contributes to the economic and social sustainability of fisheries and aquaculture in the outermost regions and helps create conditions also for environmental sustainability.

As regards its contribution to climate and biodiversity, the EMFAF supports the European Green Deal and the EU's climate and biodiversity objectives set in the Multiannual Financial Framework for 2021-2027, even without specific binding targets. In particular, the EMFAF supports the achievement of the CFP objectives on sustainable fishing and on achieving good environmental status in the marine environment, as provided for under the Marine strategy framework directive. In doing so, it provides an ambitious support package to achieve sustainable fisheries and aquaculture, which is strongly connected to the objectives of the Biodiversity and Farm to Fork strategies.

Due to the size of the EMFAF budget and the related national programmes, Member States must make strategic use of public support under the Fund to actions that can be scaled up, generate synergies with other funds and instruments and also trigger private investment. As such, the EMFAF is the ideal financial tool for Member States to build up the resilience of the fisheries and aquaculture sectors, by improving their preparedness for future shocks and strengthening their ability to withstand and overcome crises.

To foster long-term resilience and boost the capacity of the sector for crisis management, the EMFAF Regulation embeds specific measures and specific conditions and safeguards to ensure an optimal return on investment and increase the leverage effect of public funding.

4. ANNEX 1: SYNOPSIS OF CONSULTATION ACTIVITIES

4.1. Introduction

This synopsis collates all information on the consultation activities carried out in 2021 and 2022 for the European Commission's review of the functioning of the common fisheries policy (CFP Regulation)[279].

The CFP enables sustainable exploitation of marine biological resources to supply healthy and affordable seafood. It also contributes to a fair standard of living for those who depend on fishing activities. Under Article 49 of the CFP Regulation, the European Commission has to report on the functioning of the CFP by 31 December 2022. The Communication and the staff working document take a broader and deeper look into the successes and remaining challenges in fisheries management, their underlying causes and the opportunities available.

The Communication and its staff working document assess whether the CFP as reformed in 2013 still fits the purpose of enabling the sustainable and inclusive exploitation of marine biological resources and of contributing to the security of food supply.

This synopsis provides an overview of the consultation activities that were carried out as well as an analysis related to the recommendations by stakeholders.

4.2. Consultation activities

The consultation strategy comprises a range of stakeholder engagement activities organised in 2021 and 2022. These activities include a targeted online consultation, in-depth discussions with Member State regional groups, the 2022 CFP Stakeholder Event, and a consultation of stakeholders on the Commission's 'Call for Evidence' document in autumn 2022. The aim was to involve all stakeholders in the review process and to let all stakeholders have their say. In parallel, discussions on this topic followed at the Council (during the informal DGs meeting in May 2022) and at the European Parliament[280] (17 March 2022 hearing).

The Commission opened the targeted online consultation[281] in December 2021 and it ran until 14 March 2022. The purpose of this consultation, conducted via an online questionnaire, was to receive input from CFP stakeholders on the review of the functioning of the CFP. The aim was to identify:

1) successes and/or shortcomings of the CFP;
2) any scientific evidence or supporting documents used to demonstrate these successes and/or shortcomings; and
3) good practices, innovative tools, or processes implemented by stakeholders or the Member States.

279 Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC.

280 Hearing on 'State of Play in the implementation of the CFP and future perspectives': https://www.europarl.europa.eu/committees/en/hearing-on-state-of-play-in-the-implemen/product-details/20220304CHE09987.

281 The 2022 common fisheries policy and common market organisation reports: your opinion counts – take part in targeted consultations: https://oceans-and-fisheries.ec.europa.eu/news/2022-common-fisheries-policy-and-common-market-organisation-reports-your-opinion-counts-take-part-2021-12-17_en.

The online questionnaire included questions covering all chapters of the CFP Regulation. It ended with the topics raised in the Mission letter[282] to Commissioner Sinkevičius, namely the social dimension of fisheries policy, climate adaptation and clean oceans. The targeted online questionnaire was open to all stakeholders within and beyond Europe.

The results of the online questionnaire provided the basis for more in-depth discussions at regional level with the Member States' regional groups, which took place on 20 and 30 May 2022.

The CFP report on the 2022 Stakeholder Event[283], organised by the European Commission on 10 June 2022, was the next step in the consultation process for the Communication on the functioning of the CFP. The event was a unique opportunity to discuss challenges and good practices with a wide range of stakeholders working in the fisheries and aquaculture sector. The event featured short presentations on fisheries and aquaculture management and policy topics, followed by a dialogue and discussions between stakeholders. The presentations can be found on the website[284].

