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Reporting on fishing capacity under the CFP and EMFF

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Executive Summary

Overcapacity in the EU fishing fleet has been an issue in the Common Fisheries Policy for many years. This report discusses the new obligations that the reformed Common Fisheries Policy and the European Maritime and Fisheries Fund (EMFF) have introduced, based on the experience of the past. To do so, it explains the legal obligations relating to overcapacity both under the previous 2002 and the reformed 2013 Common Fisheries Policy:

- Bringing the EU fleet in balance with available fishing opportunities was identified as one of the main objectives to achieve with the reform of the Common Fisheries Policy. The Green Paper on the reform of the Common Fisheries Policy¹ (the Green Paper) identified chronic overcapacity as a deep rooted issue of the Common Fisheries Policy, being both a cause and a consequence of overfishing. EU fleets have the capacity (the ability or power) to fish much more than what can safely be removed from the sea without jeopardising the future productivity of fish stocks.
- Information on fishing capacity under the previous Common Fisheries Policy was not homogenous or comparable and as such the overview reflected these shortcomings. The consequence that it was not possible to have a clear overview at EU level of the EU's overall fishing capacity. The previous Common Fisheries Policy Regulation (the 2002 CFP) required Member States to report on their fishing capacity on a yearly basis². However, it did not include an obligation to draft these fishing capacity reports in accordance with European Commission guidelines³. This meant that national reports on fishing capacity used different indicators and different sets of information. The European Commission, in turn, drafted its report on fishing capacity at EU level based on the different national reports.
- The Green Paper also identified that overcapacity in the EU fleet was exacerbated by heavy EU funding and other direct or indirect public funding. This artificially keeps part of the EU fishing capacity active.⁴
- With the new CFP Regulation⁵ (2013 CFP Regulation), Member States have to report on fishing capacity in their fleet based on the European Commission's guidelines. If Member States identify imbalances in fleet segments between the fishing capacity and the available fishing opportunities, they are required to adopt an action plan to tackle these imbalances. In addition, the European Maritime and Fisheries Fund Regulation (EMFF)⁶ makes access to EU funding conditional on meeting a number of conditions relating to

1 Green paper on the reform of the Common Fisheries Policy, COM(2009)163 final, p.3.

2 Article 14 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, OJ L358, 31.12.2002, p.65.

3 Article 12 and Article 13 of Commission Regulation (EC) No 1438/2003 of 12 August 2003 laying down implementing rules on the Community Fleet Policy as defined in Chapter III of Council Regulation (EC) No 2371/2002, OJ L204, 13.08.2003, p.26-27.

4 Green paper on the reform of the Common Fisheries Policy, COM(2009)163 final, p.8.

5 Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC, OJ L354, 28.12.2013, p.22. (hereinafter referred to as 2013 CFP Regulation)

6 Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council, OJ L149, 20.5.2014, p.1. (the EMFF).

reporting obligations on fishing capacity and adopting an action plan to tackle overcapacity.⁷

Introduction

At the international level, the United Nations Fish Stocks Agreement⁸ and the international Code of Conduct for Responsible Fisheries Management adopted by the Food and Agriculture Organisation (FAO)⁹ emphasise the need to prevent and eliminate excess fishing capacity. At EU level, the Common Fisheries Policy has, for some years recognised a need to address fleet capacity, mainly by introducing reporting requirements.

Nevertheless, the Green Paper identified '*a deep rooted problem of fleet overcapacity*¹⁰ as one of the five structural problems of the 2002 CFP and stated that "*overall, the European fleets remain far too large for the resources available and this imbalance is at the root of all problems related to low economic performance, weak enforcement and overexploited resources.*"¹¹ In addition, both the Green Paper and European Court of Auditors reports in 2004 and 2011 recognised that subsidies have increased the imbalance between fishing capacity and fishing opportunities in the EU.¹²

The 2013 CFP Regulation has introduced new obligations for Member States to report on their fishing capacity at fleet segment level, as well as to adopt action plans to tackle any imbalances of fleet segments identified. Moreover, financial aid under the EMFF is linked to these requirements. This report will examine the main provisions of the CFP and EMFF Regulations in this regard. It aims at clarifying the different provisions in order to facilitate effective implementation, compliance with and enforcement of these obligations.

