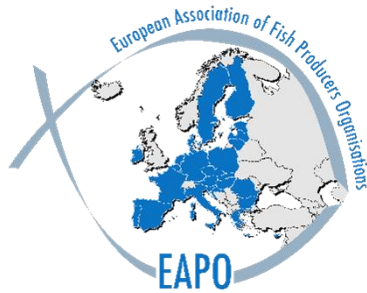


**European Association of Fish Producers Organisations**

**Association Européenne des Organisations de Producteurs dans le secteur de la pêche**



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# Common Fisheries Policy – evaluation EAPO response to the call for evidence

The European Association of Fish Producers Organisations (EAPO) represents 30 POs from 12 EU Member States and was founded in 1980. Every Fish PO recognized by its EU member state can apply for membership of the Association. As Producer Organisations, EAPO members play a key role in the implementation of the Common Fisheries Policy and in promoting the viable and sustainable fishing activities of their members in line with article 2 of the CFP. Following the publication of the sustainable fisheries package, the Commission had vowed to implement a series of initiatives to drive the future of EU fisheries. Among these projects, EAPO took part in the Fishers of the Future initiative, is part of the Energy Transition Partnership, has joined the STECF's Expert Working Group on sustainability indicators etc.

In that context, EAPO also welcomes the European Commission's initiative to organise a Common Fisheries Policy evaluation for consideration by the next Commissioner with fisheries competence. This evaluation comes at a critical juncture and offers a valuable opportunity to assess the policy's performance over the past decade and its capacity to address emerging geopolitical, environmental, and socio-economic challenges the European fishing sector is faced with at present.

## Part III – Measures for the Conservation and sustainable exploitation of marine biological resources

### Multiannual plans - Article 9, 10

Multiannual plans have been at the core of the reform of the Common Fisheries Policy since 2013. In 2023, following the issues around the use of article 4.6 of the Baltic Sea Multiannual Plan, the Commission suggested a revision of this article. EAPO welcomed this suggestion, underlining that the other provisions of the Multiannual plans guaranteed the rebuilding of stocks. Namely, article 5 provides a list of measures to do so.

Moreover, in the recent year, the Commission has used Multiannual Plans to suggest bycatch TAC for stocks that ICES had advised zero catch. For these stocks, EAPO members have underlined that there is no need for such a provision (e.g. Central Baltic Herring in 2024 and Western horse mackerel in 2022) as the TAC already limits fishing mortality on the stock. In the absence of any proper definition of what constitutes a target and bycatch species the bycatch creates a control and enforcement issue. Moreover, in the case of ITQs, Member States have found it challenging to adapt a bycatch approach to their fishing opportunities allocation.

Additionally, Multiannual Plans include provision to allow the Council to set fishing opportunities in line with  $F_{MSY}$ . However, this provision has rarely, if ever, been used by the Commission and it remains unclear what conditions it would ever be applied.

Finally, in the Baltic Sea, scientific evidence provided proof of negative interspecific interactions between cod eggs and sprat, but this was disregarded due to not being an ICES publication. EAPO members wish to remind the Commission that ICES is not the only provider of scientific articles.

### Emergency measures Article 11, 12 & 13

In January 2024, France invoked article 13 to implement emergency measures to close the Bay of Biscay to vessels over 8 meters using pelagic trawlers (OTM, PTM), demersal pair trawlers (PTB), gillnetters trammel (GTR), set nets (GNS) and purse seines (PS).

This article's use requires consultation that is requested not to be shorter than a month. In the case of the closures in the Bay of Biscay, the consultation was launched on 3 January 2024, for the closures to enter into force on 22 of January, less than 20 days later. When comparing this to the text of law, the use of article 13 in this case could be seen as unlawful.

This is even more the case when the Advisory Councils are to be part of the consultation with a similar delay. We would request for the text of article 13 be analysed to ensure clarity for fishers as the wording leaves room for a similar situation, where closures are introduced very quickly with little or no notice for fishers, to occur in the years to come.

## Landing Obligation – Article 14, 15

As underlined in the Commission’s staff working document, the objective of the Landing Obligations is an obligation to “avoid wasting resources through discards by encouraging fishers to fish more selectively and actively avoid unwanted catches. For that purpose, it requires all catches to be landed”.

