



Brussels  
MARE.D.3/IV

## **Minutes Meeting of the Expert group on the European Maritime and Fisheries Fund (EMFF) 24 February 2021 (virtual meeting)**

### **1. Adoption of the agenda**

The agenda was approved.

### **2. Adoption of the minutes of previous meeting**

The draft minutes of the previous meeting held on 18 November 2020 were approved.

### **3. List of points discussed**

#### **Presentation of the provisional agreement on the EMFAF 2021-2027**

The European Commission (DG MARE Unit D3 – CFP and Structural support, Policy development and coordination) made a thorough presentation of the provisional political agreement on the new EMFAF, including its scope, financial framework and conditions of support, with links to the new Common Provisions Regulation (CPR) subject to provisional agreement by co-legislators. The presentation also focused on the programming and monitoring system for 2021-2027 and was distributed to participants following the meeting.

#### **Q&A**

EE pointed out that, contrary to the EMFF, the EMFAF did not establish a minimum EU co-financing rate, and asked whether for some types of operations the national co-financing could be 100%, with State aid derogations under the Article 11 EMFAF still applying. The Commission confirmed that there is no minimum EU co-financing rate.

NL explained that they were struggling with the difference between SO 1.6 and SO 4.1 and asked the Commission to provide some further clarifications. The Commission

signaled a potential overlapping but clarified that, while SO 1.6 is very broad in tackling biodiversity and ecosystems, 4.1 is more specific and linked to collective marine knowledge within the framework of the environmental regulations listed in the EMFAF, which are relevant mainly for public authorities. Therefore, if an operation is obviously linked to collective marine knowledge, it should fall under SO 4.1, while the other possible operations related to biodiversity and ecosystems could go under SO 1.6.

SE asked the Commission whether there will be a delegated regulation for the conceptualization of the performance framework and its assessment, similar to the current delegated regulation (EU) No 480/2014. The Commission explained that there will only be an implementing act on Infosys and that the performance framework, which is much simpler in the current programming period, is described in the CPR.

IE asked The Commission if MS would receive an explanatory fiche on the programme template and, more specifically, on the elements of the SWOT analysis (and its justification), which is the most appropriate way of identifying how to target support i.e. through types of actions or operations. The Commission replied that they were not preparing any specific documents on programming and explained that: i) types of operations are meant for Infosys monitoring so as to label operations once selected; ii) types of interventions are meant as sub-SOs and used both as programming tools and for tracking climate and environmental expenditure; iii) types of actions are to be described in free text with reference to the content of SOs and make the link with the SWOT by reflecting its findings (as a sort of ‘solution’ to the summary). As a follow up, IE noted that, since types of actions are not predefined, the Commission might have some difficulty comparing them between programmes, hence it might be more useful using types of operations instead. The Commission advised against the use of types of operations as types of actions since it would mean reverting to rigid operations (such as under the EMFF) and contradict the purpose of providing MS with a very flexible tool to reflect their strategic approach, thus avoiding programme amendments ever so frequently.

DE pointed to the rejection at the December Council of the proposal to extend the COVID-19 measures on the ground of the entry into force of the EMFAF (retroactively applicable to 1 January 2021), and the presentation by the Commission on the new ‘exceptional crisis’ measure linked to unexpected events. Since a decision to trigger such mechanism could not be taken until the regulation is adopted, DE noted that this would leave 1Q 2021 uncovered. The Commission underlined that, since conditions were not improving, it could not be excluded - nor confirmed - that a decision to trigger the exceptional measures, with retroactive effect to 1 January 2021, could be made. The Commission also underlined that new measures under the EMFAF, beyond the crisis management mechanism, were already eligible (e.g. temporary cessation linked to health crisis, support from mutual funds, insurance instruments, etc.), provided they comply with the future programme.

With reference to indicators, IT asked if it was possible to link (result and output) indicators to types of actions instead of linking them to SOs as well as to include programme-specific indicators. In addition, IT enquired about the reason why the baseline for result indicators was set at 0, as indicated in the FAME working paper (cf. following agenda point). The Commission explained that the template does not allow for linking indicators to types of actions. MS could use types of actions for target setting, since milestones and targets are strictly related to these, but this exercise should be conducted outside the programme. Programme-specific indicators could be envisaged but

cannot appear in the programme. With reference to the baseline for result indicators, FAME explained that, for 2021-2027, they introduced a number of very simple result indicators taking into account that all values are based on results on beneficiaries and, since the EMFAF is small, so is its impact (i.e. number of jobs created before programme starts is zero, and so is the baseline). This is a simplification feature introduced for the current programming period to make the system easier to handle according to the nature and size of the EMFAF.

CY enquired whether Article 32 would allow for adopting national exceptional measures for supporting the aquaculture sector in case of unexpected crises disrupting the market, thus not limiting the possibility to adopt actions in case of extraordinary circumstances impacting only one MS (without a Commission decision). The Commission pointed to the basic principle around the support to aquaculture, namely its consistency with the strategic national plans that can well envisage actions to tackle crisis, but clarified that the scheme under Article 22 can only be triggered by a Commission decision specifically linked to EU-wide market disruptions. CY further asked about the possibility to mirror a similar provision to cover national measures. The Commission confirmed that this possibility could be co-financed under the EMFAF, provided that rules on eligibility are complied with and that MS demonstrate that such national scheme will contribute to sustainable aquaculture (i.e. under the related SO and according to the strategic national plan).

EE asked the Commission if prizes could be used under the EMFAF. The Commission confirmed that this was the case (as prescribed for in the CPR). EE also asked how the contribution to biodiversity will be monitored. The Commission explained that there was no specific EMFAF target, as in other funds, but pointed to a Commission statement accompanying the draft Regulation where the Commission committed to, *“in the context of the programming exercise for the EMFAF 2021-2027, [...] actively encourage[ing] Member States to maximise the use of measures included in their programmes, in particular under Article 22 (protection of biodiversity and ecosystems), to reach the overall ambition of providing an annual spending under the MFF to tackle biodiversity loss, protect and restore ecosystems and maintain ecosystems in good conditions as follows: 7,5% of annual spending under the MFF to biodiversity objectives in the year 2024 and 10% of annual spending under the MFF to biodiversity objectives in 2026 and 2027. The Commission will regularly monitor the level of this spending on the basis of the total eligible expenditure declared by the beneficiaries to the managing authority and on data submitted by the Member State. Where the monitoring shows insufficient progress towards reaching the overall ambition, the Commission will actively engage with Member States in the annual review meeting in order to adopt remedial measures, including a programme amendment.”* The Commission explained that this statement had been complemented by an additional one released by the Parliament, Council and the Commission on the biodiversity spending objective: *“The European Parliament, the Council and the European Commission recognise the need to urgently advance action on the protection and conservation of marine and coastal ecosystems and biodiversity. The three institutions agree that tackling biodiversity loss, protecting and restoring ecosystems and/or maintaining them in good condition will require significant public and private investment at national and European level and that a significant proportion of the EMFAF expenditures should be invested in biodiversity. The three institutions agree that the European Commission will work with Member States, in the context of the programming exercise for the EMFAF 2021-2027, to reach the overall ambition of biodiversity spending highlighted in recital xx.”* The Commission added that they had included in the EMFAF the tracking of climate and environmental objectives through

RIO markers and were working on biodiversity tracking methodologies (DG ENV), since making sure that MS implement actions contributing to biodiversity targets and objectives is considered a high political priority.

