

DRAFT GUIDANCE
EMFF Specific Ex-Ante Conditionalities
Version 3 (7 March 2014)

This document is based on:

- the final consolidated version (COD 2011/0380 of 10 February 2014) of the amended proposal for a Regulation of the European Parliament and the Council on the European Maritime and Fisheries Fund [repealing Council Regulation (EC) No 1198/2006 and Council Regulation (EC) No 861/2006 and Council Regulation No XXX/2011 on integrated maritime policy]*
- REGULATION (EU) No 1303/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (the 'CPR Regulation')*
- 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 (the 'CFP Regulation')*

1. INTRODUCTION

The processes and mechanisms of ex-ante conditionalities (EACs) are described in detail in the document "Guidance on ex-ante conditionalities for the European Structural and Investment Funds (ESI) – Part I"¹. The present draft guidance document focuses on the EMFF specific EACs on data collection, control, aquaculture and the fleet report. It should be read in conjunction with the above-mentioned guidance for the ESI Funds. It explains the criteria for fulfilment of the EMFF specific EACs (as set out in annex III of the EMFF regulation) in more detail.

According to Article 19 of the Common Provisions Regulation (CPR), Member States shall assess whether the EACs set out in the Fund-specific rules and the general EACs, as set out in Part II of Annex XI CPR, are applicable to their programmes.

A summary of the assessment of fulfilment of the applicable general EACs needs to be included in the Partnership Agreement². In the event that applicable general EACs are not fulfilled, the Partnership Agreements needs to provide a summary of the actions to be taken, the bodies responsible, and the timetable for implementation of those actions.

The CPR sets out that for EACs which apply to individual programmes, only the assessment is included in those programmes and therefore does not need to be included in the Partnership Agreement. This means the EMFF specific EACs are only dealt with in the EMFF operational programmes (OPs) and will not be included in the Partnership Agreement. The EMFF OP needs to identify all EACs which are applicable to it³.

Member States are required to perform a **self-assessment** to determine to which EMFF Union priorities the EACs are applicable and to which degree these EACs have been fulfilled. The result of this assessment of **applicability** and **fulfilment** needs to be included in the OP⁴. The Commission will then assess the adequacy and consistency of the information provided by the Member State. The Commission may request that Member States submit additional information if the material/ justification provided is incomplete.

EACs should be fulfilled at the very latest, at the time of adoption of the OP so that the framework conditions for effective and efficient implementation are in place.

¹ See: http://ec.europa.eu/regional_policy/information/guidelines/index_en.cfm

² See section 2.3 of the "Draft Template and Guidelines on the Content of the Partnership Agreement"

³ Concerning the assessment of general EACs it will be sufficient if Member States refer in the EMFF operational programmes to the assessment established in the Partnership Agreement – see section 6 of the guidance on the EMFF OP template.

⁴ See section 6 of the guidance on the EMFF OP template

Assessment of applicability

Article 2 CPR:

(33) "**Applicable ex ante conditionality**" means a concrete and precisely pre-defined critical factor, which is a prerequisite for and has a direct and genuine link to, and direct impact on, the effective and efficient achievement of the specific objective for an investment priority or a Union priority."

(34) "**specific objective**" means the result to which an investment priority or Union priority contributes in a specific national or regional context through actions or measures undertaken within such a priority."

The CPR recognises that EACs are only applicable under certain conditions. Article 2 CPR contains a definition of an "**applicable ex-ante conditionality**" and limits applicability to factors which have a direct and genuine link to and a direct impact on the efficient and effective achievement of the **specific objective** of a Union priority.

The present guidance document sets out the Commission's view on the applicability of the EMFF specific EACs and the general EACs to the EMFF Union priorities. The assessment of applicability has to take account of the principle of proportionality (c.f. article 19(1) CPR). Where there is little demonstrable impact on the effective and efficient implementation of a specific objective of a Union priority, the ex-ante conditionality would not apply.

The EMFF Regulation does not identify the Union priorities to which the EMFF specific EACs apply, nor does the CPR establish a link between the general EACs and the investment priorities (for the Structural Funds) or the Union priorities.