EAPO members remain committed to avoid, minimize, and eliminate unwanted catches. Avoidance and minimization are fundamental strategies to meet the Landing Obligation’s goals. These efforts are supported by a set of derogations for species with high survival rates and for fishing gears with low rates of unwanted catches. Therefore, we support the 2023 delegated regulations that permit de minimis and survivability exemptions, even though the process for granting such exemptions remains overly bureaucratic with onerous requirements for justifying such exemptions. Additionally, EAPO notes that the initial document underlines the importance of recording discards to allow ICES to better estimate the fishing mortality when providing their yearly advice on fishing opportunities. However, given that these discards cannot be used for human consumption under the CFP, avoiding waste is in effect not permitted. EAPO members believe that the recording objective should be the focus of the Landing Obligation.

EAPO members welcome the end of the infringement procedures against France, Spain, the Netherlands, Belgium and Ireland. EAPO members would like to underline that despite their best efforts, the implementation of the Landing Obligation remain extremely difficult.

The United Kingdom who has played an active role in including the Landing Obligation in the 2013 CFP is seeking to reform it as proven by DEFRA’s consultation on the discard reform<sup>1</sup>. EAPO members recommend the Commission undertakes a similar exercise to discuss the reform of the Landing Obligation in a similar fashion to the UK, and focus on implementing through a recording obligation.

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<sup>1</sup> <https://www.gov.uk/government/consultations/discards-reform>

## Fishing opportunities and allocation - Article 16 & 17

Regarding fishing opportunities, they are the bread and butter of the work of Producer Organisations as represented by EAPO. The use of article 17 has been at the centre of a series of debates, underlining that it is not used by Member States in allocating fishing opportunities.

Fishers depend on fishing opportunities allocation for their turnover, meaning that any change in fishing opportunities directly affects their economic situation. In terms of the allocation of fishing opportunities, EAPO suggests the introduction of a system in which a multiannual TAC is set using an average of the past year.

As underlined in a previous discussion, fishing opportunities have been decreasing over the past 20 years, due to a reduction in fishing pressure and a lack of rebuilding of EU stocks.

## Regionalisation – Article 18, 19, 20

The 2013 CFP introduced a new opportunity to include regionalisation in the regulation. This article allows Member States to draft joint recommendations when they have a direct management interest. The joint recommendation is then sent to the Advisory Councils and to the Commission and can be adopted via delegated or implementing act. However, following from Brexit and in the context of agreeing fishing opportunities with the UK for jointly managed stocks, given the EU now negotiates on behalf of the Member States, regionalisation as envisaged in the CFP is no longer fit for purpose. Neither the Member States regional groups or the Advisory Councils and other industry stakeholders have any meaningful role in the decision-making process around management measures and setting fishing opportunities, The Member States and ACs are very much pressurized into “rubber-stamping” agreements made between the UK and EU without any real recourse to input into these measures.

## Part IV - Management of Fishing Capacity

Under this part, the CFP provides elements of regulation on ensuring that fishing capacity is not above what can be sustainable in terms of fishing opportunities.

This article requires Member States to ensure that balance exists between fishing capacity and fishing opportunities. To do so, a yearly report is published by each Member States to understand the state of the fleet and capacity versus the state of the fishing opportunities based on data from previous years as well as the effectiveness of Action Plans introduced by Member States.

While we welcome this initiative to manage fishing capacity, this approach considers that only fisheries impact the marine environment and that fisheries are the sole driver of fish stock depletion. Recent studies have shown that other maritime activities impact the marine environment, and these activities should also be considered in calculating balance capacity.

When looking at the recent communication from the Commission: “Sustainable fishing in the EU: state of play and orientations for 2025”, are listed “eutrophication from nutrient inputs and persistently high levels of contaminant” when discussing the state of the Baltic Sea. This observation can be shared across EU seas. In the North Sea, the impact of ORE development on primary production is documented and has been discussed in a scientific paper<sup>2</sup>.

When it comes to fishing capacity, the evaluation needs to investigate the impact of limiting fishing capacity on the state of stocks. This has been a discussion for quite some time on the fact that for single species fisheries, under quota, the need to have a double limiting system seems to be unnecessary. Moreover, it negatively affects the environmental and social efficiency of the fishing fleet.