SE asked the Commission whether there will be any guidelines on annex V (programme template) dedicated to MS. The Commission explained that no guidelines were foreseen at the moment but took note of the request. The Commission shared the link<sup>1</sup> to the EP PECH committee website where the draft EMFAF Regulation was made available.

HR asked whether temporary cessation due to COVID-19 (i.e. health crisis) should be linked to type of intervention 4 (temporary cessation) or 7 (compensation for unexpected health events). The Commission suggested linking temporary cessation due to COVID-19 to type of intervention 4, since 7 is linked to compensation for unexpected health events in aquaculture.

PT enquired about whether the ring-fencing applying to outermost regions prevents, in any case, reallocations to other measures or rather depends on duly justifications by MS and authorization by the Commission. The Commission explained that the ring-fencing has been introduced to make sure that a minimum amount goes to ORs for MS to distribute it across their concerned territories, thus meeting the objectives in the relevant action plans, but MS cannot reallocate it if the amount goes lower than the minimum.

BG shared their concerns in relation to the use of insurance instruments in the context of COVID-19 since insurers tend to exclude epidemiologically-related risks. The Commission underlined that, in this case, public guarantee could facilitate convincing insurers.

BE asked more clarifications on the increase in gross tonnage. The Commission confirmed that it applies to increase in gross tonnage only, which must be linked to a subsequent installation of tools that contribute to energy efficiency, working conditions, safety, etc., according to the list included in the Regulation comprising all kinds of gross tonnage increases that can be supported under the EMFAF. The Commission also explained that, in case of a combined project (i.e. to first make the vessels bigger and then install the tool), the two operations would fall under two different SOs, but support under this article can only be granted for the restructuring part. In reply to a question on Brexit, the Commission explained that it is not considered a cause triggering permanent or temporary cessation but could be used indirectly (i.e. in the case of a segment out of balance due to Brexit, permanent cessation can apply).

ES raised a question on eventual written criteria to justify the increasing up to 70% for ORs. The Commission clarified that there are no such criteria since the increasing should be duly justified (being the idea behind the capping mainly about promoting structural investment). ES explained that Canary Islands were drafting their action plan and were looking for specific criteria in guidance documents, but the Commission explained that the only additional information on compensation based on real costs will be included in the secondary legislation on ORs.

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<sup>1</sup> [https://www.europarl.europa.eu/meetdocs/2014\\_2019/plmrep/COMMITTEES/PECH/DV/2021/02-22/EMFAF\\_consolidated\\_clean\\_EN.pdf](https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/PECH/DV/2021/02-22/EMFAF_consolidated_clean_EN.pdf)

SE suggested that types of interventions should be indicative, in accordance with the wording in the programme template, since financial re-allocations between types of interventions within SOs should not constitute programme amendments. The Commission agreed that allocations are to be intended as indicative, since they are tools for facilitating the programming process under SOs, hence are not binding.

As a follow-up question on types of interventions, EE asked if MS can implement types of operations on the ground that are not included in the programme. The Commission clarified that operations are to be linked to at least one type of intervention included in the list (as the reporting on operations 5-times a year is linked to types of interventions) but amounts should be intended as indicative.

### **FAME presentation of the Working Paper on the Monitoring and Evaluation Framework (and Preferences on topics for FAME peer review channel 2021)**

FAME presented their Working Paper (WP) on the Monitoring and Evaluation Framework (MEF) as part of a process started in 2018 and developed in parallel with the negotiations on the EMFAF.<sup>2</sup> The main purpose of the WP is to: i) provide for a common reference for all MEF 2021-2027 elements; ii) be the basis for the drafting of EMFAF legal supporting acts (i.e. Infosys regulation); and iii) assist MS in finalising their EMFAF programmes for 2021-2027. The basis of the WP is made of both the draft CPR (i.e. the Council version of December 2019) and the draft EMFAF (including changes up to December 2020), while its purpose is to gather the advice provided for by monitoring and evaluation experts in the form of a common understanding. Therefore, it should not be intended as constituting legal or providing binding interpretation. The WP is based on a preliminary version of end-2020 but will be finalised according to the EMFAF and CPR progress. It is made up of 2 parts: i) the WP itself with all MEF-related elements; and ii) the annexes with the Specific Objectives, a list of result indicators (definitions and fiches), the Infosys structure and the types of operations.

The elements of the MEF 2021-2027 consist of: i) the EMFAF Intervention logic (result of logical combination of EMFAF and CPR Article 17(2)); ii) Policy Objectives (CPR, Article 4; EMFAF Annex II); iii) Priorities (EMFAF Article 4; Annex II), iv) SWOT and needs (EMFAF Article 9.3 as well as expert input); v) Specific objectives (EMFAF, Annex II); vi) Types of action (CPR Article 17.3.d.i.); vii) Types of intervention (CPR Art. 37.2(a), EMFAF Annex IV), list of Common output and result indicators (EMFAF Annex I); viii) Types of operation (Future Common Implementing Regulation); ix) Reporting under the EMFAF; x) CPR reporting; xi) ARM, and; xii) the Evaluation plan. With reference to the overview of the MEF 2021-2027 and based on the good practices in 2020, FAME presented the main outcomes of their peer review channel, comprising 5 sessions from October through December, which dealt with topics from the SWOT and Infosys to SCOs and involved around 80 officers, who rated the initiative 3.5 out of 4.0.

The peer review channel will continue in 2021 from March to December, with approximately 9-10 sessions depending on MS availability, adopting a similar format to 2020, but will also include the possibility to touch upon more topics suggested by MS, taking into account their preferences and timing. FAME invited MS to reflect on their

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<sup>2</sup> Many topics have been already presented and discussed with MS during the FAME peer review sessions 2020, whose recordings are available on the FAME/MS SharePoint.

preferences to be communicated via email based on topics collected during the peer review channel 2020, among which feature the future programme template, indicators and targets as well as their roles in the MEF set up and that of the different bodies responsible for programme implementation, the programme communication strategy, the preparation of the annual review meeting according to the new timeline for reporting under the CPR, SCOs and other specific issues (i.e. Sea Basin Analyses, SSCF, outermost regions, climate change, biodiversity, environmental objectives, etc.).

## **Q&A**

EE asked whether it would not be easier to include the biodiversity-related elements in Infosys (e.g. with a box to tick), bearing in the mind that Article 22 is not the only one that contributes to its objectives. FAME explained that there were already different elements in Infosys that would help, when combined, identify contributions related to biodiversity with some precision (e.g. types of operations, relevant indicators, etc.) to be complemented as soon as there is a final decision on policy issues as such biodiversity targets and objectives (e.g. with a box to tick).

IE asked for further clarifications on the meaning of ‘beneficiary code’ in reference to the code generated by the IT system that MS use and the purpose of the result indicator on ‘enabled innovation’. In addition, IE suggested adding CPR annex XYZ as information that need to be stored to the list of topics for the peer review channel 2021. Regarding the ‘beneficiary code’ in Infosys, FAME clarified that it is a unique code to avoid double counting where possible, while they explained that they had decided to include a broad definition for the indicator on ‘enabled innovation’ in the WP since stricter rules could be set as relevant in a given national context (e.g. addressing also low level innovation). On annex XYZ, FAME referred to another WP under preparation on the IT requirements for the Infosys set up depending on the finalization of the Infosys structure in the legal supporting act, where they tried to address what is needed by MS procurement-wise as well as the relevant table in annex XYZ.