In order to ensure that the formal negotiation process following the official submission of the OPs will be as smooth as possible the Commission and the Member States should use the **informal dialogue on the OPs** to resolve all major problems related to the fulfilment of EACs. The Commission and the Member States should thus already at this stage agree as much as possible on the applicability of the EACs, the degree of their fulfilment and the actions which need to be carried out to meet applicable EACs which are unfulfilled.

For further information on the determination of applicability of EACs please refer to the "Guidance on ex-ante conditionalities for the ESI Funds" (see footnote 2 above).

If a Member State has not met the criteria for fulfilment of an applicable EAC at the time of submission of the OP, the Member State needs to indicate in the OP the actions to be taken, the responsible bodies and a timetable to ensure that the EACs are fulfilled by the end of 2016 at the latest (c.f. article 19.2 CPR) – see section 6 of the EMFF OP template.

When not all the criteria associated with an applicable EAC are fulfilled at the date of the official transmission of the OP, the Commission will examine, based on the information provided by the Member State, including the actions envisaged, and on its own assessment, whether the non-fulfilment of the applicable EAC would give rise to a **significant prejudice**, i.e. if non-fulfilment would jeopardize the effective and efficient implementation of (parts of) the OP (see article 19.5 CPR)⁵. For this the Commission will consider:

⁵ Article 19.5 CPR states that "The Commission may decide, when adopting a programme, to suspend all or part of interim payments to the relevant priority of that programme pending the completion of actions referred to in paragraph 2 where necessary to avoid significant prejudice to the effectiveness and efficiency of the achievement of the specific objectives of the priority concerned... the scope of suspension shall be proportionate, taking into account the actions to be taken and the funds at risk."

- the **degree of non-fulfilment** of the applicable EAC concerned: i.e. whether one or more of the criteria for the EAC have not been respected to a substantial degree.
- the **level of risk**: whether through the non-respect of the criteria concerned, there will be a negative impact on the effective and efficient achievement of the specific objective of the Union priority or priorities concerned.
- the **adequacy of the proposed action plan** and its impact on leading to the fulfilment of the EAC.

If the Commission determines significant prejudice, it may suspend interim payments at the time of adoption of the OP. The suspension would target only the part of the interim payments which is related to the Union priority/(ies) affected by the non-fulfilled EAC for which there is significant prejudice. The Commission also has the possibility to suspend interim payments if by the end of 2016 an action plan for fulfilling an EAC agreed in the OP has not been carried out and the EAC remains unfulfilled.

2. EMFF SPECIFIC EX-ANTE CONDITIONALITIES

2.1 Administrative capacity for data collection

<i>Specific objective in EU priority for EMFF/ CSF Thematic Objective (TO)</i>	<i>Ex ante conditionality</i>	<i>Criteria for fulfilment</i>
EMFF Priority: 3 Fostering the implementation of the CFP Specific objective (a) TO 6: protecting the environment and promoting resource efficiency	Administrative capacity: administrative capacity is available to comply with the data requirements for fisheries management set out in Article 25 of the Regulation on the CFP and Article 4 of Council Regulation (EC) No 199/2008.	- A description of the administrative capacity to prepare and apply a multi-annual programme for data collection, to be reviewed by STECF and accepted by the Commission - A description of the administrative capacity to prepare and implement a work plan for data collection, to be reviewed by STECF and accepted by the Commission - A description of the capacity in human resources allocation to undertake bilateral or multilateral agreements with other MS if work to implement the data collection obligations is shared

2.1.1. Applicability and priorities to which suspension of funds applies

The data collection EAC has been defined to ensure that, before the start of the programming period, Member States have the administrative capacity to manage in an efficient manner the funds that will be allocated to them for data collection and to deliver the expected outputs.

The data collection EAC is based on implementation to date of the current Data Collection Framework (DCF) and therefore only applies to the 23 Member States which have implemented the DCF, but not to the land-locked Member States. For Croatia, the data collection EAC only applies as of Croatia's accession to the EU (1 July 2013).

