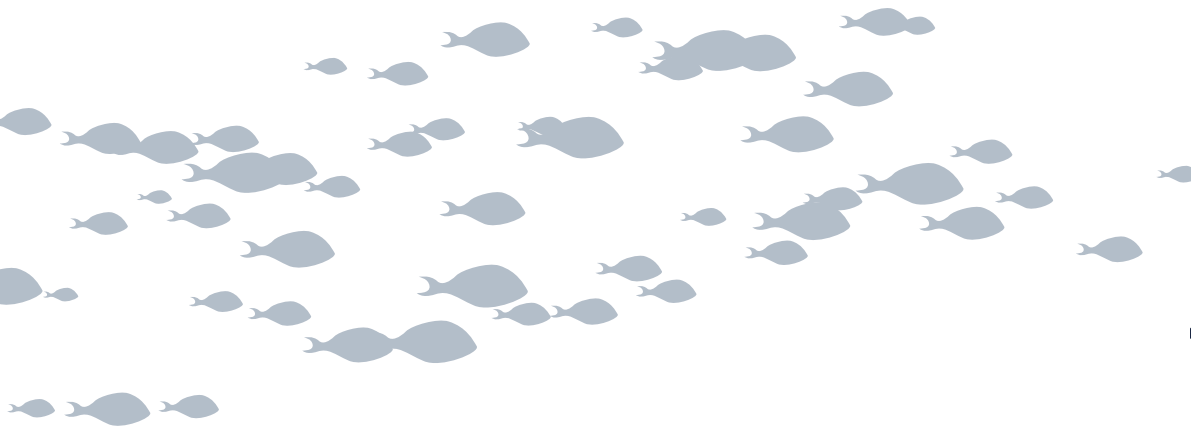




COMMON FISHERIES POLICY:

JUNE 2021

MISSION NOT YET ACCOMPLISHED




BirdLife
INTERNATIONAL
EUROPE AND CENTRAL ASIA

 **ClientEarth**

 **FISHSEC**
THE FISHERIES SECRETARIAT

 **OCEANA**

 **Our Fish**

 **SEAS AT RISK**


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SUMMARY

Seven years after the last reform of the Common Fisheries Policy (CFP) entered into force, the EU, which has exclusive competence in this area, is yet to succeed in fulfilling its objectives. Implementation and enforcement challenges remain, often due to Member States’ inaction, insufficient oversight by the European Commission and industry resistance to change. **Possible solutions exist within the CFP itself, or in other available legal instruments, without the need to reform the CFP Basic Regulation in the medium-term.**

Article 49 of the CFP Basic Regulation states that: “The Commission shall report to the European Parliament and to the Council on the functioning of the CFP by 31 December 2022”. In anticipation of this report, this policy paper aims to provide a constructive assessment by mapping weaknesses in CFP implementation and opportunities to address them. We offer recommendations for tackling the gaps to end overfishing, including in the Mediterranean Sea, for implementing the landing obligation, reducing the negative impacts of fishing on the environment, transitioning to low-impact fisheries, eliminating harmful subsidies, improving regionalisation and the external dimension, and addressing the lack of climate change considerations in the CFP.

NGOs call on the European Commission, the European Parliament, the Council of the EU, Member States, and relevant stakeholders to deliver urgently on the CFP’s objectives to ensure the long-term environmental sustainability of fisheries and of the coastal communities that depend on them.

Global context: emergency and uncertainty

Global crises, such as the **biodiversity and climate emergencies as well as the recent Covid-19 pandemic**¹, constitute existential threats to the livelihoods of communities dependent on fisheries. Overfishing and destructive fishing practices have been the main cause of marine biodiversity loss for the last 40 years and they also critically undermine the resilience of fish, seabirds, marine mammals, and other wildlife to the impacts of climate change². The current CFP Basic Regulation³ entered into force on 1 January 2014. It contains ambitious objectives and concrete timelines to put the European Union at the forefront of global fisheries management and make European fisheries economically, socially and environmentally sustainable. **However, progress in implementing the CFP has been too slow to end overfishing, rebuild fish populations and protect marine ecosystems, and for some fish stocks, no progress has been made since the CFP was reformed**⁴.

