



GREENPEACE



Future EU Maritime and Fisheries Fund (EMFF)

Preliminary comments

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BACKGROUND

In autumn 2011, the European Commission is expected to propose legislation for the future financing instrument that will support the reformed Common Fisheries Policy (CFP) and the Integrated Maritime Policy. The release of the proposed new financial framework provides a unique opportunity for the European Union to spearhead the phasing out of environmentally harmful subsidies and the implementation of commitments made at various global fora such as the World Trade Organisation (WTO)¹, the 2002 World Summit on Sustainable Development², the Meeting of the Parties to the Convention on Biological Diversity 2010 in Nagoya³, and at EU level⁴. The following document is a preliminary contribution by the Pew Environment Group, Birdlife International, WWF, Greenpeace, Seas At Risk and the OCEAN2012 coalition, providing recommendations for the upcoming legislative proposal. In particular, it indicates what these groups would and would not like to see included in future regulation.

GENERAL PRINCIPLES FOR THE NEW FUNDING INSTRUMENT

- **Public aid should be used for the public good:** Currently, the EU spends far more aid on structural measures under the European Fisheries Fund (EFF) and access agreements than it does on data collection, control and enforcement and conservation of stocks and the marine environment, thus financially supporting a selection of individual operators rather than the public interest. Improved control and enforcement and data availability are prerequisites for sustainable fisheries management, although usually regarded as external costs by individual operators. Similarly, fisheries managers often regard research as an area for public support as it is hard for individual operators to gain adequate return from their investments. The future EMFF should build on the principle that public funds are used for public goods and services, including for research, control and enforcement, conservation measures, facilitating transparency and traceability and supporting participatory decision-making.
- **CFP and EFF reforms must be viewed as complementary, interlinked reform processes, which can help establish clear and measurable objectives:** There is a need to ensure a prioritisation of objectives in the CFP reform; this would also help to establish clear and measurable objectives in the planning process and to evaluate the effectiveness of the future EMFF. In particular, the future EMFF must prioritise support of measures that are aimed at recovering fish populations well above levels capable of producing the Maximum Sustainable Yield (BMSY) and integrating and contributing to other environmental targets (see also below).

¹ WTO (2001) Ministerial Declaration in Doha WT/MIN(01)/DEC/1 and WTO (2005) Ministerial Declaration in Hong Kong WT/MIN(05)/DEC.

² Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August–4 September 2002 (Johannesburg Plan of Implementation), Article 31f, at http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/POIToc.htm.

³ For instance in the Strategic Plan for Biodiversity 2011–2020, agreed by the Parties to the Convention on Biological Diversity in Nagoya in October 2010.

⁴ See http://www.ocean2012.eu/press_releases/30-president-barroso-end-environmentally-harmful-subsidies

- **Funding for healthy marine ecosystems:** In the past, most aid has been used to support the exploitation of marine resources and the development of aquaculture. However, with the majority of fish stocks being overexploited, there is a clear need for investments in healthy marine ecosystems. The scope and objective sections of the new funding instrument should make it clear that funding will contribute to the implementation of the Marine Strategy Framework Directive, the Birds and Habitat Directives and other relevant environmental legislation. With regards to the Natura 2000 network, the new funding instrument should be programmed in accordance with the Natura 2000 financial plans, namely the Prioritised Action Frameworks (PAFs), supporting both the development and implementation of sustainable management plans and be aimed at the speedy completion of the designation of the network and establishment of management measures.
- **Support for smaller enterprises:** In the past, most EU fisheries subsidies were used to support larger operations⁵. Regarding payments to individual operators, the new instrument should ensure that, in particular, smaller operations benefit from the support for eligible measures. Commission Recommendation 2003/361/EC regarding the definition of small and medium enterprises might not be sufficient for this purpose. Micro-enterprises, which have up to 10 employees and an annual turnover of up to 2 million Euro, are the smallest unit defined in this recommendation. Given the amount of very small businesses in the EU fishing industry⁶, the new funding instrument should consider whether to apply a stricter definition or to strictly limit the possible maximum amount of support for individual measures without contributing to maintaining or increasing overcapacity and overfishing.
- **Adequate impact assessments:** The EFF requested a Strategic Environmental Assessment (SEA) for the Operational Plan but not for the National Strategic Plan (NSP). At the same time, the Operational Plans should be based on the NSP. As a result, decisions about the future development of the sector within Member States are set by a plan that is not subject to an SEA. The future financing instrument must ensure that SEAs and Environmental Impact Assessments (EIAs) are carried out at the appropriate level and cover all measures, including aquaculture. Financial support for these assessments could be provided through an axis on technical assistance.
- **Equality between men and women:** The future fund should promote equality between men and women by ensuring that the gender perspective is promoted at all stages of the design and implementation of funded initiatives.
- **Adequate participation of environmental stakeholders:** Unlike other structural funds, the EFF does not treat environmental stakeholders on a par with other interest groups. Article 8 of the EFF, which further defines the partnership for implementation at Member State level, lists economic and social partners and other appropriate bodies but