Data collection is an essential pillar of the Common Fisheries Policy and failure by a Member State to deliver is likely to have a direct impact on the promotion of environmentally sustainable, resource efficient, innovative, competitive and knowledge based fisheries and aquaculture. Therefore this EAC is applicable to Union priorities 1, 2 and 3 of the EMFF⁶.

2.1.2. Fulfilment and non-fulfilment of criteria

Member States are advised to use the table in annex I for their self-assessment, to provide information on the applicability and level of fulfilment of the different criteria for fulfilment associated with the EAC on data collection.

2.1.3. Assessing the criteria for fulfilment

To assess the fulfilment and non-fulfilment of the criteria the Commission will classify the information provided by Member States according to the following categories:

- **Yes:** Member State is considered to have demonstrated full compliance with the ex-ante conditionality.
- **Partially:** Member State is considered to have demonstrated only partial compliance with the ex-ante conditionality, for example, if a Member State did not submit one of its 2009-2011 or 2011-2013 National Programmes within one month of the legal deadline, or if it failed to implement a bilateral or multilateral agreement but this has not (to date) resulted in a financial reduction by the Commission.
- **No (cases which could trigger significant prejudice):** A Member State is considered not to have demonstrated satisfactory compliance with the ex-ante conditionality; for example:
 - If a Member State did not submit a National Programme (both for 2009-10 and 2011-13) within one month of the legal deadline;
 - If a Member State failed to submit an Annual Report within one month of the legal deadline for any given year;
 - If a financial reduction was applied to a Member State's EU financial assistance for any given year due to a failure to transmit data to an end user;
 - If a Member State could not collect certain data covered by their National Programme 2009-2010 or 2011-2013 due to a failure to implement partly or fully a bilateral or multilateral agreement, and that this lack of collection was serious enough to result in a financial reduction by the Commission

and the Member State cannot demonstrate that it has taken appropriate corrective measures.

⁶ See article 6 of the EMFF Regulation.

- **Not Applicable:** The ex-ante conditionality is not relevant for the Member State, for example if a Member State did not implement bilateral/multilateral agreement(s) with other Member States because this was not required.

2.2. Administrative capacity for control and enforcement

<i>Specific objective in EU priority for EMFF/ CSF Thematic Objective (TO)</i>	<i>Ex ante conditionality</i>	<i>Criteria for fulfilment</i>
EMFF Priority: 3. Fostering the implementation of the CFP Specific objective (a) TO 6: protecting the environment and promoting resource efficiency	Administrative capacity: administrative capacity is available to comply with the implementation of a Union control inspection and enforcement system as stipulated in Article 36 of the Regulation on the CFP and further specified in Council Regulation (EC) No 1224/2009.	The specific actions include: - A description of the administrative capacity to prepare and implement the section of the OP pertaining to 2014-2020 national control financing programme as referred to in Article 20(1) (n) - A description of the administrative capacity to prepare and implement the national control action programme for multiannual plans (Art 36 Control Regulation) - A description of the administrative capacity to prepare and implement a common control programme that may be developed with other Member States (art 94 CR) - A description of the administrative capacity to prepare and implement the Specific Control and Inspection Programmes (art 95 CR). - A description of the administrative capacity to apply a system of effective, proportionate and dissuasive sanctions for serious infringements (art 90 CR) - A description of the administrative capacity to apply the point system for serious infringements (art 92 CR)

2.2.1. Applicability and priorities to which suspension of funds applies

The control EAC has been established to ensure that, before the start of the programming period, Member States have the administrative capacity to manage the EMFF funding for control efficiently and to comply with the implementation of the Union control, inspection and enforcement system.

The control, inspection and enforcement system is a core pillar of the Common Fisheries Policy and failure by a Member State to implement it is likely to have a direct impact on the promotion environmentally sustainable, resource efficient, innovative, competitive and

knowledge based fisheries and aquaculture. For this reason the control EAC is applicable to Union priorities 1, 2 and 3 of the EMFF⁷.