The CFP must be fully applied if the EU is to tackle the climate emergency, restore marine ecosystems, deliver on the objectives of the **European Green Deal and build back better after the Covid-19 crisis**⁵. At global level, the EU’s leadership and credibility with respect to the implementation of **international commitments** is at stake. These concern, in particular, commitments adopted under the Paris Agreement, the Convention on Biological Diversity, the United Nations Sustainable Development Goals (SDGs) and the United Nations Convention on the Law of the Sea (UNCLOS). With the launching of the European Green Deal in 2019, the EU has committed to shift investment and legislation towards a climate-resilient and ecologically sound future. NGOs urged the European Commission to ensure the ocean is part of the solution and to “make the Green Deal blue”. In 2020, **more than 100 environmental organisations launched the “Blue Manifesto: The Roadmap to a Healthy Ocean in 2030”**⁶, a comprehensive vision for recovery in this crucial “Ocean Decade” recognised by the UN⁷. Our rescue plan laid out concrete actions within a set timeline, which must be delivered to turn the tide on the EU’s ever-degraded and polluted ocean and coastlines. Key actions include designating **at least 30% of the seas to be highly or fully protected by 2030; urgently ending overfishing and shifting to low-impact fishing; securing a pollution-free ocean; and planning human activities that support the restoration of thriving marine ecosystems.**

In the last decade, the CFP has brought about a significant increase in the profitability of the EU fleet and a reduction of overfished stocks in the North-East Atlantic. Nevertheless, the EU still missed the legal deadline to harvest all stocks sustainably by 2020. **Post-Brexit uncertainty** should not be used as an excuse to jeopardise the progress made. The Trade and Cooperation Agreement (TCA) signed by the EU and the UK reflects the key principles of the CFP, and the EU must continue working with the UK and other coastal states to ensure the sustainable management of fisheries and reduce their negative impact on our shared ecosystem⁸. **The EU bears responsibility for proper implementation of the external dimension of the CFP.** Its credibility as a global negotiation partner, and in some cases a co-manager of shared fish populations, is at stake.

European Union: leader or laggard?

In contrast to President von der Leyen's "man on the moon"⁹ vision for the Green Deal, recent reports¹⁰ have brought Europe down to earth. **The EU is neglecting the SDGs and its own legislation.** The implementation of SDG goals on clean energy (SDG 7), responsible consumption and production (SDG 12), climate change (SDG 13) and terrestrial biodiversity (SDG 15) is lagging. The newest assessment by the European Commission shows that most targets of SDG 14 ('Life under water') are not on track to be met by the agreed deadlines, while some negative trends are far from being reversed¹¹.

When it comes to the EU's own legislative framework, the latest findings of the European Court of Auditors¹² sadly confirm a striking lack of implementation. Indeed, the Court underlined that **EU marine protection is "wide but not deep"**. Member States' action has not led to the recovery of marine ecosystems and habitats and is not sufficient to restore seas to Good Environmental Status by 2020 as required by the Marine Strategy Framework Directive (MSFD)¹³. On the contrary, environmental degradation continues apace and impacts biodiversity and seabed integrity¹⁴. Again, the CFP's 2020 legal deadline for ending overfishing has also been missed¹⁵.

EU fisheries policy operates in a silo, prioritising industry interests to the detriment of EU environmental legislation. EU funds rarely support the conservation of marine species and habitats¹⁶. The European Court of Auditors found last year that only 6% of the European Maritime and Fisheries Fund was used to support measures directly related to conservation where we estimate that at least 25% should be directed to marine conservation¹⁷. Nature based solutions such as **Marine Protected Areas (MPAs) need investments as they are mostly "paper parks"**, lacking any real protection, management, and enforcement, which could be achieved through the adoption of fisheries restricted areas with the exclusion of the most destructive fishing practices such as bottom trawling¹⁸. Overfishing persists, particularly in the Mediterranean, the most overfished sea in the world, according to the UN Food and Agriculture Organization (FAO)¹⁹. **In these times of emergency, the era of "small steps in the right direction" and unkept promises must be replaced by bold decisions and meaningful actions.**