⁵ Poseidon (2010), FIG 2000–2006 Shadow Evaluation Report.

⁶ More than 80% of the EU's vessels are less than 12 meters in length and 91% of the owners of these vessels own only one vessel. See Library Briefing of the European Parliament (2011), Small-scale coastal fisheries in the EU.

does not mention environmental stakeholders. The future financial instrument should recognise environmental stakeholders equally with other interest groups, to allow adequate consultation with the former at all stages of the implementation process.

- **Adequate participation of the small-scale sector:** The future financial instrument should support the adequate participation (including capacity building) and representation of small-scale fishing communities' representatives (including both men and women) in the decision-making process. For instance, the vast majority of EU fishing vessels are less than 12m in length, yet the interests of this sector are largely under-represented in representative bodies such as the Advisory Committee on Fisheries and Aquaculture (ACFA) or the Regional Advisory Councils (RACs), and even in national or regional consultation processes. Where they are represented, small-scale sector representatives often lack the resources to effectively coordinate and participate in decision-making or consultative processes, making capacity building activities an urgent necessity.
- **Transparency:** Following the EU transparency legislation, Member States must disclose the names of beneficiaries of public aid (natural or legal persons) but are not required to release any information on the vessels concerned or the stocks targeted by operators. Consequently, the relevant information is widely dispersed, difficult to access, in unsuitable formats and therefore of little use to a rigorous, quantitative analysis of the effect of public aid on the state of fish stocks⁷. The Commission should therefore ensure that the public has adequate access to all information about the spending, allowing easy and user-friendly evaluation of the success of the funds in meeting the objectives and helping to clarify potential misperceptions of the use and impacts of EU aid to the fisheries sector. The data should be centrally stored and include a broad range of information⁸. In case measures for vessels are funded in the future, information about the vessel's name, registration number, port, flag and targeted stock should be disclosed, as should the measure(s) itself.
- **Conditionality:** Aid should not be used to support Member States that do not adequately implement and enforce the CFP, nor to support operators that do not comply with relevant legislation, including environmental legislation. Currently, operators can seriously infringe CFP rules one day and receive EU aid the next⁹. Assistance under the future financial instrument should not be given to operators who have been found to have infringed the rules, and not only denied to those who were sanctioned for these infringements (CFP reform, Art. 51.3 COM[2011] 425 final). In addition, the exclusion should be valid for a longer period of time than the one year suggested (again, Art. 51.3 3 COM[2011] 425 final). Last but not least, in cases of a serious infringement, operators should be obliged to repay aid received prior to the

⁷ See Birgitte Alfter (2009), Slipping through the net at <http://www.followthemoney.eu/wp-content/uploads/2009/09/through-the-net.pdf>

⁸ The www.fishsubsidy.org and www.farmsubsidy.org websites are good examples of how payments can be disclosed in a meaningful and user-friendly way.

⁹ See <http://www.fishsubsidy.org/infringements/>

infringement on a pro-rata basis. Member States that consistently fail to meet their obligations, for example regarding transparency and reporting, fleet management and capacity adjustments etc., should also see their financial allocations reduced or withdrawn until the situation is rectified.