In line with the better regulation rules, the Commission published a 'Call for Evidence'[285] on the Communication on the functioning of the common fisheries policy. The objective was to inform the public and stakeholders about the review of the functioning of the CFP and give them the opportunity to provide feedback and participate effectively. The 'Call' was open from 26 August to 23 September 2022 in the European Commission's Have Your Say portal.

4.3. Responses to the consultations

The targeted online consultation to review the functioning of the CFP received 195 responses from 22 countries (Figure 4). Contributions came from a broad range of stakeholders, such as non-governmental organisations (NGOs), public authorities, the fisheries sector, academia, SSCFs, trade associations, Advisory Councils and the aquaculture sector (Figure 5). The results of the targeted online consultation are presented in the FAMENET CFP survey report[286].

282 https://ec.europa.eu/commission/commissioners/sites/default/files/commissioner_mission_letters/mission-letter-sinkevicius-2019-2024_en.pdf.

283 https://cfpreportevent2022.b2match.io/home.

284 https://cfpreportevent2022.b2match.io/page-621.

285 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13552-Fisheries-communication-on-the-functioning-of-the-common-fisheries-policy_en.

286 https://oceans-and-fisheries.ec.europa.eu/system/files/2022-05/2022-CFP-survey-report_en.pdf.

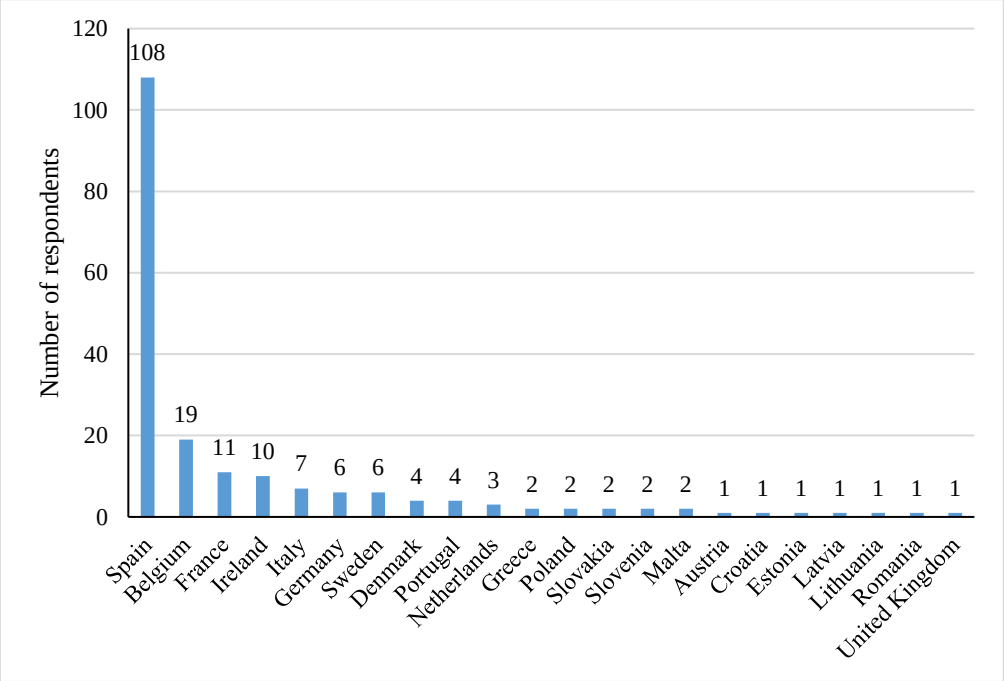

Figure 4: Number of responses to the targeted online consultation by country.