With the renewed momentum of the European Green Deal, we need a new way of approaching the economic, social and ecological aspects of sustainable development. Economies and societies are embedded in the biosphere. Policymakers and the fishing industry should abandon the narrow and short-term view of fish as mere commodities we can overexploit, and instead consider them as vital parts of complex ecosystems, which are crucial for ocean resilience. **Ecological systems are the indispensable foundation of our existence and should be prioritised, as communities and citizens will not survive without healthy and productive marine ecosystems.**

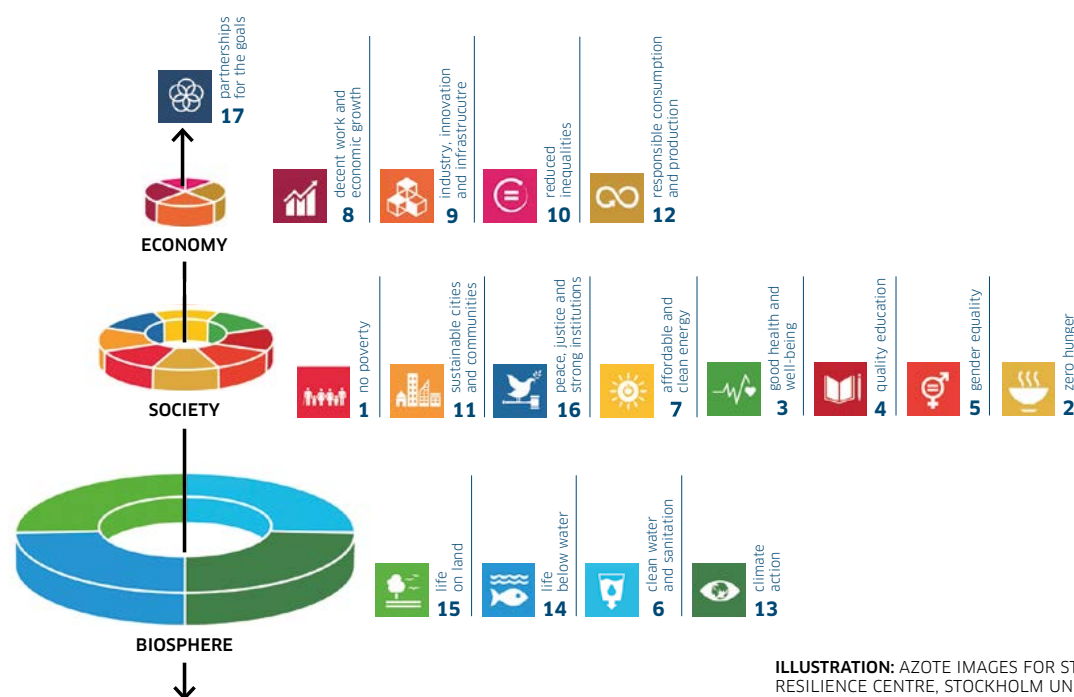


ILLUSTRATION: AZOTE IMAGES FOR STOCKHOLM RESILIENCE CENTRE, STOCKHOLM UNIVERSITY²⁰

WHILE THE CFP REMAINS A GOOD FRAMEWORK FOR FISHERIES MANAGEMENT, IT LACKS ADEQUATE IMPLEMENTATION, CONTROL AND ENFORCEMENT. ADDRESSING THESE SHORTCOMINGS IS CRITICAL NOW AND BEFORE ANY FUTURE REVISION OF THE POLICY IS CONSIDERED.

The future of the Common Fisheries Policy

The CFP was reformed in 2013 with a vision of transforming European fisheries and achieving full sustainability. The Basic Regulation's strengths are its legally binding objectives with clear timelines and its high level of ambition. The CFP also provides the basis for the EU to exert global influence via the policy's external dimension and its normative soft power. In the long-term, the CFP has improved the state of many fish populations and contributed to increasing general profitability of the EU fleets. **However, the Baltic Sea is not improving, the Mediterranean and Black Seas remain in dire straits (with 83% of assessed stocks overfished), whereas the North-East Atlantic overfishing rate unexpectedly increased from 38% in 2018 to 43% in 2019²¹. The EU must act now to redeem this situation.**

The NGO signatories of this paper **welcome Commissioner Sinkevičius' mission²²** to implement the CFP fully, with a focus on:

- the landing obligation,
- multiannual management plans (MAPs),
- effective control and enforcement,
- respecting the maximum sustainable yield (MSY) objective,
- identifying how to address issues not sufficiently covered in the current policy, such as the social dimension, climate adaptation and clean oceans.