SE asked for confirmation that not all projects must be reported under common performance indicators and noted that it is not appropriate for beneficiaries to have to set a baseline zero for reporting on operations. FAME explained that, since not all operations MS implement under SOs serve common result indicators identified in the programme, MS have to use ‘another result indicator’ category to report on operations falling outside programme result indicators (e.g. *training operations* should not be reported under the result indicator on jobs created but rather under ‘another result indicator’). On baseline zero, FAME explained that it was a decision to facilitate reporting in Infosys and that, for most indicators, it is unnecessary since the baseline is zero at the level of beneficiary. Noting that the name of RI n. 10 had been modified from ‘health’ to ‘fish health’, SE suggested that the wording be changed to ‘animal health’ in order for the indicator to be used also in aquaculture, while they asked for further clarifications on the different definitions under RI n. 9.1 and n. 9.2 (i.e. protected area). In addition, with reference to RI n. 15, SE asked to clarify what MS should count (i.e. number of vessels or control means) and pointed out that application of the article 19 should not be limited to only part of its provisions (i.e. art 19(2)) as concerns installation. Finally, on Infosys, SE noted that field 12 had changed to ‘number of people’ involved in operations, which might not be relevant for several measures, and asked for clarifications on the financial data to be reported in EUR under field 6, noting that it could be problematic for MS who do not have EUR as national currency to do so. In light of the technical nature of the questions, the Commission suggested that participants send them in writing directly to FAME so

that they could provide a common reply. FAME further noted that the WP should not limit what is provided for in the Regulation but only help operationalize it, explaining that the title of RIs as agreed by co-legislators cannot be changed.

### **FAME presentation on the 2021 Work Programme**

FAME presented the last Work Programme (WP) under their current contract, which ends in December, and explained that they aim to give as much input to MS as possible to ensure a smooth transition to the new period. Main FAME tasks, apart from their own management, consist in: i) developing methodology; ii) reporting; iii) reviewing material; and iv) performing ancillary tasks. Their team is made up by a core unit in Brussels, 12 thematic experts in fisheries, aquaculture, CFP, CLLD, processing, IMP and 23 geographic experts for 27 MS. Over the last 5 years, FAME developed 20 working papers, 10 reports, 140 FAQs and dealt with over 300 *ad hoc* requests, in addition to producing more than 100 stories and videos and organizing a series of workshops and peer reviews sessions. In 2020, they developed i) working papers on MEF and SCOs, which was distributed in December; ii) the FAME Infosys validation tool 2020, accommodating the COVID-19-related changes in the regulation; iii) the EMFF implementation reports 2019; iv) answered to 74 ad-hoc requests, 43 FAQ; and iv) produced 12 stories of the month and 3 videos. In addition, they organized an annual stakeholder meeting online and the peer review channel 2020. A priority for 2021 is to: i) provide support to MS with programming; ii) provide technical inputs to support DG MARE in programme approvals and drafting MEF related regulations; iii) improve reporting under Art 97(1), following improvements in data quality since 2015; and iv) prepare for 2021-2027 monitoring set-up. In addition, MS can expect: i) updated and new working papers following finalization of CPR and EMFAF (MEF, programme template Annex V, CO2 emissions and how to calculate them under the EMFAF, etc.); ii) updated tools related to COVID-19 changes (e.g. Infosys validation tool already been distributed); iii) working paper MEF and Infosys set-up specifications; iv) Annual Stakeholder Meeting 2021; and v) FAME peer review channel 2021 (programme to be finalized as soon as possible also based on preferences by MS). Moreover, FAME will assist MS with the procurement of IT services in preparation for the Infosys database structure, according to provisions under CPR Art 37 (reporting) and Annex XYZ, as well as provide a common reference for data conventions and formats for all MS.

### **Q&A**

DK reported to be already preparing for the post-2020 IT system, asking whether a validation tool was to be expected to have the Regulation operationalized into a practical data structure. Underlying that some elements of the Infosys set-up are simpler, FAME explained that the objective of the WP is to bring clarity with on elements in the XYZ table so to allow IT providers to set-up the database instead of serving as a validation tool as in the previous programming period, although the same logic applies.

SE asked when MS were expected to send the first Infosys report for the next programming period. The Commission answered that the first transmission is due by 31 January 2022.

### **FARNET presentation on the 2021 Work Programme**

FARNET presented the last Work Programme (WP) under their current contract, which ends in December, and illustrated their specific objectives, which consist in: i) providing capacity building for the implementation of Community-Led Local Development (CLLD); disseminating information; iii) exchanging experiences and best practices, and iv) supporting cooperation between the FLAGS. In 2020, they have 4 priorities for support to CLLD, namely: i) the effective completion of the 2014-2020 programming period, focusing support to MS lagging behind with CLLD implementation; ii) setting up CLLD for the next period; iii) contributing to resilient coastal communities for the future; and iv) finalising and streamlining sea basin support, starting last year with Mediterranean and Black Sea FLAGS that had been postponed. In terms of the effective completion of 2014-2020 EMFF CLLD, they will provide support to speed up implementation where still needed, while ensuring that spending is effective, by working in cooperation with DG MARE and bilaterally with MA and NNs, as well as both in the framework of MA meetings and capacity building meetings for FLAGS. Main priority for 2021 is to set up CLLD for the next programming period so that by the end of the current contract MS will have prepared results-oriented and inclusive programmes, taking into consideration the needs of FLAGS on the ground and improving delivery systems for CLLD to make them simple and efficient. Another priority is ensuring timely calls for FLAGS and having them operational in 2022 as they would need to be selected and operational within one year of the adoption of the programme with the delivery system in place and contracts signed so to avoid any funding gaps. Working in close cooperation with FLAGS to make sure they have in place effective teams, skills, capacity and drive is another fundamental element for the successful implementation of CLLD on the ground, on which FARNET will develop a guide that might be useful for MA when it comes to selection criteria.

The thematic priority of 2021 is about sustainable and resilient coastal communities, which stems from COVID-19 and the beginning of the new programming period, in order to encourage FLAGS to think innovatively to reinvent their local community and strengthen their social fabric, keeping their actions in line of the European Green Deal and (EGD) making the most of digital technology to contribute to the transition. The final priority is about mapping sea basin, following the Med & Black Sea FLAGS seminar, held online in November 2020, which will see the Baltic & inland FLAGS seminar being organised online on 24-26 March (after its postponement from 2020) and dealing with better local strategies, Baltic initiatives and funders and cooperation clinics, and the Atlantic & North Sea FLAGS being organised online on 25-28 May on the effective FLAG work (i.e. animation, stakeholder engagement, project selection, which is more explicit under CPR that it is a responsibility of FLAGS), FLAG cooperation and thematic focus groups (i.e. SSCF, marine energy, aquaculture, algae production). Other horizontal actions to be implemented by FARNET concern: i) the organisation of a MA & NN meeting on 27-28 April dealing several topics such as CLLD in the EMFAF and new CPR, CLLD and the EGD and CLLD indicators (+ focus group 20 April), ii) the launch of FLAG selection (+ focus group 21 April); iii) trilateral meetings: MA-FSU-DG MARE; iv) the organisation of another MA & NN meeting in October and v) a final FLAG seminar on resilient coastal communities in November 2021.