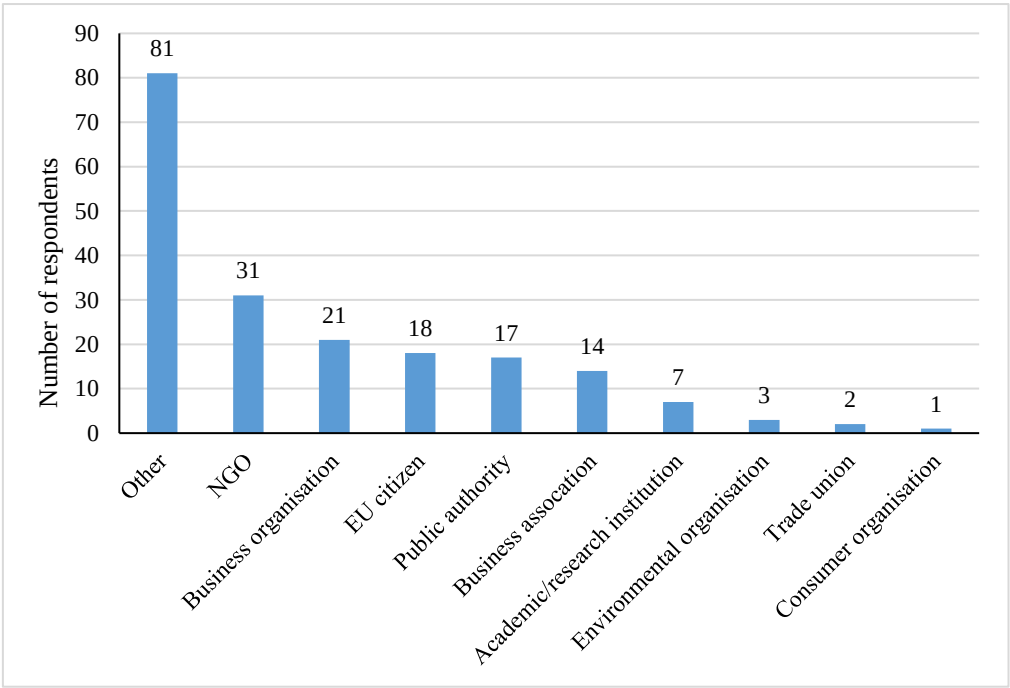

Figure 5: Number of responses to the targeted online consultation by stakeholder group. The standard types of organisation or entity were used as per EUsurvey categorisation. The group 'other' constitute what is not listed already as type (for example advisory councils or citizens identified mostly as 'other').

The results of the FAMENET CFP survey report provided the basis for discussions with the Member State regional groups. Both the Scheveningen Group and the North Western Waters Member States Regional Group met for an in-depth discussion, with the participation of the Advisory Councils. The Member States involved in the discussions were the Netherlands, France, Sweden, Denmark, Belgium, Ireland and Spain. The Advisory Councils involved

were the North Sea Advisory Council, the Baltic Sea Advisory Council and the Pelagic Advisory Council.

The stakeholder event of 10 June 2022 brought together up to 485 stakeholders and experts, including business associations and organisations, environmental organisations, academia, EU institutions, EU citizens, NGOs, public authorities and trade associations. The participants discussed specific projects, such as innovation and collaborations on topics such as climate change, developing a fully monitored fleet, and using smart innovation in selective fishing practices. The recordings of this event are publicly available[287]. A report on the 2022 stakeholder event is published by the external contractor that organised the event[288].

Altogether, 44 responses were received from 14 Member States in response to the call for Evidence, '*Communication on the functioning of the common fisheries policy'* (Figure 6). Most of the responses were received from NGOs. There were seven responses from EU citizens, five from business associations and four from public authorities. Two research institutions, one trade union and one environmental organisation also responded (Figure 7). Overall, the feedback largely covered the same topics addressed by the targeted online consultation and the stakeholder event.