Additionally, the Commission’s communication focuses on the misreporting engine power of fishing vessels by Member States as a key contributor to overexploitation. However, there is no evidence to support such an assertion and in fact as most vessels are strictly limited in the quota they can catch, controlling engine power is irrelevant to controlling fishing mortality. Regardless of the power of a vessel, the operator is strictly limited to what can be caught.

EAPO members request that a pilot project be carried out by the Commission to assess the effectiveness of limiting the fishing capacity for under quota single species.

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<sup>2</sup> Offshore wind farms are projected to impact primary production and bottom water deoxygenation in the North Sea: <https://www.nature.com/articles/s43247-022-00625-0>

## Part VIII - Common Market Organisation

In the Commission's communication on the implementation of the Common Market Organisation, the role of Producer Organisations was highlighted, stating *"POs form the backbone of the fishery [...] sector."*

Regarding Production and Marketing Plans, Article 28 of the CMO states that Producer Organisations may receive funding for the "preparation and implementation of production and marketing plans", the funds derived from EMFF and more recently from EMFAF. With the switch to EMFAF, the optional nature of PMP funding highlights the existing imbalance, resulting in a lack of a level playing field. Following an internal EAPO survey, we identified high discrepancies. With some POs receiving more than 20 times what other POs receive. Seeing the key role that POs play in implementing the CFP, in providing fishers with outlets for their products, we suggest that the "Evaluation of the CFP" investigates the differences in funding and in the implementation of Article 13 across Member States.

The Common Market Organisation sets the prerogatives for the POs regarding fisheries management. However, since the entry into force of the 2013 CFP, Producer Organisations' competences have expanded beyond market and production management. European POs deal with maritime spatial planning, marketing, improvement of fishing practices to lower the impact, research projects to improve knowledge of the stocks, animal welfare etc. Seeing the increase of competence, EAPO members would be more than ready to see them included in the CFP, with a respective increase in the budget allocated to PMPs.

The report also underlines a lack of representation for small scale fishers in Producer Organisations. EAPO members are POs from across the EU. Some members are métier focused, regrouping fishers targeting similar species and having similar vessels while others are mixed POs with a local anchor. Either way, the Producer Organisations follow a democratic and transparent process for decision-making. A recent study was launched by the Commission to assess the democratic functioning of POs and understand the reasons behind the lack of small-scale POs. EAPO members are at the disposal of the Commission if input from POs is required for the case studies.

## Part IX – Control and Enforcement

Regarding part IX, EAPO members provided their comments on the newly revised Control Regulation when it was under negotiation by the European Parliament and the Council. Some issues remain regarding the approach to control and in particular regarding de-icing and weighing.

For example, when landing in another Member States, operators are required to de-ice the fish for weighing. De-icing negatively affects the shelf life of the product and has an impact on the price of the product. Between the requirement to weigh on landing and to de-ice the fish and the requirement on officials to prevent degradation, no hierarchy exists, leading to an uneven application between Member States. This is why EAPO members have been requesting a harmonised approach from the Commission on weighing and de-icing.

Regarding the approach to control, EAPO members have underlined the issues with the implementation of the Landing Obligation. However, one of the responses to force the implementation was to include REM provisions in the revised Control Regulation. Increasing enforcement and control will not make an unimplementable article more workable. EAPO members wish to underline that in the future, control should not be used to enforce unenforceable regulations.

Finally, EAPO would like to draw the Commission's attention to the onerous conditions being put on Member States in relation to allowing them to use the derogation regarding margin of tolerance. The conditions included in the recently published implementing act make it almost impossible for Member States to designate ports and avail of the derogation. It would appear to EAPO that the intention is clearly to prevent Member States from using this derogation.

## Part X – Financial Instruments

Regarding the financial instruments included in the CFP (EMFF, EMFAF), EAPO members are satisfied with the amounts allocated to fisheries. Some improvements could be made to ensure coherence in the regulations.

One of the main tools available to the Member States to manage capacity is the use of temporary cessations and decommissioning schemes. EAPO members have underlined in a series of letters the issues in accessing the plans when the fishers have a series of penalty points. The Commission has underlined that only serious infringements led to penalty points, but as control is of the competence of the Member States, fishers are faced with an uneven level playing field on penalty points. EAPO members request the Commission clarify its' position on closing access to decommissioning schemes to penalty point fishers. Ultimately this will lead to them staying in the industry rather than leaving fisheries, which seems to conflict with the purpose of decommissioning in the first place. In a certain sense, the only fishers left in the fishery could end up being the ones with penalty points.