FARNET is also involved in ongoing collection of information and analysis, gathers good practices for dissemination, promotes cooperation and works on *ad hoc* reports such as the one published last year on FLAG contribution to the EGD, where they surveyed supported projects corresponding to different areas of the EGD, or the one on FLAG action related to algae, for which they produced a leaflet that was sent to both MA and FLAGS. As for publications, a case study on FLAGS and the Biodiversity Strategy 2030



is being developed on actions that some FLAGs are supporting to contribute to the strategy as well as a guide to help FLAGs assess the quality of projects they support. Other important guides to be developed are the one on effective FLAGs 'Fit for the future' and on 'Resilient Coastal Communities' expected in September/October and November, respectively. Towards the end of the year, there will also be the FARNET Magazine (November), while FARNET Flash goes out monthly.

## **Q&A**

In reply to LV, FARNET explained that the relevant guide will be published when FLAGs are to be selected, so that both existing and new FLAGs can consult it and take advantage of the experiences shared on their website.

Asked whether the 'effective completion of the 2014-2020 programme' is to be considered a mandatory condition for FLAGs selection, FARNET explained that the concept refers to the fact that a good absorption of resources is maximised in view of starting the new period and setting up new FLAGs.

In reply a question on the meaning of the output indicator 'number of operations' applied to Priority 3, FAME clarified that it refers to the number of operations within CLLD strategies as for other priorities, and not to FLAGs strategies in themselves.

## **CPR post-2020: Horizontal Enabling Conditions (HECs) assessment**

### **General introduction on CPR HECs 2021-2027 and their assessment**

The Commission (DG REGIO unit DDG.02 - Coordination of programmes) delivered a general presentation on the 4 Horizontal Enabling Conditions (HECs), which will apply to all funds under the scope of the CPR for 2021-2027 and continue the approach of the general ex-ante conditionalities introduced in the 2014-2020 programming period. Their purpose is to enforce horizontal principles, standards and rules in the management and implementation of all CRP funds, and provide a sufficiently conducive environment for investments. HECs do no longer require a prior applicability test, meaning that they are automatically applicable to all specific objectives of the programmes. They have to be fulfilled at the start of the programming period and must remain fulfilled throughout the whole programming period. MS assess whether HECs are fulfilled when preparing programmes and report it to the Commission in table 12 of their programme. MS may also include a summary of the assessment of the fulfilment of the relevant HECs in their Partnership Agreement, but such a summary is just for information to the Commission.

An enabling condition is fulfilled when all related criteria provided in Annex III to the CPR are met. Compared to 2014, no action plans are required in programmes for unfulfilled conditions. Information required for the fulfilment of HECs does not have to be presented by MS in a single document but can be presented in several as long as these documents are consistent with each other and contain all the necessary information regarding the fulfilment criteria. Sections "justification" and "reference to documents" in table 1 of each programme are not aimed at giving a complete description of the fulfilment but only the main information in a nutshell. If an enabling condition is not fulfilled at the time of approval of a programme, no payment can be made by the

Commission under the specific objective affected. HECs being applicable to all specific objectives, so no payment can be made by the Commission under the entire programme if they are unfulfilled: MS concerned may include the affected expenditure into its payment application but the Commission will not reimburse it until the HEC is fulfilled. In case of an unfulfilled HEC, MS should report to the Commission as soon as they consider it fulfilled, together with a justification. The Commission has 3 months to perform an assessment and inform the MS concerned. When the Commission disagrees with MS, the latter will have the opportunity to present their observations within one month from receiving the Commission's observations.

In order to maintain a favourable investment framework, the enabling conditions should remain monitored and fulfilled by MS throughout the whole programming period: in this respect, the monitoring committee should regularly discuss and examine the fulfilment of HECs. MS should also inform the Commission of any modification that may have an impact on the fulfilment of HECs. Likewise, when the Commission considers that an HEC is no longer fulfilled, they will set out their assessment to MS and will stop reimbursing the expenditure if they conclude that the concerned HEC is indeed unfulfilled.

### **1. Public procurement HEC**

The Commission (DG GROW unit C.2 – Public procurement) presented the HEC on public procurement, an enabling condition based on the requirements of the 4 relevant EU Directives. More specific compared to the corresponding general ex-ante conditionality for 2014-2020, the HEC on public procurement aims to strengthen the requirements made for MS under these directives. MS are indeed already compelled to monitor their entire public procurement system, make sure the related information is available to the public, and report every three years to the Commission on a certain number of documents. It is to note that this HEC only applies to public procurement included in the CPR funds and above the EU procurement threshold. In order to meet the first criteria, MS must ensure that they are arrangements in place to compile effective and reliable data on public procurement procedures; this broad requirement should enable them to collect comprehensive sets of data for every public procurement procedure. Second, MS should ensure that these data meet the minimum content requirements, including information on the quality and intensity of the competition, on the final price after completion of the contract, and on the participation of small and medium-sized enterprises (SMEs) as direct bidders. Third, MS must ensure that this data is monitored and analysed by competent national authorities, meaning they have sufficient staff and knowledge. Fourth, MS must make sure that data on public procurement is made available and understandable to the public. Finally, they must check that any information pointing to suspected bid-rigging situations is communicated to the competent national bodies: this requires cooperation between public procurement and competition authorities. Pursuant to the Directives on public procurement, MS are already compelled to establish such system and report on the results of the monitoring to the Commission. The HEC goes into more technical details and aims to demonstrate the existence of tools and capacity to verify compliance with such requirements (e.g. institutional setup, human and IT resources, effectiveness of monitoring processes, communication of results, etc.). Adequate information reported by MS to the Commission in the framework of article 83(3) of Directive 2014/24/EU can be referred to when proving fulfilment of the HEC on public procurement.

### **2. State aid HEC**

The Commission (DG COMP unit H.1 - Infrastructure and Regional aid) presented the HEC on State aid, which will build on the good results achieved by the corresponding general ex-ante conditionality in the period 2014-2020. In order to meet the fulfilment criteria, MS will have to make sure that MS have tools and capacity to verify compliance with State aid rules, focusing on two points. First, MS should be offered an easy and comprehensive access to information on undertakings in difficulty or under a recovery requirement. Second, MS should have the possibility to access expert advice and guidance on State aid matters. These are very open requirements, as the Commission wish to leave up to MS the choice of how to fulfil the criteria. Whilst there is no one-size-fits-all solution, MS should be able to describe how the fulfilment of these criteria is organised and monitored. The first criteria formalises the need for MS to have access to reliable information to check the status of undertakings in relation to State aid. MS can choose the methodology and tools of their choice to verify that an undertaking is in difficulty or under a recovery requirement. If self-declarations are used to verify the status of undertakings, MS must be in the capacity to make random or systematic checks on the veracity of the self-declaration, as well as to access relevant financial data attached. The purpose of this HEC is therefore not to impose extra requirements on MS but to understand how checks are carried out. In light of this, MS do not have to enter into much details when doing their self-assessment, but rather show how MS are in a position to verify the situation of undertakings. With the second criteria, the Commission wish to understand how the internal administrative system is organised so that MS, in case they need to access advice, guidance and training, can turn to central or local government State aid experts to find support on how to assess the situation of undertakings. The purpose of this criteria is to make sure MS are well supported in the process.