2.2.2. Fulfilment and non-fulfilment of criteria

Member States are advised to use the table in annex I for their self-assessment, to provide information on the applicability and level of fulfilment of the different criteria for fulfilment of the control EAC.

2.2.3. Assessing the criteria for fulfilment

To assess the fulfilment and non-fulfilment of the criteria the Commission will classify the information provided by Member States according to the following categories:

Yes: Member State is considered to have demonstrated full compliance with the ex-ante conditionality.

Partially: Member State is considered to have demonstrated only partial compliance with the ex-ante conditionality, for example an effective, proportionate and dissuasive sanctions system is in place, but the point system has not been implemented.

No (cases which could trigger significant prejudices): Member State is considered not to have demonstrated sufficient compliance with the ex-ante conditionality, for example:

- If there is no evidence that arrangements for the effective application of EU public procurement rules are in place, including arrangements which ensure transparent contract award procedures and signature of contracts within deadlines; if the EU Directive on public procurement has not been transposed by the Member State.
- If the national control action programme(s) for multiannual plans is/are not available and is/are not enforced.
- If a Member State, after the adoption of a common control programme, does not allocate appropriate resources to it.
- No respect of minimum level concerning the target as defined in the SCIPs; the means committed by the Member State in the joint deployment plan are not deployed and not made available in line with the calendar defined in the joint deployment plan.
- If a Member State does not implement a system of effective, proportionate and dissuasive sanctions for serious infringements.
- If there is no evidence that rules or procedures are in place for the implementation of the national register of infringements.

Not applicable: One criterion of the ex-ante conditionality may not be relevant for the Member State (such as the point system for land-locked countries which have no fishing

⁷ See article 6 of the EMFF Regulation.

vessel flying their flag). However, the criterion related to public procurement is applicable to all Member States.

2.3 Multi-annual national strategic plan on aquaculture

<i>Specific objective in EU priority for EMFF/ CSF Thematic Objective (TO)</i>	<i>Ex ante conditionality</i>	<i>Criteria for fulfilment</i>
<p>EMFF priority:</p> <p>2. Fostering environmentally sustainable, resource efficient, innovative, competitive and knowledge based aquaculture.</p> <p>Specific objective: (a), (c)</p> <p>TO 3: enhancing the competitiveness of small and medium-sized enterprises, the agricultural sector (for the EAFRD) and the fisheries and aquaculture sector (for the EMFF)</p> <p>TO 6: protecting the environment and promoting resource efficiency</p>	<p>The establishment of a multiannual national strategic plan on aquaculture as referred in Article 34 of the Regulation on the Common Fisheries Policy by 2014;</p>	<ul style="list-style-type: none"> - A multiannual national strategic plan on aquaculture is transmitted to the Commission at the latest by the day of transmission of the OP - The OP includes information on the complementarities with the multiannual national strategic plan on aquaculture

2.3.1. Applicability and priorities to which suspension of funds applies

In the reformed Common Fisheries Policy (CFP) aquaculture is promoted through an open method of coordination. On the basis of strategic guidelines published by the Commission (COM(2013)229), Member States have been asked to prepare a multiannual national strategic plan, taking into consideration each country's specific starting conditions, challenges and potential.

The objective of the multiannual plans for aquaculture is twofold: to give coherence to a number of national policies that have an impact on aquaculture (e.g. administrative simplification, spatial planning) and to serve as preparation for the EMFF operational programme.

The aim is to ensure that the two complement each other: EU and national action and funding need to function as a coherent whole to deliver results. Where aquaculture is concerned, it is important for the operational programme to be consistent with the multiannual plan in order to foster the coherence of the whole policy. The operational programme should include a description of how it intends to support the actions and objectives identified in the

multiannual plan. The multiannual national plan could also address areas of competence of the Member States (such as licensing) that may not necessarily be eligible for direct funding under the EMFF, but where Member States may want to explore synergies with EU funding to maximise the chances of success. The ex-ante conditionality of the multi-annual national strategic plan on aquaculture applies to the EMFF Union Priority number 2⁸.