Urgent action is needed to put European fisheries on a sustainable course and implement the EU's legal obligations. This duty falls on all EU decision-makers. To date, however, **all key EU institutions have fallen short of this responsibility.**

The EU **Member States** are the main culprits of insufficient CFP implementation²³. When collectively taking decisions in the **Council of the EU (in its Agrifish configuration)**, Member States repeatedly perpetuated overfishing by overshooting scientific advice in their annual decisions on fishing opportunities. As a result, the CFP 2020 deadline for sustainably harvesting all stocks has been missed²⁴.

As the Guardian of the Treaties²⁵, the **European Commission** must hold Member States accountable for failing to implement the CFP's requirements and should not hesitate to launch legal action against those States which do not fulfil their obligations – yet this is not the case now.

In addition to its legislative role, the **European Parliament** should ensure democratic accountability regarding the protection of the marine environment. Crucially, the European Parliament should scrutinise the progress made in ending overfishing and the situation of fish stocks, as well as the functioning of the fisheries policy as a whole (CFP articles 49-50)²⁶. Yet, in its co-legislative capacity, the European Parliament has adopted positions in the last seven years that contradict the CFP Basic Regulation and its objectives and prioritise short-term political gains and industry interests over consistent and coherent implementation of the policy²⁷.

The role of the **EU fishing sector** is also crucial, as its cooperation and compliance are indispensable for the success of the CFP. Its goal should be the long-term health of ecosystems and the sustainability of fish populations, resulting in lasting profitability for the fleets and related industries. Regrettably, much of the sector's efforts in the past seven years have gone into seeking exemptions, exploiting loopholes and undermining the law, especially in relation to the implementation of the landing obligation and of the MSY objective.

In this context, it must be highlighted that the **EU fleet, in general, maintains net profitability²⁸** and its economic performance continues to be good, except for some fleet segments in the Baltic and the Mediterranean basins due to the depletion of certain stocks. According to the European Commission, "it is a great improvement, given that the EU fleet was only marginally profitable in 2008. Continued improvements in performance were mainly the result of some important stocks improving, average fish prices being high (more value for fewer fish landed) and fuel prices remaining low"²⁹.



From problems to solutions

The necessary tools to address gaps in the implementation of the CFP **already exist within the policy itself**, or by means of **other available legal instruments**. The European Commission has a comprehensive toolbox at its disposal and the power to initiate legislative, political, or legal action. Nevertheless, the Member States' political will and cooperation, as well as the European Parliament's active support, are indispensable for the CFP to succeed. In this section, we identify **nine specific challenges in the implementation of the CFP - overfishing, especially in the Mediterranean Sea, the landing obligation, harmful impacts of fishing, the transition to low-impact fisheries, harmful subsidies, regionalisation, the external dimension, and climate change** – and propose a list of actionable solutions.

1 Overfishing persists, enabled by catch limits exceeding scientific advice³⁰

The 2020 legal deadline to end overfishing for all harvested species³¹ and the objective to secure healthy and resilient fish populations, as per article 2.2. of the Basic Regulation, have been missed in all European basins.