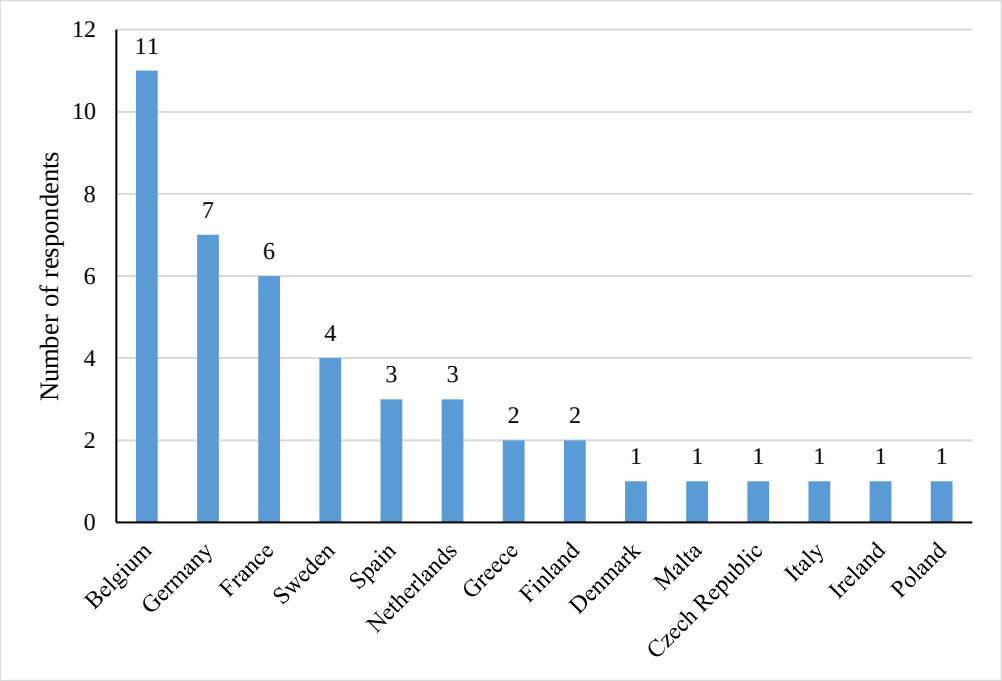

Figure 6: Number of responses to the call for evidence, by country.

287 https://webcast.ec.europa.eu/taking-stock-of-the-eu-common-fisheries-policy-building-further-on-sustainable-fisheries-towards-a-competitive-and-resilient-environment.

288 https://prod5.assets-cdn.io/event/8296/assets/8331903045-843ff11d7c.pdf.

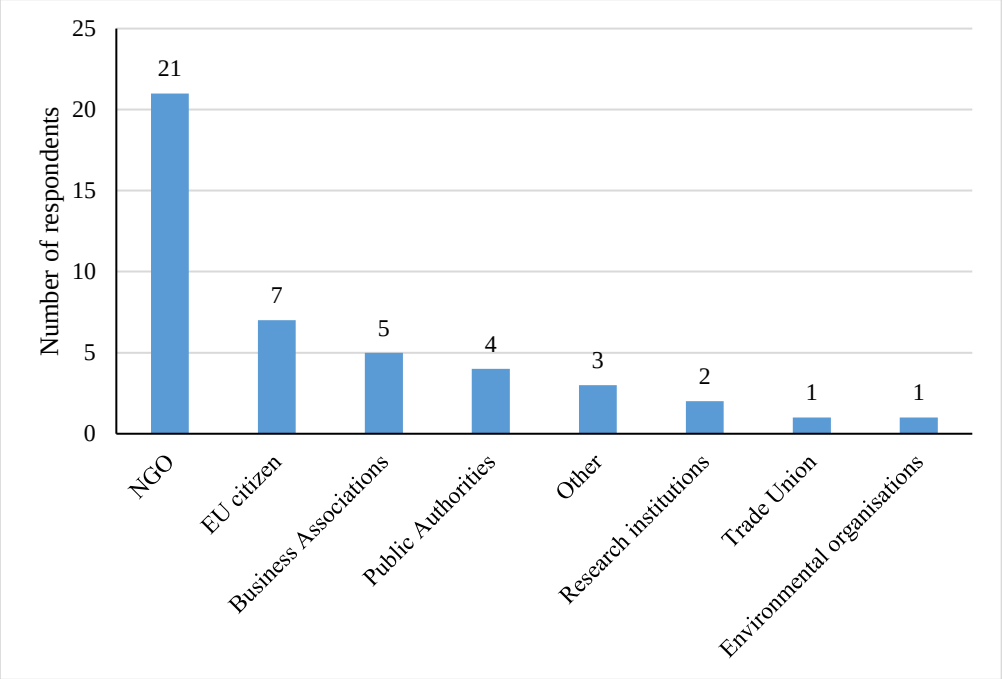

Figure 7: Number of respondents by stakeholder group to the call for evidence on the 'Communication on the functioning of the common fisheries policy'.

4.4. Main results

Reponses by the stakeholders to the targeted online consultation confirmed that the CFP remains a good framework for fisheries management. The reformed CFP has led to improvements in EU fisheries management. By bringing in the maximum sustainable yield principle in 2013, Member States could set their total allowable catches and quotas closer to scientific advice. Many respondents however mentioned that implementation, control and enforcement of the CFP was insufficient and they highlighted the need to properly include an ecosystem-based and precautionary approach to fisheries management and decision-making.

Some of the remaining key challenges mentioned by the respondents were the need to end all overfishing, the need to improve data collection, the quality of scientific advice, the need to better include aquaculture in the CFP framework, compliance with the landing obligation, the management of shared fish stocks, climate change and its impact on the fisheries sector, improving small-scale fishing opportunities, including recreational fishers in the CFP and achieving coherence with environmental legislation.