2.3.2. Criteria for fulfilment

Member States should aim at transmitting their multiannual national strategic plans for the development of aquaculture by 30 June 2014⁹. However, if a Member State requires more time to ensure coherence between the multi-annual plan and the operational programme, then the plan can be sent later on. The criterion for fulfilment of this EAC will be the transmission of the multiannual plan to the Commission at the latest together with the operational programme¹⁰.

Once received, the Commission will analyse the complementarity and consistency of the plan with the operational programme. For example, if a Member State indicates in the multiannual plan that it intends to focus on measures to "green" the aquaculture sector, the Commission will check if in the operational programme specific measures are identified in order to support this objective through, for example, inclusion of measures for the conversion to eco-management and audit schemes and organic aquaculture.

Member States are advised to use the table in annex I for their self-assessment, to provide information on the applicability and level of fulfilment of the different criteria for fulfilment of the aquaculture EAC.

2.3.3. Examples of significant prejudice

If a Member State which intends to use funding under the EMFF for aquaculture measures does not submit its multiannual national strategic plan on aquaculture at the latest by the time of the submission of the operational programme, this would constitute a case of significant prejudice.

2.4. Submission of fleet capacity report

<p><i>Specific objective in EU priority for EMFF/ CSF</i> Thematic Objective (TO)</p>	<p><i>Ex ante conditionality</i></p>	<p>Criteria for fulfilment</p>
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⁸ See article 6 of the EMFF Regulation.

⁹ See Article 34.2 of the CFP Regulation

¹⁰ See Annex III EMFF

<p>EMFF Priority :</p> <p>1. Promoting environmentally sustainable, resource efficient, innovative, competitive and knowledge based fisheries</p> <p>Specific objectives: (a) - (bd)</p>	<p>Capacity report has been submitted in accordance with Article 22 of the [Regulation on the Common Fisheries Policy].</p>	<p>- The report is done in accordance with common guidelines issued by the Commission</p> <p>- Fishing capacity does not exceed the fishing capacity ceiling set up in Annex II of [CFP]</p>
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2.4.1 Applicability and priorities to which suspension of funds applies

Member States have to take measures to adjust the capacity of their fleet and to align the number of fishing vessels with available resources. To this end, article 22(2) of the CFP Regulation requires Member States to send to the Commission, by 31 May each year, a report assessing the balance between the fishing capacity of their fleets and the fishing opportunities available to them.

To facilitate a common approach across the Union, that report has to be prepared in accordance with common guidelines developed by the Commission indicating the relevant technical, social and economic parameters.

This assessment is the basis for access to funding under the EMFF for permanent cessation of fishing activities: article 33(b) of the EMFF Regulation specifies that only fleet segments which are not effectively in balance with fishing opportunities can receive support for permanent cessation. The annual fleet report identifies the fleet segments with overcapacity and includes an action plan¹¹ setting out adjustment targets and the tools to address overcapacity, including the possible use of permanent cessation.

Article 22(7) of the CFP Regulation requires Member States to ensure that from 1 January 2014 the fishing capacity of their fleets does not exceed at any time the fishing capacity ceilings set out in Annex II.

The ex-ante conditionality on the capacity report applies to the EMFF Union Priority number 1.

2.4.2. Criteria for fulfilment

The criteria for fulfilment of this EAC are 1) the transmission of the annual fleet report which follows common guidelines issued by the Commission; and 2) fishing capacity which does not exceed the capacity ceilings set out in annex II of the CFP Regulation.

The fleet report should to contain an assessment of the balance between fishing capacity and fishing opportunities, including an annual capacity assessment of the national fleet and of all fleet segments of the Member States. For the fleet segments with identified structural

¹¹ c.f. article 22(4) of the CFP Regulation

overcapacity the Member State will prepare an action plan and include it in the annual fleet report.

The first capacity report under Regulation 1380/2013 is due by 31 May 2014 and will be based on the existing Commission guidelines¹². Subsequent capacity reports should be based on the most up to date fleet report guidelines.