### **3. EU Charter and UNCRPD HECs**

The Commission (DG EMPL unit F.1 - ESF and FEAD: Policy and Legislation) presented the HECs on the EU Charter of Fundamental Rights (EU Charter) and UN Convention on the Rights of Persons with Disabilities (UNCRPD).

#### *a. HEC on EU Charter*

The EU Charter is part of the Treaty of Lisbon and has the same legal value as the treaty itself. Therefore, every MS has the legal obligation to comply with the Charter while implementing EU law, and the management of the funds is no exception. The purpose of this HEC is not to check whether MS comply with the requirement of the Charter as such, but whether the management of the fund is in line with the Charter. The first criteria aims to ensure compliance of the programme and its implementation with the relevant provisions of the Charter. MS are expected to describe the roles and tasks of the different authorities and bodies in ensuring compliance with the Charter, but also the different partners involved. They should provide an explanation on how compliance with the Charter will be checked at all stages of the programme implementation. MS should also explain how the Charter is embedded in the management of the fund during its whole lifecycle, and describe appropriate tools developed to ensure compliance. Useful information in this regard can be found in the [Guidance on ensuring the respect for the Charter of Fundamental Rights of the European Union when implementing the ESIF](#). The second criteria concerns reporting arrangements to the monitoring committee regarding cases of non-compliance and complaints. In this case, MS should provide an explanation on the frequency of the reporting, the scope of the information presented to the monitoring committee, the identification of competent national bodies, and the composition of the monitoring committee.

## *b. HEC on UNCRPD*

The UNCRPD is an international human rights treaty intended to protect the rights and dignity of people with disabilities and ensure they enjoy equal treatment under the law. The HEC on the UNCRPD aims to ensure that persons with disabilities enjoy the same opportunities as other beneficiaries in terms of access to the fund, by ensuring that the setup and management of the programme comply with the requirements of the convention. The first criteria that MS will have to meet in order to fulfil this HEC is to have in place objectives with measurable goals, data collection arrangements and monitoring mechanisms. They should describe the national framework in place to implement the UNCRPD and explain whether it includes well-defined objectives with measurable goals. MS should also explain how the data are collected and how the implementation of the UNCRPD will be monitored throughout the life cycle of the programme. In order to meet the second criteria, Member States will have to demonstrate that arrangements are in place to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of their programme. They are expected to explain the role and tasks of the different authorities and bodies in this regard, as well as to justify the involvement of the right partners. MS should also explain how these arrangements will be reflected in the implementation of the programme at all stages, and demonstrate that appropriate tools were developed to ensure compliance with these requirements. The third criteria relates to reporting arrangements to the monitoring committee on cases of non-compliance or complaints. MS should provide explanation on the frequency of the reporting, the scope of the information presented to the monitoring committee, the identification of competent national bodies, and the composition of the monitoring committee.

## **Q&A**

See annex I for the Commission's written replies to questions on the HEC on State aid.

## **2020 Annual Economic Report**

The Commission (DG MARE unit A.4 - Economic Analysis, Markets and Impact Assessment) presented the main results of the 2020 Annual Economic Report. This report takes stock of the latest economic trends of the EU fishing fleet and feeds into the annual EU Blue Economy report. It uses data collected for a wide variety of fleet segments, fishing gears and vessel length groups under the Data Collection Framework (DCF), EUROSTAT and EUMOFA.

Overall, the report shows that the performance of the fleet has been very positive for the past eleven years. In 2018, the EU fleet registered a net profit of EUR 800 million while in 2019, preliminary data sent by MS (excluding the UK) indicate a net profit of EUR 1.1 billion. The drivers behind this economic improvement are: i) the higher efficiency of fishing activities stemming from reaching MSY; ii) higher average prices for various species, and iii) lower fuel costs. It is also worth noting that the fleet has improved its fuel efficiency by 20% from 2008 to 2018, thereby reducing its carbon footprint. A key lesson from the report is that when fishing stocks that are at good conservation status (fished at MSY or below), also the economic performance improves. Therefore, the less pressure on the stock, the better the economic performance. However, while more stocks are being fished at MSY at EU level, some regions of the Mediterranean and Black Sea

are still lagging behind in terms of conservation, leading to a stagnation of the economic performance of the concerned fleets segments.

Preliminary data collected for 2020 shows that the COVID-19 pandemic has had great impacts on the economic performance of the EU fishing fleet. In 2020, the EU fleet witnessed a reduction of EUR 1.1 billion in landed value and of EUR 300 million in net profits compared to 2019. Projections for 2020 therefore show a contraction back to 2018 levels due to the effects of the crisis. Despite the impacts of the COVID-19 pandemic, the EU fleet overall is projected to be profitable, with a net profit margin of 14% in 2020, thus highlighting the resilience of the fleet in the face of the crisis. The report also shows that 20% of the EU fleet segments registered net losses, a majority of them being small-scale coastal fleets which depend on overexploited stocks or suffer from structural problems. Other small-scale coastal fleets were profitable but saw their economic performance stagnating or improving in a limited way. The report highlights stark differences between sea basins, with the Baltic and the Black Sea being the areas with the lowest economic performance, mirroring the bad conservation status of stocks in these sea basins. EU-wide, employment in fishing activities also continued to decline.

The EMFF served as a useful tool for public support. Fully functional producer organisations (POs) helped the sector maintain a good economic performance despite COVID-19. Although support is no longer compulsory under the EMFAF, Member States are therefore invited to keep providing POs with adequate financing for the development of their Production and Marketing Plans (PMPs).

## **The new EMFAF 2021-2027 – secondary legislation**

### **1. Implementing act on financial corrections**

The Commission (DG MARE unit D3 – CFP and Structural Support, Policy development and coordination) presented the suggested approach to the new implementing act of financial corrections. The EMFAF, as agreed by the co-legislators, empowers the Commission to adopt an implementing act on the criteria for establishing the level of financial corrections and applying flat rate financial corrections to support granted under the EMFAF when MS do not comply with CFP rules. This implementing act goes hand in hand with the future implementing act defining the cases of non-compliance by MS to CFP rules as it associates, for each type of non-compliance, a corresponding range of flat rate for applying financial corrections. The intention is to carry over the provisions of the current regulation. However, since new cases were added to the list of non-compliance, new ranges of flat rates for these cases must be established.

When cases of non-compliance occur, the Commission may decide to interrupt the payment deadline. If MS concerned does not take adequate measure to fix the situation during the interruption of the payment deadline, the case of non-compliance becomes a case of serious non-compliance and the Commission may decide to suspend the payment deadline. If during the suspension of the payment deadline, the MS fails to demonstrate that they have taken effective remedial actions, the regulation provides the possibility for the Commission to apply a financial correction to the support granted under the EMFAF. Flat rates of correction are applied only where it is not possible to quantify precisely the amount of expenditure linked to the non-compliance with the CFP rules by MS. The Commission explained that, in case of financial corrections, the Commission would cancel the Union contribution to the specific objective, or part of the specific objective,

linked to the case of non-compliance. Finally, it was noted that to date there have not been any cases of financial correction.