SOLUTIONS

- As mandated in the CFP, the European Commission (EC) and the Council should follow the best available scientific advice provided by the International Council for Exploration of the Sea (ICES) when setting fishing opportunities, for EU waters as well as for stocks shared with third parties³².
- The EC and Member States (MS) should apply the precautionary approach for data-limited stocks by setting more cautious fishing limits; and ensure better data collection to improve their assessment.
- The EC should develop guidelines to eliminate the confusion between the precautionary approach to fisheries management, precautionary advice and the precautionary reference points used by ICES.
- Fishing limits should not be set exceeding F_{MSY} exploitation rates, even to account for so called “top-ups” and exemptions to the landing obligation.
- In the Action Plan to conserve fisheries resources and protect marine ecosystems, the Commission should explore setting fishing limits below F_{MSY} to provide for a “climate buffer” and improve fish populations' health and resilience to climate change, as well as to account for ecosystem interactions.
- The Council should increase the transparency of the decision-making process regarding total allowable catches (TACs) and apply the recommendations of the European Ombudsman³³. Transparency principles should also be applied to the negotiations with the UK, Norway and other coastal states, in line with the Aarhus Convention³⁴.
- The EC should address the mismatch between TAC and ICES areas³⁵.
- The EC should formulate requests to ICES that better match its policy needs (MSY advice for more stocks, ecosystem-based approach, climate considerations). Catch options should include ecological considerations such as mixed fisheries and ecosystem modelling.
- The EC should report more clearly and comprehensively on the implementation of the CFP's objectives, including on progress/trends of fishing mortality F and biomass SSB in relation to F_{MSY} and B_{MSY} .