The second criterion for fulfilment of this EAC is the requirement that a Member State's fishing capacity of its fleets must not exceed the fishing capacity ceilings set out in annex II of the CFP Regulation at the time of the submission of the OP. The Commission will assess the fulfilment of this criterion by checking the latest information available in the fleet register¹³.

Member States are advised to use the table in annex I for their self-assessment, to provide information on the applicability and level of fulfilment of the different criteria for fulfilment of the fleet capacity report EAC.

3. GENERAL EX-ANTE CONDITIONALITIES

Part II of Annex XI of the CPR contains a list of general ex ante conditionalities (EACs). These general EACs relate to anti-discrimination, gender, disability, public procurement, state aid, environmental legislation relating to the Environmental Impact Assessment (EIE) & the Strategic Environmental Assessment (SEA), and statistical systems and result indicators.

According to article 19 of the Common Provisions Regulation (CPR) Member States shall assess whether the general EACs, as set out in Part II 2 of Annex XI CPR, are applicable to their programmes. This "applicability check" needs to be carried out for all ESI Funds, including the EMFF¹⁴.

The "Guidance on ex-ante conditionalities for the European Structural and Investment Funds – Part II"¹⁵ includes a section on general EACs and provides further information on applicability, definitions and criteria for fulfilment.

A summary of the assessment of fulfilment of the applicable general EACs needs to be included in the Partnership Agreement (see section 2.3 of the "Draft Template and Guidelines on the Content of the Partnership Agreement"). If applicable general EACs are not fulfilled,

¹² <http://datacollection.jrc.ec.europa.eu/documents/10213/501094/Guidelines+version+2.0+including+plenary+amendments-2.pdf?version=1.0>

¹³ Article 6 of the Commission Regulation (EC No 26/2004) on the Community fleet register obliges Member States to provide updated information four times per year.

¹⁴ For more detail on general EACs please refer to the draft "Guidance on ex-ante conditionalities for the European Structural and Investment Funds – Part I", section 2.1.2

¹⁵ See http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/eac_guidance_esif_part2_en.pdf

the Partnership Agreements will provide a summary of the actions to be taken, the bodies responsible, and the timetable for implementation of those actions.

Since the EMFF OP needs to identify all EACs which are applicable to that programme, the EMFF OP will include an assessment of both the applicable EMFF specific EACs, and the general EACs, as well as the actions to be taken in case of non-fulfilment. **However, in the EMFF OPs, general EACs do not require further detailed elaboration; it will be sufficient if Member States refer to the assessment already carried out in the Partnership Agreement** – see section 6 of the guidance on the EMFF OP template.

The Commission considers that the following general EACs are applicable to (the whole or part of) the EMFF OPs:

- **Public procurement**¹⁶: applies to the whole EMFF OP
- **Environmental Impact Assessment and Strategic Environmental Assessment**¹⁷: applies to EMFF Union priorities 1 and 2¹⁸
- **State aid**¹⁹: applies to all Union priorities provided that the operations under them fall outside Article 42 of the Treaty.
- **Statistical systems and result indicators**²⁰:

This EAC is applicable to the EMFF OP, however, the Commission considers that it is fulfilled for the following reasons:

- Concerning the statistical basis to undertake evaluations: this is ensured by the Data Collection Framework (DCF) for fisheries. The DCF involves specific rules and statistical methods for the collection of high quality data in the fisheries sector in terms of validation, robustness, relevance and comparability. The EMFF also includes a specific EAC on the administrative capacity to comply with the data requirements for fisheries management (see section 2.1 above).
- Concerning the existence of an adequate system of result indicators: the EMFF includes a common monitoring and evaluation system with common result indicators; in addition, data on individual operations is collected via Infosys.

¹⁶ For further guidance on the fulfilment criteria for the public procurement EAC see "Guidance on Ex Ante Conditionalities for the ESI Funds – Part II" (page 360 ff).

¹⁷ For further guidance on the fulfilment criteria for the EIA and SEA EAC see "Guidance on Ex Ante Conditionalities for the ESI Funds – Part II" (page 389 ff).