The four criteria for determining the ranges of flat rates of financial correction would stay the same as those under the current EMFF, namely: 1) the significance of the potential prejudice to the marine biological resources resulting from the non-compliance; 2) the frequency of the non-compliance; 3) the duration of the non-compliance; and 4) the remedial actions taken by MS. Using these criteria, the Commission will be able to assess which flat rate of financial correction it should apply within the ranges of flat rates specified in Annex I to the implementing act. The more serious the situation is, the higher the flat rate. There are two circumstances where a flat rate of 100% can be applied. First, when the non-compliance is so fundamental, frequent and widespread that it puts at risk the legality of actions of MS or the regularity of the financing of the CFP. Second, when there is deliberate negligence by MS with regard to remedial actions. Pursuant to the CPR, MS may reuse the amounts concerns when it agrees on the financial correction before the Commission adopts its decision, but not for the same operation.

## **Q&A**

*See annex I for written replies of OM to questions on the IA on financial corrections.*

EE asked the Commission whether there is a document showing the links between cases of non-compliance and relevant specific objectives (or parts thereof) in the EMFAF. The Commission replied that there is no such document, adding that MS are heard before the application of any financial corrections. MS have the opportunity to demonstrate within two months that the actual amount that should be recovered is lower than the assessment made by the Commission. In reply to a second question from EE, the Commission confirmed that the base for calculating the financial correction is the expenditure declared for the specific objective (or part thereof) linked to the case of non-compliance.

ES asked whether it was possible to have more time to reflect on the proposal before it is voted in the Committee. The Commission confirmed that documents will be shared a week ahead of the Committee, making it possible for MS to examine the documents before they are voted on.

DK asked if a second version of the fiche was to be discussed in the Expert Group before it is discussed in the Committee. The Commission confirmed that it will go directly for a first discussion at Committee, since no major changes are introduced compared to the previous period.

BE asked the Commission to explain the different steps of the procedure, from triggering the non-compliance to applying the financial correction, and whether all this was automatic. The Commission clarified that financial corrections can only be applied once funds have been suspended. Moving from one step of the procedure to another is not automatic.

## **2. Implementing act on additional costs for Outermost Regions**

The EMFAF, as agreed by the co-legislators, empowers the Commission to adopt delegated acts laying down the criteria for the calculation of the additional costs resulting from the specific situation of outermost regions. The Commission (DG MARE unit D3 – CFP and Structural Support, Policy development and coordination) presented the approach for the new act, for which no major changes are foreseen compared to the

current period. An explanatory fiche distributed to the Member States was discussed to collect their first views.

The support to the compensation of additional costs in outermost regions involved in the fishing, farming, processing and marketing of fisheries and aquaculture products is a key element of the specific treatment of the outermost regions under the EMAF. Although this type of support was already provided under the EMFF, changes will be introduced compared to the previous scheme. In this regard, it will no longer require compensations plans. Rather, the compensation will be integrated in the new action plan for outermost regions, which is part of the programme itself. The Commission is empowered to adopt a delegated act to establish the criteria for calculating these additional costs: in this respect, the intention of the Commission is to carry over the principles of the corresponding delegated act for the period 2014-2020. For each specific outermost region, MS concerned will have to describe the main features of the compensation and indicate the corresponding financial allocation in the action plan (appendix 3 of the programme template). In addition, they must describe in the action plan the methodology for calculating the compensation.

A specific article of the future EMFAF regulation will provide that any compensation for additional costs must be a simplified cost option (SCO) as defined in the CPR. This delegated act does not prescribe a methodology but rather sets common criteria for calculating the additional costs, as well as provides for a common framework aimed at making sure the methodology across MS is consistent. It will therefore frame the methodology that MS will indicate in their action plan. The Commission does not expect MS to go into the same level of details as for the compensations plans when drafting their action plan; instead, they should indicate the main features of the compensation and the methodology, including all operational details and eligibility rules. This will allow for some flexibility in the course of the implementation of the programmes.

To open the floor for discussion, MS were asked whether they agreed with carrying over the principles of the previous delegated act.

## **Q&A**

ES informed the Commission that they will check the suggested approach with colleagues from the Canary Islands. They expect no major issues to be raised, as they already started working on the basis of the previous act.

Replying to a question from EE, the Commission clarified that SCOs in appendix 1 of Annex V of the CPR differ from those used to compensate additional costs for outermost regions. Therefore, the methodology for calculating additional costs does not need to be included in appendix 1 but only in the action plan.

### **3. Implementing act on the measurement of CO<sub>2</sub> emissions of engines**

The EMFAF, as agreed by the co-legislators, foresees in its Article 16a support for the replacement or modernisation of engines under the condition that the new or modernised engine for a vessel between 12 and 24 meters emits 20% less CO<sub>2</sub> compared to the current engine. The Commission is empowered to adopt an implementing act for specifying details of the methodology for determining the reduction of emissions from engines. The Commission (DG MARE unit D3 – CFP and Structural Support, Policy development and coordination) presented its suggested approach to this new act to collect first views from MS experts.

The first part of the empowerment given to the Commission is to specify which technologies can be considered as energy efficient. The Commission presented a first list of those technologies. The second part of the empowerment is to further specify the notion of “normal fishing effort”, since the EMFAF indicates that the reduction of 20% is considered to be met when MS measure that the new engine emits 20% less CO<sub>2</sub> or uses 20% less fuel than the engine being replaced under the normal fishing effort of the vessel concerned. In order to define what the “normal fishing effort” is, the Commission therefore suggests that MS define this “normal fishing effort” on the basis of the characteristics and fishing pattern of the fishing vessel using the average of ten typical fishing trips carried out during the three calendar years preceding the application for support, taking due account of the fishing techniques used and the time spent at sea.

MS were invited to comment on the suggested approach before a first draft of the implementing act is submitted to them in view of the next EMFF Expert Group.

### **Q&A**

EE asked whether “physical verification” in the meaning of the specific article of the EMFF means “on-the-spot” verification in the meaning of Article 68 paragraph 2 of the CPR. The Commission confirmed that the verification should take place on the spot, meaning that MS must send someone physically to check compliance with the provisions of Article 16a, as this is a horizontal requirement for all engine replacements.

IE pointed out that certified information from the manufacturer that the engine emits less CO<sub>2</sub> does not necessarily lead to a reduction in CO<sub>2</sub> emissions or fuel consumption in practice. IE also stressed that energy-efficient technologies listed in the fiche are more suitable to large vessels rather than small-scale fishing vessels, and that the availability of biofuels could affect the uptake of such technologies. According to IE, the methodology for measuring normal fishing efforts is open to interpretation as it could result in important disparities in results obtained. The Commission referred to the information provided in type approvals or product certificates as the easiest way to allow comparison between the performance of the existing and the new engines. Whilst other factors may influence the energy consumption by fishing vessels, Article 16a of the EMFAF only focuses on the energy efficiency obtained by the engine replacement/modernisation. The 10 fishing-trip sample seems the easiest way to make such comparison possible. Other types of energy efficient technologies can also be used to meet the requirement laid down in the EMFAF Article, such as latest generation diesel engines, including those used in hybrid configurations.