1 Obligations linked to fishing capacity in the CFP

The 2013 CFP Regulation requires Member States to measure the fishing capacity of their fleets and where necessary adjust it in order to ensure a balance between fishing capacity and available fishing resources.¹³

The key article on fishing capacity in the 2013 CFP Regulation is Article 22, which sets out the core obligations linked to fishing capacity. It includes obligations in relation to managing fishing capacity; assessing the balance of fishing capacity with available fishing opportunities; reporting on fishing capacity by both Member States and the European Commission and adopting action plans to tackle any overcapacity problems identified.

7 Article 6 (1c) and Annex IV of the EMFF.

8 Article 5 of the UN Fish Stocks Agreement www.un.org/depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37.htm

9 Point 6.3 of the Code of Conduct for responsible Fisheries Management, www.fao.org/docrep/005/v9878e/v9878e00.htm

10 Green paper on the reform of the Common Fisheries Policy, COM(2009)163 final, p.3.

11 Green paper on the reform of the Common Fisheries Policy, COM(2009)163 final, p.8.

12 Court of Auditors, Special Report No 3/93 concerning the implementation of the measures for the restructuring, modernization and adaptation of the capacities of fishing fleets in the Community, OJ C 2, 04.1.1994, p.48; Special Report No 12/2011 "Have EU measures contributed to adapting the capacity of the fishing fleets to available fishing opportunities?" 12/12/2011.

13 Article 2(5) d) of the 2013 CFP Regulation, OJ L354, 28.12.2013, p.22.

1.1 Obligations to assess and report fishing capacity

The 2002 CFP required Member States to report on their fishing capacity on a yearly basis.¹⁴ However, it did not include any obligation to do this in accordance with European Commission guidelines, and it did not require reports by fleet segment.¹⁵ National reports on fishing capacity were drafted using different indicators and different sets of information. At EU level, the European Commission drafted their report on fishing capacity based on the different national reports in which the information was not homogenous or comparable. This meant that the EU report reflected these shortcomings, with the consequence that it was not possible to have a clear overview at EU level of EU fishing capacity.

Given this lack of information on fishing capacity, the European Commission did not have the proper tools to manage EU fishing capacity nor to assess fleet management choices at national level.¹⁶ Not having a clear overview made it difficult to adopt the right policy choices in terms of fishing capacity management or to assess the impact of these choices.¹⁷

In the 2013 CFP Regulation, Member States' reporting obligations on fishing capacity are first mentioned in recital 43. This recital explains that

“Member States should take specific measures to align the number of Union fishing vessels with available resources, based on their assessments of the balance between the fishing capacity of their fleets and the fishing opportunities available to them.”

It goes on to state that *“the assessments should be made in accordance with Commission guidelines and presented in an annual report to be transmitted to the Commission.”* This shows that the intention of the legislator is to impose certain obligations on the Member States: assessing and reporting on their fishing balance, and, if needed, tackling any imbalance of fishing capacity with available fishing opportunities. The resulting reporting from these assessments needs to follow the European Commission guidelines on fishing capacity.

Article 22(1) of the 2013 CFP Regulation requires Member States to *“put in place measures to adjust the fishing capacity of their fleet to their fishing opportunities over time, taking into account trends and based on best scientific advice, with the objective of achieving a stable and enduring balance between them.”*¹⁸

14 Article 14 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, OJ L358, 31.12.2002, p.65.

15 Chapter III of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, OJ L358, 31.12.2002, p.59; Article 12 and Article 13 of Commission Regulation (EU) No 1013/2010 of 10 November 2010 laying down implementing rules on the Union Fleet Policy as defined in Chapter III of Council Regulation (EC) No 2371/2002, OJ L293, 11.11.2010, p.1 .

16 Article 11 of Council Regulation (EC) No2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, OJ L358, 31.12.2002, p.69.

17 Points 69 to 73 of Special Report No 12/2011“Have EU measures contributed to adapting the capacity of the fishing fleets to available fishing opportunities?” 12/12/2011.