## Part XI – Advisory Councils

EAPO members are part of the European Advisory Councils and EAPO is a founding member of the Market Advisory Council. The functioning of the Advisory Councils is satisfactory, the skills of the AC staff are of high quality as is the advice produced.

However, some improvements could be made to the coordination with the work of the Member States Expert group as well as with the Commission. There is still uncertainty regarding how the advice and recommendations from the Advisory Councils (ACs) are considered within the Commission. For instance, the PelAC developed a management plan for western horse mackerel, proposing a set of measures to rebuild the stock. However, the reasons why this plan has not been utilized remain unclear to EAPO members.

Similar issues are faced by the ACs in terms of the regionalisation process as well as for emergency measures set up by the Member States. The existing Common Fisheries Policy gives the Advisory Councils a consulting role, but the advice can and frequently is disregarded without any consequence or explanation.



## MSY

In the 2013 CFP, the Commission implemented the MSY approach to fisheries management. This implementation has led to the reduction of fishing pressure across the EU but has also led to a steady reduction of fishing opportunities for many stocks. The implementation of the MSY approach has also been implemented at the same time as the Landing Obligation creating a series of issues when it comes to managing mixed fisheries. In most respects the MSY and Landing Obligation conflict with each other.

The obligation to set fishing opportunities in line with MSY for all mixed stocks created choke species. There are only a few demersal fisheries which target and catch only one species. Most of the vessels target several species in a mixture that depends on fishing season and area. The mixture in the catches is also very dependent on the abundance of the different species and hence – ideally – on the quotas available. A conflict occurs in cases where the TAC for one species is increasing synchronously with the TAC for another species decreasing. If it was only a matter of protecting the weakest of the stocks, it would be a simple matter, although it could lead to underutilization of healthy stocks for no good reason.

There are multiple other issues to incorporate in the management of fisheries: the three pillars of sustainability as defined by the 2013 CFP. If underutilization of fish resources leads to the increase of imports from less sustainable countries, then we tend to favour less sustainable fish rather than EU produced and managed fish.

A second issue comes from the quality of data available to ICES when setting fishing opportunities. ICES uses the average recruitment over the last available years. This can lead to a revision of fishing opportunities when actual recruitment is lower, but also gives the impression that the sector is not fishing in line with FMSY when the best available scientific advice shows that it does.

This issue around recruitment is also linked to the ability of the surveys to “catch” the juveniles every year. For some stocks like saithe and pollack, where recruitment is thought to take place in areas not covered by scientific surveys, assessments are even more dependent on assumptions about recruitment than it is for other stocks. This makes the stock vulnerable to revisions and extremely difficult for scientists to give realistic advice on sustainable catch levels.

It is frequently the case that a TAC which at the time was set in line with scientific advice, is deemed unsustainable the following year by the same system which advised the TAC originally, simply because the newest assessment indicates a lower abundance than that

assessed the previous year. These mistakes and revisions damage the trust fishers and managers have in scientific advice.

All this adds up to an impossible task, if the ambition is to fish every stock at  $F_{MSY}$  every year. However, this need not be so. If management takes consideration of these difficulties and accepts that the target is to be considered on a broader time scale. i.e. that the target is met on average over the years – there is much to be gained by everybody and more stability in the system. More stability in setting fishing opportunities would benefit fishers as well as markets.

A first and important step in the right direction would be to agree that biology is not the only dimension that needs to be met and that there are legitimate concerns about the sustenance of local communities, economies and food production. Once this is agreed on, a second step would be to accept that nature is variable and that the stocks do not all react to the same stimuli in the same way and at the same time. Just like climate is the average of the weather over a period, it must be appreciated, that condition of the fish resources is the average of the status of many stocks over a longer period. The ambition to manage all stocks with MSY does not have to apply every year, if the stocks increase over time or remain on a high level.

The fishing industry has repeatedly argued for a broader understanding of MSY as well and much more use of the  $F_{MSY}$  ranges allowed for under the CFP and contained in the multiannual plans. Simply using a theoretical point estimate of  $F_{MSY}$  as the basis for setting fishing opportunities ignores the reality of commercial fishing. A band of +/- 20% around the theoretical mean seems to be relevant, in a management scenario where ICES revises the assessment of biomass with up to 50% from year to year.