Replying to a question from SE, the Commission clarified that new engines using energy-efficient technologies listed in the fiche would not be exempted from the 20% CO<sub>2</sub> reduction verification. The EMFAF Article provides that if the engine replaced is at least 7 year old and the new engine uses one of the energy-efficient technologies listed, the 20% reduction in CO<sub>2</sub> emissions is deemed automatically reached. However, this does not exempt the MS from physical verification, which is a horizontal requirement applying to all engine replacements/modernisations.

EE asked if MS could calculate fuel consumption of fishing vessels based on data collected under the Data Collection Framework (DCF). The Commission replied that this data is not granular enough for the purpose of calculating the reduction in CO<sub>2</sub> emissions, as it does not look at the specific behaviour of each vessel depending on the fisheries, fishing grounds, gear type used, etc. Data collected under the DCF would therefore not



be refined enough to determine whether the replacement of the engine will lead to sufficient reduction in CO<sub>2</sub> emissions.

Member States were asked to provide their comments on the 3 fiches by Friday 5 March COB.

### **Annex**

Commission's written answers to MS questions.

### **Conclusions/recommendations/opinions**

There were no points submitted for the approval of the Expert Group and therefore there was no voting at the meeting.

### **Next steps**

N/A.

### **Next meeting**

The next EMFF expert group will take place on 21 April 2021.

### **List of participants**

#### Experts from:

Austria  
Belgium  
Bulgaria  
Croatia  
Cyprus  
Czechia  
Denmark  
Estonia  
Finland  
France  
Germany  
Greece  
Hungary  
Ireland  
Italy  
Latvia  
Lithuania  
Malta  
Netherlands  
Poland

Portugal  
Romania  
Slovakia  
Slovenia  
Spain  
Sweden

Observers from:

EUROPEAN PARLIAMENT  
EUROPEAN FISHERIES CONTROL AGENCY\*EFCA

Lena ANDERSSON PENCH

Enclosure:           Annex: Commission's written answers to MS questions

**Annex**  
Commission's **written answers to MS questions**

**CPR post-2020: Horizontal Enabling Conditions (HECs) assessment**

- 1. (EE) The support granted to fisheries under EMFAF is exempted from state aid rules. Does this mean that state aid rules with regard of undertakings in difficulties do not apply to such support?**

Support to fisheries is not always exempted from SA rules, as some support is allowed under GBER. So from this point of view I would say SA rules with regards to firms in difficulties apply (including then fulfilment of the enabling condition). However, it is exact that the use of EMFAF under shared management to fund operations supporting undertakings in the fishery and aquaculture will be in the scope of article 42. The SA enabling condition is therefore not relevant for these operations.

- 2. (ES) In *de minimis* regulation for fisheries, there is no reference to this requirement on undertaking in difficulties. That also means that is it possible not check this requirement when the support is made by minimis?**

The general *de minimis* regulation does not exclude firms in difficulty and it is also the case in fisheries. However the fulfilment of the SA enabling condition has to be assessed at the level of OP, not of support instruments. In case of support to the fishery and aquaculture sectors outside the EMFAF, i.e. outside the scope of article 42, the condition should be fulfilled.

- 3. (NL) How should COVID-19 be included in considerations about the State Aid HEC?**

The Commission clarified that COVID-19 related Temporary Framework is in place until 31 December 2021. Managing authorities may use it as a legal base for the funding of their operations (provided this is under a notified and approved scheme) until that date. The HEC on State Aid aims to make sure that MAs have access to information on the status of undertakings, which is not correlated to the current situation.

**The new EMFAF 2021-2027 – secondary legislation**

**Implementing act on financial corrections**

- 1. (SE) Possible improvement: In relation to the Covid-19 pandemic, exemptions for *force majeure* should be considered for this implementing regulation for non-compliance.**

To the question raised by SE concerning COVID-19 and the fact that it could be considered as a case of “force majeure” for which financial corrections could not be applied, the Commission acknowledges that there may be circumstances resulting from

the COVID-19 outbreak which qualify as a force majeure event and thus constitute a valid justification for the incapacity to comply with an obligation.

However, the COVID-19 outbreak shall not be necessarily regarded as a force majeure event in all cases. Instead, a careful analysis will have to be conducted in assessing the compliance of Member States with their obligations in the context of the COVID-19. A case-by-case assessment is therefore inevitable to establish whether flexibility can be exercised.

## **Implementing act on the measurement of CO<sub>2</sub> emissions of engines**

### **A. Physical verification (16a.3)**

#### **1. (NL, SI, BE) What should the physical verification consist of and who should carry it out?**

The regulation does not state explicitly the purpose of the verification but we understand that it should check the fulfilment of the conditions of the Article (not only on CO<sub>2</sub> reduction but also on power, i.e. 16a 2.c and 2.d). Physical verification can but should not mean monitoring during trips at sea. Member States should be familiar with the concept of physical verification of engines since this is already foreseen in the Control regulation, Article 41.2.

### **B. Certification (16a.5)**

#### **1. (IE) While the certified information from the manufacturer may demonstrate less CO<sub>2</sub> emissions or less fuel consumption this does not mean that this will lead to reduce CO<sub>2</sub> or fuel consumption. A vessel could fit a new engine and legally fish more, leading to the same level of emissions/fuel.**

This is a general issue not specific to fisheries, e.g. nothing prevents new trucks equipped with the most recent energy-efficient engines to carry more freight and to make longer distances. However, the legal framework will still limit the expansion of activities. In the case of fishing for instance, where quota are applicable, this will put boundaries to the increase of the fishing activity of the vessel concerned. As regards the engine power applied in practice it is also important to underline that the certification carried out by the Member State based on Article 40 of the control regulation in the case of engines >120kW will ensure that the new engine will not be capable of developing more maximum continuous engine power than stated in the engine certificate issued.

#### **2. (SI) In the case where no technical specifications are available in accordance with point 2d) point 5a) could be used. Does this mean that where vessels up to 24 metres which want to replace their engines do not have such technical specifications for engine can use as a criterion in order to prove the new engine being in accordance with Article only the age difference?**

The double requirement set out in Article 16a paragraph 5 point a of the second subparagraph will continue to apply: i.e. the new engine needs to use an energy efficient technology (as will be defined in the implementing act) and the engine that will be replaced should be at least 7 years old.

### **C. Energy efficient technologies**

- 1. (NL) The list of energy efficient technologies in the fiche does not seem to be an exhaustive list. A list of energy efficient technologies that are applied here should be defined, or a checklist to test whether or not something is an energy efficient technology. Are there specific criteria at the basis of which these energy efficient technologies and potential future technologies can be deemed energy efficient?**

These technologies have been identified on the basis of the work already carried out and presented by the Commission in its Communication on ‘Clean Power for Transport: A European alternative fuels strategy’ (COM (2013) 017). They are also in line with the technologies identified as part of the IMO discussions on the reduction of greenhouse gas (GHG) emissions in shipping.

- 2. (BE) The fiche only mentions fuel types.**

The listed alternative fuel types require different technologies that will de facto lead to less CO<sub>2</sub> emissions.