18 Article 22(1) of the 2013 CFP Regulation, OJ L354, 28.12.2013, p.39.

To achieve this, Article 22(2) requires Member States to

“send to the Commission, by 31 May each year, a report on the balance between the fishing capacity of their fleets and their fishing opportunities. To facilitate a common approach across the Union, that report shall be prepared in accordance with common guidelines which may be developed by the Commission indicating the relevant technical, social and economic parameters.”

It also specifies for the first time that the capacity assessments must be presented by fleet segment. The European Commission defines “*fleet segment*” as the combination of a particular fishing technique category and a vessel length category.¹⁹ Referring to fleet segments is crucial because it breaks down the fleet of a Member State into different portions according to fundamental characteristics, such as length or fishing technique. Analysing the fishing capacity at this more detailed level allows having a more precise and detailed picture of the fishing capacity situation affecting a given fish stock.

Article 22(3) specifies that separate assessments for fleets operating in the outermost regions and for vessels operating exclusively outside Union waters should be elaborated.

Article 22(4) requires that: “*On a yearly basis, the Commission shall prepare a report for the European Parliament and for the Council on the balance between the fishing capacity of the Member States’ fleets and their fishing opportunities*” to be carried out in line with European Commission guidelines.

Therefore, this set of provisions spells out a clear obligation to assess fishing capacity at national and EU level and to report on it on the basis of common guidelines developed by the European Commission. The wording “*shall be prepared in accordance with common guidelines*”²⁰ in Article 22(2) of the 2013 CFP Regulation creates a mandatory legal obligation on Member States to apply these guidelines when they evaluate and report their fishing capacity.

As explained in Article 22(2), this is important to facilitate a common/harmonised approach, which in turn ensures that comparable data sets are available and creates a level playing field among Member States.

Failure to comply with the reporting obligations not only constitutes a direct breach of the 2013 CFP Regulation but also constitutes a breach of the principle of sincere cooperation enshrined in Article 4 TEU.

In the next section we provide further analysis of the strength and binding nature of the requirement to report in accordance with the European Commission’s common guidelines.

¹⁹ Annex I of Commission Regulation (EC) No 2091/98 of 30 September 1998 concerning the segmentation of the Community fishing fleet and fishing effort in relation to the multiannual guidance programmes, OJ L266, 1.10.98, p.36.

²⁰ The wording of Article 22 (2) in other languages confirms that the provision establishes a duty for Member States to comply with the Commission’s guidelines: “ce rapport est préparé conformément aux lignes directrices Communes” (French), “la relazione è stilata conformemente ad orientamenti comuni” (Italian), “dicho informe se realizará con arreglo a orientaciones communes” (Spanish), “o relatório deve ser elaborado em conformidade com orientações comuns” (Portuguese).

1.2 Obligations to tackle overcapacity in an action plan

Article 22(4) requires Member States to elaborate, implement and transmit to the European Commission an action plan, “*if the assessment clearly demonstrates that the fishing capacity is not effectively balanced with fishing opportunities*”. The plan must set out the adjustment targets, tools to achieve a balance and a clear time frame for implementation for those “*fleet segments with identified structural overcapacity*”.

An action plan will only be in line with the requirements of Article 22(4) of the CFP if it clearly identifies the targets of adjustments, meaning concrete objectives for the reduction of overcapacity. The provision also requires identifying the tools to achieve a balance and a clear time frame. The use of the word 'tools' in the plural indicates that to tackle overcapacity a set of specific tools needs to be developed for this purpose. The time frame indicates that the action plan should explain over time how the balance between capacity and fishing opportunities would be re-established. Arguably, setting a deadline is not enough, as it does not offer a clear description of how and when targets will be met over time.

Action plans must be an integral part of the reports on fishing capacity. The European Commission is responsible for publishing these action plans in its annual summary report on fishing capacity (Article 22(4) 2nd subparagraph).

In addition, the last subparagraph of Article 22(4) creates a link between capacity reporting and available public funding. It foresees that “[*f*]ailure to make the report ..., and/or failure to implement the action plan ..., may result in a proportionate suspension or interruption of relevant Union financial assistance to that Member State for fleet investment in the fleet segment or segments concerned in accordance with a future Union legal act establishing the conditions for the financial support for maritime and fisheries policy for the period 2014–2020.”