SMART GREEN FISHERIES

- **Support for the sustainable management of marine ecosystems:** Funding shall support the measures needed to conserve and protect areas, contributing to the implementation of the Marine Strategy Framework Directive, the Birds and Habitat Directives and other relevant environmental legislation. This might include a diverse range of monitoring and conservation measures, such as adequately marking conservation areas with buoys, installing anchor buoys to ease impact on bottom habitats, regular data collection etc. The future financial instrument should also support the achievement of conservation reference points contained in multiannual plans. Vessels and operators not covered by multiannual plans should not be eligible to receive funding.
- **No support for the maintenance of fleet overcapacity:** It is essential that measures do not contribute to either increasing fishing capacity (i.e. real catch capacity) or maintaining overcapacity. This should be a general principle of any financial assistance. Where a Member State is considering the financing of gear or vessel modernisation, for example to increase selectivity or improve safety, it must guarantee that the vessel concerned is not part of a fleet operating at overcapacity – even if the measure itself will not increase capacity. The European Commission’s guidelines for Member States on reporting on the balance between their fishing capacity and available resources¹⁰ could play a major role in defining preconditions for funding of these measures. For example, aid should only be envisaged if:
 - The Member State is complying with the legal requirement to report on the balance between its fleet capacity and available resources;
 - targeted stocks are well above maximum sustainable yield (B_{MSY});
 - profitability in the fleet segment is guaranteed.

Reference for such an approach can be found in the ‘amber box’ for eligible fisheries subsidies discussions in the WTO, cited in the 2011 UNEP publication *Fisheries subsidies, sustainable development and the WTO* – see Annex 1.

- **No support for technological progress and efficiency gains:** The Commission estimates the technological progress of fishing vessels at between two and four percent

¹⁰ DG Fisheries and Maritime Affairs, Guidelines for an Improved Analysis of the Balance Between Fishing Capacity and Fishing Opportunities – The Use of Indicators for Reporting According to Article 14 of Council Regulation 2371/2002. 48 SEC(2003).

annually.¹¹ Efficiency gains are not necessarily positive for the catching sector, particularly in situations where fish stocks are already fully exploited, depleted, or overexploited. In these cases, the capacity of the fleet has to be reduced by at least one-third every 10 years just to keep pressure on fish stocks stable. In fact, in the EU, fishing capacity needs to be reduced significantly to mitigate current overcapacity. Modernisation of vessels, however, is likely to accelerate technological creep, thus contributing to even greater overcapacity.

- **No public support for energy efficiency if it contributes to the maintenance of unsustainable fishing:** A decrease in our carbon footprint is strongly desirable within the EU fisheries sector. However, any footprint reduction measure taken should ensure that it does not lead to an increase in fishing effort because of decreased operating costs. Experience has shown that support for energy efficiency (e.g. engine replacement) has led to the deployment of more fuel-intensive fishing techniques, which are often associated with greater adverse impact on the marine environment. All fleets that could potentially benefit from measures to reduce their carbon footprint should ensure that they do not operate at overcapacity levels nor cause detrimental impacts on the marine environment. Any support for energy efficiency measures should be coupled with a requirement to report on energy consumption.
- **No support for new products on the market (discard ban):** The practice of discarding unwanted fish overboard is an appalling manifestation of bad fishing practice and governance in the EU. However, the objective of any policy to tackle discarding should be to avoid unwanted catches in the first place, rather than making economic use of what has so far been discarded. In that respect, the new financial instrument must not support creation of new markets for the landed unwanted catch. The EMFF should support effective monitoring and control of bycatch minimization of both target and non-target species other than fish, for example through the use of observer schemes and onboard cameras.
- **No income support maintaining overcapacity:** Income support to fishers can contribute to the maintenance of fishing overcapacity. As a result, funds for income support should not be provided, unless it is tied in with the termination of the license to fish and cessation of the use of the fishing vessel in question, both in EU fishing grounds and beyond the waters of the EU. This includes initiatives such as ‘Fishing for litter’; rather, clean and healthy seas should be supported by measures to avoid litter in the first place, including by waste containers in ports. This is in line with the Guidelines for the Examination of State Aid to Fisheries and Aquaculture (2008/C84/06), which state that aid must “serve to promote the rationalisation and efficiency of the production”, while “improving the recipient's income is, as operating aid, incompatible with the common market”.