¹⁸ See article 6 of the EMFF Regulation.

¹⁹ For further guidance on the fulfilment criteria for the state aid EAC see "Guidance on Ex Ante Conditionalities for the ESI Funds – Part II" (page 378 ff).

²⁰ For further guidance on the fulfilment criteria for the EAC on statistical systems and result indicators see "Guidance on Ex Ante Conditionalities for the ESI Funds – Part II" (page 394 ff).

This system of EMFF common indicators involves a timely collection and aggregation of statistical data including identification of data sources, data validation and public availability of aggregated data. Furthermore, the selection of EMFF indicators provides relevant and high quality information (robust, validated, timely and comparable across Member States) on the operations funded under the OP, and allows for the establishment of quantitative targets.

All these elements ensure that the criteria for this EAC are fulfilled for the EMFF OPs. Therefore the Commission does not require MS to provide any evidence of fulfilment of this EAC – neither in the Partnership Agreement, nor the OP. Member States should include a standard sentence in their EMFF OPs along the following lines:

This general EAC is applicable to the EMFF OP. However, fulfilment of this EAC is already ensured by the data collection framework for fisheries and the EMFF's monitoring and evaluation system with common (result) indicators.

Annex I: Tables for Member States' self-assessment

1. Administrative capacity for data collection

Criteria for fulfilment	MS self-assessment		
	APPLICABLE YES/NO (justification) Union priority or priorities to which the applicable EAC applies	Assessment of each criterion Fulfilled? (references) Elements of non-fulfilment (explanation)	Action plan? (actions, deadlines, bodies responsible)
Administrative capacity is available to comply with the data requirements for fisheries management set out in Article 25 of the Regulation on the CFP and Article 4 of Council Regulation (EC) No 199/2008:			
<p>– A description of the administrative capacity to prepare and apply a multi-annual programme for data collection, to be reviewed by STECF and accepted by the Commission</p> <p>> National Programme for data collection for 2009-2010 drawn up and submitted within one month of the legal deadline (15/10/2008) and adopted by the Commission?</p> <p>> National Programme for data collection for 2011-2013 drawn up and submitted within one month of the legal deadline (31/3/2010) and adopted by the Commission?</p> <p>> If a National Programme was not submitted for 2009-2010 or 2011-2013, or was submitted more than one month after the deadline, description of steps that have been taken to address this and additional steps foreseen?</p>			
<p>– A description of the administrative capacity to prepare and implement an annual work plan for data collection, to be reviewed by STECF and</p>			

<p>accepted by the Commission:</p> <p>> Annual Reports for the years 2009 to 2012 submitted as required under Article 7 of Council Regulation (EC) No 199/2008, within one month of the legal deadline of 31 May of each year following the year of implementation of the national programme, and accepted by the Commission?</p> <p>If an Annual Report was not submitted, or was submitted beyond one month of the legal deadline, description of steps that have been taken to address this and additional steps foreseen?</p> <p>> DCF data transmitted to all end-users that requested it in 2010, 2011 and 2012 as required under Article 18 of Council Regulation (EC) No 199/2008?</p> <p>> Any financial reductions applied to EU financial assistance due to failures to fully implement obligations to transmit data to end users in 2010, 2011 or 2012?</p> <p>> If the MS demonstrated failures to transmit DCF data to end users, description of steps that have been taken to address this and of additional steps foreseen?</p>			
<p>– A description of the capacity in human resources allocation to undertake bilateral or multilateral agreements with other MS if work to implement the data collection obligations is shared:</p> <p>> List of bilateral and /or multilateral agreements which have been signed with other MS since 2009 in the area of data collection, and that were not successfully carried out (to date, for agreements that are still on-going)?</p> <p>> If bilateral and/or multilateral agreements were not set up or implemented fully despite being requested, description of the steps that have been taken to address this and of additional steps foreseen.</p>			

* The Commission's assessment of Member States' data transmission to end users in 2012 is still on-going (February 2014). Member States must only report on this criterion if the Commission has finalized their evaluation by the time the Member States submit their self-assessment.