Article 22(4) of the 2013 CFP Regulation thereby introduces a direct link between the obligations to report and to tackle excess fishing capacity and the availability of funding under the EMFF. The EMFF Regulation itself reinforces this link.

1.3 Obligations linked to fishing capacity in the EMFF

The EMFF makes access to funding dependent on meeting a number of conditions relating to reporting obligations on fishing capacity and to tackling and/or preventing overcapacity²¹ with the objective of ending the negative effect of public funding on overcapacity.²²

2 Reporting on fishing capacity

In line with the 2013 CFP Regulation, the European Maritime and Fisheries Fund (EMFF) stipulates that achieving a balance between fishing capacity and the available fishing opportunities is a Union priority in terms of public spending.²¹

This priority has to be reflected in the Member States' spending choices during the financial period running from 2014 until 2020. Member States have to elaborate their national plans for the implementation of funding (i.e. operational programmes).²² The European Commission must first evaluate the national plans to ensure that they meet all relevant priorities²³ and conditions set in the EMFF and then formally approve them.²⁴

In addition to setting the right funding priorities, the overall system of EU funding,²⁵ which applies also to the EMFF, requires Member States to comply with some pre-conditions (ex-ante conditionalities) before having access to their share of EU funds. The general rules governing the functioning of EU funding including the EMFF are contained in a set of provisions called the Common Provisions Regulation.

The Common Provisions Regulation²⁶ sets some pre-conditions of a general nature for accessing EU funding. In addition, Article 9 and Annex IV of the EMFF set out some specific pre-conditions (ex-ante conditionalities) for funding in the fisheries sector.

One of these pre-conditions relates to the Union funding priority for environmentally sustainable, resource-efficient, innovative, competitive and knowledge-based fisheries, and requires that *“the report on fishing capacity has been submitted in accordance with Article 22(2) of [the 2013 CFP] Regulation.”*

Annex IV of the EMFF further requires that fishing capacity reports must be *“made in accordance with common guidelines issued by the Commission”* and that fishing capacity should *“not exceed the fishing capacity ceiling set ... in [the 2013 CFP] Regulation.”*

This clear wording, in line with Article 22(2) of the CFP, is an additional expression of the intention of the co-legislators that fishing capacity reports must be drafted in accordance with European Commission Common Guidelines.

The detailed consequences of not complying with the pre-conditions for funding are detailed in the Common Provisions Regulation. If the conditionalities are not met in time, the national

21 Article 6 (1) c) of the EMFF, OJ L149, 20.5.2014, p.14

22 Article 18 of the EMFF.

23 Article 29 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, OJ L347, 20.12.2013, p.320 (hereinafter referred to as Common Provisions Regulation).

24 Article 19 of the EMFF.

25 Article 19 of the Common Provisions Regulation.

26 Article 19(2) and (5) of the Common Provisions Regulation.

programme for EU funding (i.e. Operational Programme) must contain an action plan to fulfil the conditionalities with an absolute end deadline set for the 31 December 2016.²⁷

However, given that the EMFF (and the 2013 CFP Regulation) require(s) fishing capacity reports annually by the 31 May, having a deadline of 2016, as the Common Provisions Regulation requires, would not be adequate to address a failure to comply with this specific precondition.

Article 22(4) of the 2013 CFP Regulation requires cutting down payments of funding in case of failure to comply with the obligations relating to fishing capacity reporting.

In line with this requirement, Article 19(5) of the Common Provisions Regulation also foresees the possibility of wholly or partially suspending payments “*pending the completion of [required] actions*” in order to “*avoid significant prejudice to the specific objectives of the spending priority concerned*”. The actions referred to are actions fulfilling the pre-conditions for accessing funding. In the case of the EMFF, the only action needed is actually to submit the report compiled according to the CFP requirements as identified above (Section 2 of this briefing).

As mentioned above, one of the spending priorities clearly is to ensure a balance between fishing capacity and available fishing opportunities. Achieving this priority is only possible if the report on fishing capacity in each Member State is available and if, where needed, action plans to tackle structural overcapacity have been designed.

Therefore, the possibility of suspending all or part of the interim payment for the relevant Union Priority is a necessary consequence for not respecting the pre-condition for funding in the EMFF and should be implemented and enforced by the European Commission.