¹¹ COM(2008) Working Document, Reflections on further reform of the Common Fisheries Policy.

SMART GREEN AQUACULTURE

- **No aid for development and promotion of aquaculture:** The indiscriminate promotion and development of aquaculture suggested by the Commission in its proposed basic regulation may lead to the same problems of over-establishment, negative environmental impacts and poor profitability found in the catching sector. If aquaculture is to contribute to future food security, the reformed CFP must ensure that this industry develops into a net producer of fish protein, based on sustainability and sound environmental processes. Crucially, to achieve this, the CFP must ensure that European aquaculture does not rely on nor lead to the overexploitation of feed fisheries (from lower trophic levels) to feed farmed carnivorous fish. As a rule, no support should be given to the viability and competitiveness of aquaculture operations or to the construction of new installations.
- **Support for environmentally sustainable aquaculture practices:** Funding should only be available for sustainable aquaculture practices, in particular operations that use no or minimal amounts of external input (such as fish meal or fish oil) and to support methods of aquaculture that contribute to the conservation and restoration of wetland ecosystems. Existing environmentally sustainable wetland aquaculture in Natura 2000 areas should be eligible to receive compensation for management of the sites in accordance with the Birds and Habitat Directives (2009/147/EC and 1992/43/EEC).
- **Support for research on environmental sustainability:** Funding for aquaculture research and development should be focused on finding solutions to environmental issues, minimization of the environmental impacts of the sector and delivering closed, zero-emission production systems. Specific research should be targeted at developing innovative ways to integrate aquaculture with other modern industries, such as renewable energy production and waste conversion, in order to provide environmentally sustainable synergies. This is particularly relevant both to closed systems on land and marine shellfish aquaculture. Research towards the development and uptake of sustainable (including organic) alternatives to fishmeal and fish oil, including alternatives to oil from krill, should be a priority.

SUSTAINABLE AND INCLUSIVE TERRITORIAL DEVELOPMENT

- **Support for sustainable coastal areas development:** The state of assessed fish stocks in EU waters and overcapacities in the EU fleet make it necessary to diminish EU fleet capacities. In order to maintain thriving coastal communities in these circumstances, the future financial instrument should reinforce the support given to local, bottom-up initiatives that strengthen sustainable development and environmental stewardship in coastal areas. Earmarked funding should be considered for these types of measures. Support should also be made available for the diversification of employment opportunities, such as loans for business start-ups outside the fishing sector (for those currently working in the sector), training, and elimination or retrofitting of fishing vessels that are then permanently reassigned to activities other than fishing.

INTEGRATED MARITIME POLICY

- **Support for partnership between scientists and operators:** In order to stimulate cooperation between fishermen and scientists, the future financial instrument should provide aid for the creation and operation of partnerships that enhance mutual understanding and improve data availability and scientific advice. The Cefas Fisheries Science Partnership can provide examples of initiatives worth supporting¹².

FURTHER SUBSIDIES

While not directly covered by the remit of the future EMFF, there are a number of fisheries subsidies that should be addressed within the framework of the reform of the CFP.