Respondents highlighted that the EU fishing sector contributes to many important EU policy objectives (e.g. Green Deal and Farm to Fork) and the United Nation's Sustainable Development Goals (SDGs) such as food security and livelihoods of coastal communities. However, there is an urgent need to better integrate the social and economic dimension in the CFP and the decision-making process. It is also necessary to improve seafood traceability rules and the control of imports, to promote 'fully-documented fisheries', to include the small-scale fisheries sector in the decision-making process and to improve the integration and coherence of the CFP with other EU policies.

In terms of EMFAF 2021-2027[289], respondents from the fishing sector highlighted the importance of correctly implementing new measures to promote the modernisation of the EU

[289] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2021.247.01.0001.01.ENG

fleet, and the need to accelerate the transformation to carbon neutrality. However, environmental NGOs believe that these measures will lead to more overcapacity in the EU fleet and an increase in fishing pressure in EU waters and beyond.

According to the Member State regional groups, the findings from the online questionnaire were in line with earlier findings and conclusions. Over the past year and during the cooperation process, a common understanding has been reached of the successes and challenges of the CFP. Many stakeholders stated that they share the idea that reform is not needed at this stage, but the challenges identified through the online consultation should be addressed via the CFP Communication.

The responses to the call for evidence in September 2022 also confirmed the support of stakeholders that the CFP is a good framework for sustainable fisheries management. Input to the call contained proposals and recommendations on animal welfare, regionalisation, climate change, the social dimension, aquaculture, marine protected areas, decarbonisation, the ecosystem-based approach, monitoring, control and enforcement, transparency and traceability, scientific advice and the landing obligation and others besides.

4.5. Conclusion

The findings fed into the process of reviewing the functioning of the CFP. The contributions received during the consultation process are not the official position of the Commission and do not bind the Commission; they are a representative sample of views of the EU population.

5. ANNEX 2: OVERVIEW OF STUDIES AND REPORTS AS SOURCE FOR THE REVIEW

The references in this document to specific studies and reports are not exhaustive as sources to feed into this Communication on the functioning of the common fisheries policy (CFP) and staff working document. The Commission used other sources, such as the recommendations and advice issued by the Advisory Councils, the stakeholder consultation organised in 2022 and the work from scientific advisory bodies including the STECF, the ICES, and regional fisheries bodies such as the GFCM.

The studies commissioned by DG MARE and used to create the review on the functioning of the CFP are available on the following website[290]. The input used for this Communication and staff working document goes beyond the list of ongoing studies signed from the European Climate Infrastructure and Environment Executive Agency and funded by the EU.

The input used also goes beyond the list of reports of the European Parliament adopted in the previous years following the own initiative procedure with fisheries policy as subject. These reports covered multiple relevant topics[291].

290 https://oceans-and-fisheries.ec.europa.eu/publications-list_en.

291 For example, 2019/2177 (landing obligation); 2019/2161 (fishers for the future); 2019/2158 (offshore wind farms); and 2021/2016 (future of fisheries in light of UK withdrawal).

6. ANNEX 3: RATIFICATION STATUS OF KEY CONVENTIONS BY COASTAL EU MEMBER STATE

	IMO's 1995 STCW-F Convention	ILO's Work in Fishing Convention (C188)	Torremolinos International Convention for the Safety of Fishing vessels
Belgium	X		
Bulgaria			X
Croatia			X
Cyprus			
Denmark	X	X	X
Estonia		X	
Finland			
France		X	X
Germany			X
Greece			
Ireland			X
Italy			X
Latvia	X		
Lithuania	X	X	X
Malta			
Netherlands	X	X	X
Poland	X	X	
Portugal	X	X	
Romania	X		
Slovenia			
Spain	X		X
Sweden			X

7. ANNEX 4: FISHING CAPACITY CEILINGS (1 OCTOBER 2022)[292]

Member State	GT	kW
Belgium	18 962	51 586
Bulgaria	7 053.08	61 259.97
Denmark	88 762	313 333
Germany	70 281	164 357
Estonia	21 314.33	51 849.5
Ireland	77 568	210 083
Greece	79 219.78	448 765.52
Spain (including outermost regions)	400 365.21	910 993.53
France (including outermost regions)	223 845.09	1 179 347
Croatia	49 074.8	405 875.41
Italy	156 304	985 871.73
Cyprus	10 832.83	44 991
Latvia	45 628.01	5 6405
Lithuania	73 138	72 965
Malta	14 675.27	92 806.55
Netherlands	164 916	344 323
Poland	37 200.35	87 351
Portugal (including outermost regions)	112 543.41	381 143.82
Romania	1 908	6 356
Slovenia	675	8 867

[292] Based on the information provided by Member States in accordance with the CFP Regulation and Commission Implementing Regulation (EU) 2017/218 on the Union fishing fleet register, available at https://webgate.ec.europa.eu/fleet-europa/stat_ceilings_en.