2.1 Reporting on fishing capacity for approval of the operational programme

As mentioned above, the European Commission needs to evaluate and formally approve each national funding programme (i.e. operational programme) before it can be implemented²⁸.

A national operational programme can only be approved if an overall consistency check of the content with the legal requirements of the EMFF and the Common Provisions Regulation, including ex-ante conditionalities, has taken place.²⁹

If an operational programme foresees the use of permanent cessation measures (scrapping of fishing vessels), the European Commission must assess whether the description of targets and measures to reduce fishing capacity identified in the relevant Member State action plan (under Article 22 of the 2013 CFP Regulation) are likely to effectively remove the overcapacity.³⁰

²⁷ Article 19(2) and (5) of the Common Provisions Regulation.

²⁸ Article 18 and Article 19 of the EMFF

²⁹ Article 29 of the Common Provisions Regulation and Article 19(1) of the EMFF.

³⁰ Article 19(2) of the EMFF.

In order to fulfil both these conditions, the submission of a fishing capacity report and, if necessary, action plans to reduce overcapacity under Article 22(2) and (4) of the 2013 CFP Regulation are necessary. Without a previous assessment of the fishing capacity in each Member State and for each fleet segment, it is not possible to set targets or measures that can effectively remove overcapacity in these fleet segments. Moreover, a consistent application of the common guidelines is necessary to allow the European Commission to perform an assessment that ensures a level playing field amongst EU Member States.

As mentioned above, the European Commission cannot approve any operational programme before having done the assessment required under Article 19(2) of the EMFF. For this purpose, and in order to comply with the pre-condition for accessing funding, the European Commission must receive fishing capacity reports drafted in accordance with the common guidelines.

Any approval of operational programmes followed by financial transfers under the EMFF should be held back until the reports on fishing capacity have been submitted and are in compliance with all the relevant provisions mentioned above of the Common Provisions Regulation, the EMFF and the 2013 CFP Regulations.

2.2 Reporting on fishing capacity for continued funding 2014-2020

The 2013 CFP Regulation³¹ and the EMFF Regulation³² introduce the principle that aid should be conditional on 'good behaviour' both for Member States and operators in the sector. This means that only those Member States who comply with the rules of the CFP should receive aid under the EMFF.

The EMFF foresees the following tools to implement this conditionality of aid:

- **Interruption of payment deadline** (delay in payments): The European Commission can withhold payments to a Member State that has not complied with its obligations under the CFP. The interruption of a payment deadline is a temporary measure by which the European Commission postpones the payment of aid for a maximum period of 6 months. During this period, the Member State must comply with the obligations under the CFP on the basis of which the interruption of payment has taken place.³³
- **Suspension of payments**: The European Commission can adopt a decision suspending payments for an indeterminate period, or until the Member State remedies its non-compliance. This measure is a temporary measure that can be reversed through a European Commission's decision revoking the suspension of payments.³⁴

³¹ Article 41 and 42 of the 2013 CFP Regulation.

³² Recital 14 and Article 100, Article 101, Article 102, Article 105 and Article 106 of the EMFF.

³³ Article 100 of the EMFF.

³⁴ Article 101 of the EMFF.

- **Financial corrections:** The mechanism of last resort in case a Member State continues not to respect its obligations under the CFP is the infliction of financial corrections. This is a definite cancellation of part of its share of funding.³⁵

According to the EMFF, different cases of non-compliance of the CFP do not all trigger the use of the same tools.³⁶ The following paragraphs will identify which tool is triggered in the case of non-compliance with the reporting obligation on the fishing capacity.

2.2.1 Interruption of payment

Interruption of payments applies in the “*case of non-compliance by a Member State with its obligation under the CFP*”. The legislation does not specify which types of non-compliance are covered. Therefore, it applies to non-compliance of any obligation incumbent on a Member State under the Common Fisheries Policy as a whole and not only restricted to the 2013 CFP Regulation.

As explained above, Article 22 of the CFP clearly sets obligations for the Member States in relation to assessment of and reporting on fishing capacity - in accordance with the European Commission guidelines - and, if needed, preparation of an action plan to tackle structural overcapacity.