- **Phasing out support for access fees:** EU operators fishing under the framework of Fisheries Partnership Agreements (FPAs) greatly benefit from public contributions to the cost of access. We appreciate that the Commission states in its Communication on the External Dimension of the CFP (COM[2011] 424 final) that these public contributions need to be reduced. However, we consider that this kind of public aid should be phased out and instead used to support technical capacity on fisheries management, enhancing local value-added and job-creation opportunities in third countries.
- **No to *de minimis* aid:** In 2007, the European Commission increased the level of *de minimis* aid to the fishing sector by a factor of 10 (from 3,000 to 30,000 Euro¹³), mainly to provide fuel subsidies to the fishing sector at a time of rising fuel prices. This is in direct contradiction to the EU's commitment to eliminate environmentally harmful subsidies that contribute to overfishing. The Commission should therefore eliminate *de minimis* aid once the current regulation expires in 2013. In the meantime, however, it should set up safeguard measures to ensure that aid provided under the current regulation cannot contribute to overcapacity or overfishing, and require a report on the use of such aid so far.
- **Repeal of the tax exemption for fuel for the fishing sector:** Regulation 2003/96/EC exempts from taxes the fuel used for navigation within Community waters, including for fishing. This mandatory fuel tax exemption contributes to overfishing and particularly supports those operations that employ more fuel-intensive fishing methods. Reform of the energy tax regime should provide more fuel-efficient operations with a comparative advantage and contribute to the objectives of the EU 2020 Strategy, the Kyoto Protocol, and the pledge by G-20 leaders to phase out fuel subsidies by removing the mandatory exemption.

¹² <http://www.cefas.defra.gov.uk/our-science/fisheries-information/marine-fisheries/fisheries-science-partnership.aspx>

¹³ Commission Regulation (EC) No. 875/2007.

THE FORGOTTEN KEY DRIVER TO TRANSFORM EU FISHERIES

Fish is a public resource. As a result, fisheries managers have the opportunity and responsibility to manage access to this resource, and this in turn provides a crucial opportunity to create an access regime that provides very strong incentives to support the implementation of the CFP. Essentially, fishing access should be granted to those who contribute most to achieving the overarching objectives of the CFP. Sustainability criteria should be used to rank access to resources, favouring those who have the least impact on the marine environment, who can demonstrate strong legal compliance, and who operate within and contribute to local coastal communities. Granting preferential access based on these criteria would provide stronger incentives than public aid for the EU fishing sector to contribute to the objectives of the CFP, and hence cost less to the public. The UNEP-WWF paper on sustainability criteria offers some ideas on how objective and transparent criteria, based on biological, economic and social needs, might be designed and implemented.

ANNEX I: THE 'AMBER BOX' FOR ELIGIBLE FISHERIES SUBSIDIES IN THE WTO¹⁴

Certain subsidies, such as aid for construction or fuel subsidies, have been identified as directly contributing to overfishing and should therefore be prohibited. However, one can argue that other types of aid do not necessarily contribute to overfishing if applied in the right management context; these might include aid for more selective gear or onboard security. In the fisheries subsidies discussions in the WTO, an 'amber box' has been tabled, whereby certain subsidies would be admissible in cases where the fishery meets specific minimum conditions. Such conditions would be determined by a set of criteria regarding the sustainability of the targeted stocks, the level of fishing capacity, and the effectiveness of the management of the fishery in question. Subsidies should only be admissible if all factors are met. Criteria could include the following.

- Sustainability of the stock criteria:
 - current stock biomass (B) is greater than a certain percent, such as x percent, of the biomass at MSY equilibrium (B_{MSY});
 - there is room to expand catches by at least x percent before sustainable catch levels are exceeded¹⁵.
- Capacity criteria:
 - quotas are used up prior to the end of the fishing season, or the effective fishing season has been progressively reduced from year to year;
 - there is a trend towards unused fishing permits;
 - there is a declining catch per unit effort.
- Fisheries management criteria include the presence of:
 - science-based assessments (counting and functional analysis) of fish stocks and fishing fleets;
 - appropriate regulatory limits on fishing and fishing capacity;
 - surveillance and enforcement of those limits.

¹⁴ Based on WWF/UNEP sustainability criteria from Moltke (2011) fisheries subsidies, sustainable development and the WTO, p. 265ff.

¹⁵ Second-tier criteria can include:

- landings over the last x years are less than x percent of the average that applied for the best three years on record,
- landings have declined by more than x percent of the last y years,
- average catch rates for a standard commercial vessel category have declined by more than x percent over the last y years.

ANNEX II: CONTACT INFORMATION

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