Finland	18 066	181 717
Sweden	43 316	210 535

Outermost regions of the EU	**GT**	**kW**
Spain		
Canary Islands: L < 12 m. EU waters	2 596.42	20 719.38
Canary Islands: L > 12 m. EU waters	3 059	10 364
Canary Islands: L > 12 m. International and third country waters	28 823	45 593
France		
Reunion Island: Demersal and pelagic species. L < 12 m	1 047.01	19 247
Reunion Island: Pelagic species. L > 12 m	10 002	31 465
French Guiana: Demersal and pelagic species. L < 12 m	903	11 644
French Guiana: Shrimp vessels	7 560	19 726
French Guiana: Pelagic species. Offshore vessels	N/A	N/A
Martinique: Demersal and pelagic species. L < 12 m	5 409	142 116
Martinique: Pelagic species. L > 12 m	1 046	3 294
Guadeloupe: Demersal and pelagic species. L < 12 m	6 188	162 590
Guadeloupe: Pelagic species. L > 12 m	N/A	N/A
Mayotte. Seiners	13 916	24 000
Mayotte. Mechanical longliners < 23 m	N/A	N/A
Mayotte. Demersal and pelagic species. Vessels < 10 m		
Portugal		
Madeira: Demersal species. L < 12 m	604	3 969
Madeira: Demersal and pelagic species. L > 12 m	4 114	12 734

Madeira: Pelagic species. Seine. L > 12 m	181	777
Azores: Demersal species. L < 12 m	2 556.95	28 794.06
Azores: Demersal and pelagic species. L > 12 m	12 979	25 721

8. ANNEX 5. OVERVIEW DELEGATED REGULATIONS IN FORCE SPECIFYING THE DETAILS OF IMPLEMENTATION OF THE LANDING OBLIGATION

1. Commission Delegated Regulation (EU) 2020/2015 of 21 August 2020 specifying details of the implementation of the landing obligation for certain fisheries in Western Waters for the period 2021-2023, as amended by Commission Delegated Regulation (EU) 2022/2290 of 19 August 2022

2. Commission Delegated Regulation (EU) 2020/2014 of 21 August 2020 specifying details of implementation of the landing obligation for certain fisheries in the North Sea for the period 2021-2023, as amended by Commission Delegated Regulation (EU) 2022/2289 of 18 August 2022

3. Commission Delegated Regulation (EU) 2021/2065 of 25 August 2021 establishing a discard plan for turbot fisheries in the Black Sea, as amended by Commission Delegated Regulation (EU) 2022/2287 of 12 August 2022

4. Commission Delegated Regulation (EU) 2021/2066 of 25 August 2021 supplementing Regulation (EU) 2019/1022 of the European Parliament and of the Council regarding details of implementation of the landing obligation for certain demersal stocks in the western Mediterranean Sea for the period 2022-2024, as amended by Commission Delegated Regulation (EU) 2022/2288 of 16 August 2022

5. Commission Delegated Regulation (EU) 2021/2064 of 25 August 2021 supplementing Regulation (EU) No 1380/2013 of the European Parliament and of the Council as regards the establishment of a de minimis exemption to the landing obligation for certain demersal fisheries in the Adriatic and south-eastern Mediterranean Sea, as amended by Commission Delegated Regulation (EU) 2022/2564 of 16 August 2022

6. Commission Delegated Regulation (EU) 2018/161 of 23 October 2017 establishing a de minimis exemption to the landing obligation for certain small pelagic fisheries in the Mediterranean Sea, as amended by Commission Delegated Regulation (EU) 2020/2012 of 5 August 2020

7. Commission Delegated Regulation (EU) 2018/306 of 18 December 2017 laying down specifications for the implementation of the landing obligation as regards cod and plaice in Baltic Sea fisheries

8. Commission Delegated Regulation (EU) 2021/1417 of 22 June 2021 supplementing Regulation (EU) 2016/1139 concerning the specifications for the landing obligation as regards salmon in the Baltic Sea for the period 2021-2023