- 3. (DK) Biofuel is an operational issue and does not necessary result in co2 reduction.**

It is true that the use of biofuel does not result in all cases in CO<sub>2</sub> reduction depending on production methods and the type of feedstock used. Nevertheless biofuel should not be entirely discarded as an alternative to fossil fuels, leading to less CO<sub>2</sub> emissions.

- 4. (NL) Can the fuel types mentioned in the fiche also be seen as a fuel type that emits less CO<sub>2</sub> (if they replace a diesel engine)?**

Yes.

- 5. (EE) It seems that all the examples currently listed in the Fiche fall under Article 16a paragraph 5 point b) and therefore the age difference requirement is not applicable for operations where the new engine uses alternative fuels or propulsion systems. For example, if a vessel diesel engine is replaced with LNG the age difference of engines in point a) is not applicable. Do you confirm our understanding?**

If a diesel engine is replaced with an engine running on a type of fuel which is considered to emit less carbon dioxide (this is for the Member State to determine), Article 16a

paragraph 5 point b of the second subparagraph can be applied, the implementing act does not cover this provision. For the application of Article 16a paragraph 5 point a) of the second subparagraph the double requirement of an energy efficient technology and the age difference needs to be met.

- 6. (IE) Many of the listed technologies are more suited to larger ocean going vessels and where the engine is under constant load, rather than in the case of smaller fishing vessels where the load is changing and the design and space constraints make some of these technologies less applicable.**

The aim is to include a list as complete as possible not excluding any possible future technology or alternative fuel.

- 7. (IE, SI) The scope should not rule out the use of highly efficient diesel engines that are being developed and are available of the market at the moment.**

Highly efficient diesel engines are not out of the scope of Article 16a but would be covered by the certification referred to under paragraphs 5a and 5b.

**D. Methodological elements for the measurement of the reduction in CO2 emissions or in fuel consumption of the new engine compared to the engine being replaced.**

- 1. (IE) The methodology for measuring "normal fishing effort of the vessel concerned" is open to interpretation and measuring over ten fishing trips may lead to disparities in fishing effort. Vessels operate in different ways depending on the fishery and gear deployed. A vessels may participate in different fisheries over the course of a year with different trip lengths Far instance a vessel could operate both in pelagic fisheries with short trip durations (1-2 days) but also in mixed demersal fisheries with longer trip durations (8-10 days). In-shore vessels may work day trips and 10 trips would amount to 10 days fishing in total. Therefore ten trips mayor may not be representative of the fishing effort and this may require further definition for it to be a useful and representative metric.**

Precisely because of the varying operation by the fishing vessels it is proposed not to base the assessment on one single year or one single fishing trip, but to take a representative sample using the information on the operation of the vessel over three years and ten typical fishing trips carried out over these years. In the case of the first example, this would mean that the sample would include a weighted number of pelagic and demersal fishing trips respectively. For the second example, it would indeed mean that for the inshore vessel the average of 10 day trips over a period of three years would be taken as a basis for calculation. The calculations need to be made for each and every individual vessel for which it is envisaged to replace the engine.

**2. (SI) What is a typical fishing trip?**

It will be up to the Member State to determine what can be considered a ‘typical fishing trip’ of the vessel concerned, based on the information of the fishing activities of the vessel over time.

**3. (SI) Should 10 different measurements be made to calculate the average of 10 typical fishing trips?**

Whether one, several or 10 separate measurements are needed, will entirely depend on the variety in activity of the fishing vessel.

**4. (NL) The use of 10 fishing trips is difficult to implement and would not lead to a clear result, considering that every trip is very different. It is also not clear on what basis relevant information could be gathered here. Can we use fuel use? Or do we specifically need data on the CO<sub>2</sub> emissions of these 10 trips? Which specific data needs to be gathered during this normal fishing trip to compare with and (ahead of installing the new engine) determine that the new engine emits 20% less CO<sub>2</sub>?**

See previous replies regarding the ‘typical fishing trip’. It will be up to the Member State to decide whether they carry out the measurement based on fuel consumption or on exhaust emissions. The measurement needs to be carried out during operation of the vessel using its current engine. Based on the technical characteristics of the new/modernized engine compared to the current engine, the reduction in CO<sub>2</sub> emissions or fuel consumption can be estimated. Once installed, these estimations can be checked based on the physical verification referred to in Article 16a.3.

**5. (LV) It seems that nobody would like to wait three years until CO<sub>2</sub> emissions are measured to replace the old engine. It seems also that in case there is a need to measure the parameters of a new engine, it is impossible before the new engine is installed, as it is contrary to the provisions of the Regulation on the eligibility of expenditure.**

See previous reply. Based on the measurements taken with the current engine, estimations can be made for the new/modernised engine. These estimations will need to be checked through the physical verification. This physical verification does not require a measurement of operation of the new/modernized engine during ten typical fishing trips over a period of three years. It will however entail a verification of whether the new/modernised engine as installed and operated on the vessel can be expected to lead to the reduction in CO<sub>2</sub> and fuel consumption as required and estimated.

**6. (LV) We invite to use existing information and data. For example data on fuel consumption in DCF available on the level of vessel groups. They could be used as a benchmark for the fuel consumption of old engine in normal fishing effort. Total CO<sub>2</sub> can be calculated in relation to fuel consumption of the engine.**

Nothing prevents Member States to use existing information and data as a benchmark whenever relevant. However, the CO<sub>2</sub> reduction will concern the new/modernized engine of one specific vessel with its specific fishing effort. As pointed out by several Member States, this fishing effort can be very different from one vessel to another. General data

for vessel groups under the DCF will thus not be sufficient for the measurement of CO<sub>2</sub> reduction for the concerned vessel under Article 16a. The Member State can indeed chose to calculate the CO<sub>2</sub> based upon the fuel consumption, but will need to take into account variable such as the load factor of the engine, hence the requirement to use for the calculation data on the average of ten typical fishing trips over a period of three years.

**7. (LV) The fiche must also indicate which unit of measurement is intended to be applied.**

The unit of measurement is already provided: it is the CO<sub>2</sub> emission or the fuel consumption based on the average of ten typical fishing trips of the vessel concerned by the measure.

**8. (SE) We see no need to establish the vessel's fishing trip in all cases. In particular, if the old and new engine already has the manufacturer's certificate on CO<sub>2</sub> or fuel consumption, there is no reason to carry out the analysis of the vessel's typical fishing trip in addition. With the information already certified we see no need to go any further, putting an additional burden on the Aid managements without justified cause. In the forthcoming EMFAF Regulation, Article 16a does not make any reference to the concept of "normal fishing effort of the vessel", therefore it should not be included now in the delegated act. Therefore we consider at least that in the renewal of engines, when the engine is new, and the 20% reduction is perfectly certified by the manufacturer, it is not necessary to include any additional assessment. In this case, the on-the-spot verification could be the verification of the certificate.**

In case there is a manufacturer's certification for both the old and new engines as indicated in Article 16a. 5 first subparagraph under a and b which allows for the required comparison between the old and the new engine, then there is indeed no need to proceed with a measurement based on the vessel's typical fishing trips.

'Normal fishing effort' is a term used in Article 16a 5 second subparagraph under c, hence a need to define this in the delegated act. 'On the spot' verification should be a physical verification comparable to what is foreseen under 41.2 of the Control regulation.