If one of these obligations is not complied with, according to Article 100 of the EMFF, the European Commission has the power to interrupt the payments linked to these obligations. The use of the word “*may*” in Article 100 of the EMFF leaves a discretionary power to the European Commission to decide whether to go for an interruption of payment or not. However, the European Commission is not only the guardian of the EU Treaties, including secondary law (such as the 2013 CFP Regulation and the EMFF), but is also responsible for the proper execution of the EU budget.³⁷ For these two reasons and because of the importance of implementing the conditionality of aid to contribute to creating a culture of compliance in the fisheries sector, the European Commission should make use of the interruption of payment any time that non-compliance occurs.

2.2.2 Suspension of payments and financial corrections

Article 101 of the EMFF enables the European Commission to suspend payments or cancel financial contributions “*in the case of a serious non-compliance by Member State with its obligations under the CFP*”.

³⁵ Article 105 of the EMFF.

³⁶ Articles 100, 101 and 105 of the EMFF.

³⁷ Article 17 of the Treaty on the European Union.

The definition of what is a serious non-compliance is the responsibility of the European Commission and should cover “*rules that are essential to the conservation of marine biological resources*”.³⁸

Ensuring a balance between fishing capacity and the available fishing opportunities and preventing potentially damaging subsidies are two elements that can contribute to better conservation of marine biological resources. The obligations in the 2013 CFP Regulation and in the EMFF linked to fishing capacity should be considered obligations the breach of which would qualify as a “*serious non-compliance*”.

Indeed, the delegated act of the European Commission on the categorisation of cases of non-compliance under the CFP,³⁹ which is still in the process of being adopted, includes Article 22 of the CFP in the list of obligations the breach of which would be regarded as serious non-compliance.

However, the delegated act introduces two conditions for a non-compliance to qualify as “*serious*”:

- an interruption of payments for interim payments under Article 100 of the EMFF has been adopted; and
- the Member State has failed to take the necessary action to remedy the situation within the period of interruption of the payment in relation to those cases.⁴⁰

Conclusion

The 2013 CFP Regulation and the EMFF have greatly improved the regulatory framework regarding overcapacity. They seek to ensure through various reporting, planning and financing measures that fishing capacity is in line with the available fishing opportunities, that this is measured by fleet segment and, if needed, that public aid is made conditional on compliance with these requirements.

However, every actor involved, and in particular the European Commission, needs to use all the tools available to make the system successful. It is important to use all the instruments available and in particular the conditionality of aid which can provide a strong incentive for compliance.

We have the following recommendations for the successful implementation of Article 22 of the CFP and Article 100 to Article 105 of the EMFF:

- Member States should (and indeed must) submit timely fishing capacity reports of high quality in line with the European Commission's guidelines.

³⁸ Article 102 of the EMFF.

³⁹ Commission Delegated Regulation (EU) No... of 27.3.2015 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council as regards the cases of non-compliance and the cases of serious non-compliance with the rules of the Common Fisheries Policy that may lead to an interruption of a payment deadline or suspension of payments under the European Maritime and Fisheries Fund, C(2015)1984 final.

⁴⁰ Article 2 of Commission Delegated Regulation (EU) No... of 27.3.2015 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council as regards the cases of non-compliance and the cases of serious non-compliance with the rules of the Common Fisheries Policy that may lead to an interruption of a payment deadline or suspension of payments under the European Maritime and Fisheries Fund, C(2015)1984 final.

- If needed Member States should submit a high quality and useful action plan and implement it in such a way that targets for the reduction of fishing capacity are achieved. If needed Member States should review and up-date their action plans.
- The European Commission should prepare a comprehensive fishing report at EU level.
- The European Commission must hold back any approval of EMFF operational programmes as well as any financial transfers under the EMFF until reports on fishing capacity have been submitted and are in compliance with all the relevant provisions (as mentioned above) of the Common Provisions, the EMFF and the 2013 CFP Regulations.
- The European Commission should interrupt relevant payments under the EMFF in a systematic way if a Member State does not comply with its obligations under Article 22 of the 2013 CFP Regulation.
- Following any interruption of payments, the European Commission should suspend any payment or apply financial corrections under the EMFF if a Member State still does not comply with its obligations under Article 22 of the 2013 CFP Regulation.

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