2. Administrative capacity for control and enforcement

Criteria for fulfilment	MS self-assessment		
	APPLICABLE YES/NO (justification) Union priority or priorities to which the applicable EAC applies	Assessment of each criterion Fulfilled? (references) Elements of non-fulfilment (explanation)	Action plan? (actions, deadlines, bodies responsible)
Administrative capacity is available to comply with the implementation of a Union control inspection & enforcement system:			
<ul style="list-style-type: none"> – A description of the administrative capacity to prepare and implement the section of the OP pertaining to 2014-2020 national control financing programme as referred to in Article 20(I) (n) <ul style="list-style-type: none"> > Arrangements for the effective application of EU public procurement rules through appropriate mechanisms > Arrangements which ensure transparent contract award procedures > Arrangements for training and dissemination of information for staff involved in the implementation of the funds > Arrangements to ensure administrative capacity for implementation and application of EU public procurement rules 			
<ul style="list-style-type: none"> – A description of the administrative capacity to prepare and implement the national control action programme for multiannual plans (Art 46 Control Regulation): <ul style="list-style-type: none"> > Availability of national control action programme on the secure part of the Member State's website; > Arrangements on the definition, periodical revision, and reaching of specific inspection benchmarks; 			
<ul style="list-style-type: none"> – A description of the administrative capacity to prepare and 			

<p>implement a common control program that may be developed with other Member States (art 94 CR):</p> <p>> Availability of common control programmes and related control records, if relevant</p>			
<p>– A description of the administrative capacity to prepare and implement the Specific Control and Inspection Programmes (art 95 CR):</p> <p>> Allocation of human (expressed in terms of number of full-time-employed equivalent staff allocated for control activities) and material resources to ensure the implementation of the specific control and inspection programmes, taking into account the periods and zones where these are deployed.</p> <p>> Participation to the implementation of the specific control and inspection programmes through joint deployment plans adopted by the European Fisheries Control Agency, if relevant;</p>			
<p>– A description of the administrative capacity to apply a system of effective, proportionate and dissuasive sanctions for serious infringements (art 90 CR):</p> <p>> Rules or procedures implementing a system of effective, proportionate and dissuasive sanctions for serious infringements, in accordance with the range of sanctions provided for in Chapter IX of Council Regulation (EC) No 1005/2008 are in place;</p> <p>> National rules or procedures implementing the national register of infringements referred to in Article 93 of Council Regulation (EC) 1224/2009 of 20 November 2009 are in place.</p>			
<p>– A description of the administrative capacity to apply the point system for serious infringements (art 92 CR):</p> <p>> Rules or procedures (legal references) implementing a point system for serious infringements are in place</p>			

3. Multi-annual national strategic plan on aquaculture

Criteria for fulfilment	MS self-assessment	
	APPLICABLE YES/NO	Fulfilled? (references) Elements of non-fulfilment (explanation)
The establishment of a multiannual national strategic plan on aquaculture as referred in Article 34 of the [Regulation on the Common Fisheries Policy] by 2014		
<ul style="list-style-type: none"> – A multiannual national strategic plan on aquaculture is transmitted to the Commission at the latest by the day of transmission of the OP – The OP includes information on the complementarities with the multi-annual national strategic plan on aquaculture 		

4. Submission of fleet capacity report

Criteria for fulfilment	MS self-assessment		
	APPLICABLE YES/NO	Fulfilled? (references) Elements of non-fulfilment (explanation)	Action plan? (actions, deadlines, bodies responsible)
Capacity report has been submitted in accordance with Article 22 of the [Regulation on the Common Fisheries Policy].			
<ul style="list-style-type: none"> – The report is done in accordance with the common guidelines issued by the Commission <ul style="list-style-type: none"> > Action plan for adjusting fleet segments for which the fleet report identifies overcapacity. – Fishing capacity does not exceed the fishing capacity ceiling set up in Annex II of [CFP] 			