When scientific assessments show that a stock has increased, it makes no sense at all to reduce the TAC, just because a stock revision has changed the perception of stocks size. More focus should be given to direction of development, so increasing stocks should lead to increases in TAC if they are above MSY Btrigger and a stable TAC if they are lower, as shown in the table below.

It is assumed that the observed  $F$  is below  $F_{pa}$ , which is considered to be an unconditional maximum limit unless it is approached from above – in line with the “steps-in-the-right-direction” approach mentioned above.

	SSB < Blim	Blim < SSB < MSYBtrigger	MSYBtrigger < SSB
Stock increasing	TAC is kept stable	TAC increased, but F reduced	TAC increased to Fmsy
Stock stable	TAC reduced	TAC stable	TAC set to Fmsy
Stock decreasing	TAC reduced	TAC reduced	TAC reduced

If the stock is above MSY Btrigger, but the target (defined as Fmsy) is not yet reached, it would seem unnecessary to reduce the TAC – as long as the predicted growth would bring the stock closer to the target. The management response could either be a roll over TAC or an increase that would still correspond to a reduced F.

Another approach could be to set the TAC at a level to be decided in cooperation with scientists, and then keep it at that level until F exceeds  $F_{pa}$ , at which time it should be reduced to Fmsy. If the stock grows so that F falls below the lower range, the TAC is increased to Fmsy.

## CFP evaluation: scope, methodology and consultation

### Political context, purpose and scope

It is important to emphasize the combination of the objectives of the Common Fisheries Policy in terms of environmental, social and economic sustainability. It is essential that the scope of the assessment takes account of all components by relying in a balanced way on the four objectives listed: (1) preserving the long-term sustainability of fisheries, (2) contributing to the protection of the marine environment, (3) contributing to the security of food supply and (4) ensuring a fair standard of living for communities.

The list of measures highlighted by the European Commission with regard to the 2013 reform of the CFP thus appears limited in that it only partially integrates economic and social issues.

The deployment of the CFP has also had to contend with external constraints (the United Kingdom's withdrawal from the European Union, the consequences of the war in Ukraine) and the European Union's cross-cutting guidelines (Green Deal) which have led to changes in the objectives assigned to European fisheries. The reference to the measures of the "Fisheries and Oceans Package" is one illustration of this, because beyond the fisheries management policy, the protection of marine ecosystems, the energy transition of the sector and higher trade standards must be considered.

Brexit has been one of the major factors of change in recent years. On the eve of the revision of the Trade and Cooperation Agreement, the evaluation must consider this new geopolitical context both from the point of view of the direct consequences on the sovereignty of European fisheries, as well as the achievement of environmental objectives as the waters of the United Kingdom that occupy a central place in the biogeographical basins jointly managed with the European Union. The quota transfers under Brexit have had a profound effect on the fishing industries in many Member States and brought into question their continued viability. It is essential in the forthcoming negotiations with the UK on revisions to the TCA, that the Commission does not accede to further transfers.

Thus, the scope of the evaluation must be broad, not only integrating the measures of the CFP, but also the external factors influencing fishing activities and the European Union's new guidelines for analysing whether the initial objectives have been achieved.

Technically, the evaluation must also consider the entire regulatory framework associated with the CFP: multiannual management plan, technical measures, CMOs, EMFAFs etc.

## Methodology and consultation

The study that is planned to support the evaluation seems to be essential to enable a solid and balanced analysis. The evaluation should not be based on the analysis of the measures of the "Fisheries and Oceans Package", which focuses solely on certain aspects without encompassing all the environmental, social and economic sustainability objectives of the Common Fisheries Policy. The "dialogue" referred to by the European Commission cannot be limited to the format of the Joint Task Force of the Marine Action Plan, which does not allow for precise and proportionate exchanges between the different interest groups.

The annual Communication "Sustainable Fisheries in the European Union: State of Play and Orientations for 2024" should not be the basis for the analysis of the state of EU fisheries. The information provided in these documents is only partial, since it includes a limited number of indicators and does not put developments into perspective.

While the duration of the consultation appears to be appropriate, its timetable must be adapted to the constraints of the sector and the 12-month period should not overlap with the period of intense work at the end of 2024 on the negotiation of fishing opportunities.