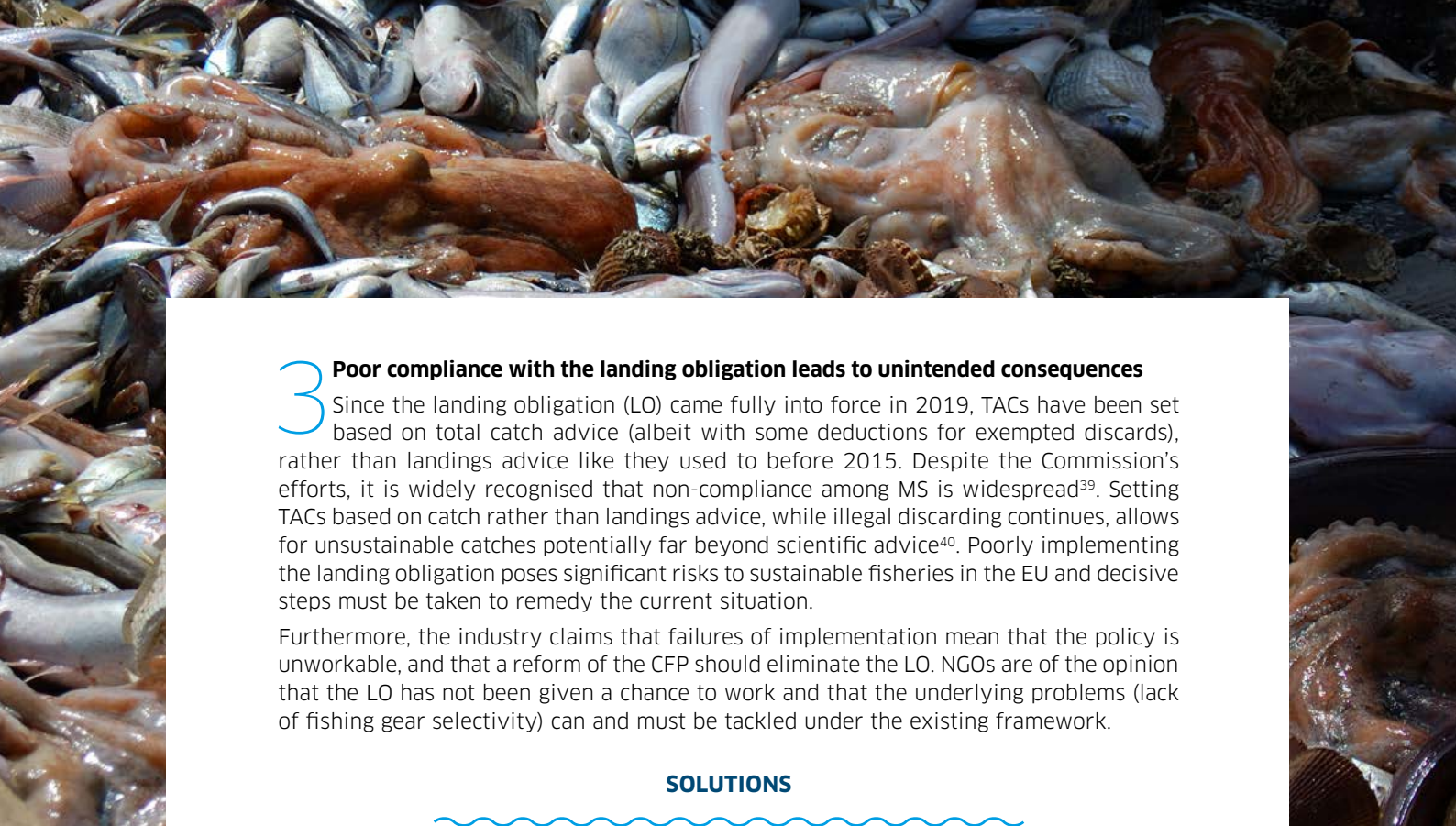


2 The Mediterranean Sea remains the most overfished sea in the world

This biodiversity hotspot suffers from high bycatch rates and its seabed is amongst the most intensely bottom-trawled on the planet. STECF reports that stocks from the Mediterranean and Black Sea remain in a very poor situation (83% are overfished), although there has been slight improvement in terms of fishing pressure and stock biomass in the last years. STECF also raises concerns about the decreasing number of stock assessments being performed³⁶.

SOLUTIONS

- MS should tackle overcapacity in the fleet, and particularly improve control of engine power to prevent fraud which seriously undermines the fishing effort regime.
- MS should better implement the landing obligation, which only entered into force for all demersal Mediterranean fisheries in January 2019, by supporting fishers in the transition towards low-impact fisheries, including by improving access to EU funds.
- MS should improve data collection and comply with reporting obligations. MS should collect data on bycatch following a standardised data collection methodology, to ensure data are harmonised and comparable, with adequate coverage and reliable information, enabling the issue of bycatch to be analysed at regional level.
- MS should fully implement the Western Mediterranean MAP, particularly through timely adoption of bottom-trawling closures to protect fish nurseries and to follow scientific advice on annual reduction of fishing days strictly to tackle excess capacity and apply selectivity measures (such as grids and T90 panels).
- The EC should start legal procedures (suspension of EU funds, including European Maritime, Fisheries and Aquaculture Fund payments, and infringement proceedings) against Mediterranean MS notoriously breaking the law and neglecting their duties to monitor their fleets and enforce the law.
- The EC should introduce emergency measures based on Article 12 of the CFP Basic Regulation where necessary and for stocks in bad condition like European hake.
- The EC should strengthen the implementation of the Mediterranean Regulation, particularly provisions related to the protection of sensitive habitats and juvenile fish, and make legislative proposals to complement it (e.g. extending the current coastal trawl ban further offshore)³⁷.
- In the General Fisheries Commission for the Mediterranean (GFCM), the EU should support ambitious recommendations to increase transparency and control/enforcement of Mediterranean fisheries, to bolster its regional and global credibility.
- The EU should scrutinise the state of implementation of the MedFish4ever and Sofia Ministerial Declarations and support the new GFCM 2025 Strategy to enhance the sustainability of fisheries.
- The EU should expedite the establishment of fish stock recovery areas under the CFP as well as under the GFCM (fisheries restricted areas)³⁸ to protect vulnerable habitats and essential fish habitats.
- The EU Neighbourhood Policy should integrate fisheries to foster enforcement and sustainability with third countries.
- The future Control Regulation should require vessel monitoring for all EU vessels, including more than 49 000 small-scale vessels, the majority of which operate in the Mediterranean Sea.



3 Poor compliance with the landing obligation leads to unintended consequences

Since the landing obligation (LO) came fully into force in 2019, TACs have been set based on total catch advice (albeit with some deductions for exempted discards), rather than landings advice like they used to before 2015. Despite the Commission's efforts, it is widely recognised that non-compliance among MS is widespread³⁹. Setting TACs based on catch rather than landings advice, while illegal discarding continues, allows for unsustainable catches potentially far beyond scientific advice⁴⁰. Poorly implementing the landing obligation poses significant risks to sustainable fisheries in the EU and decisive steps must be taken to remedy the current situation.

Furthermore, the industry claims that failures of implementation mean that the policy is unworkable, and that a reform of the CFP should eliminate the LO. NGOs are of the opinion that the LO has not been given a chance to work and that the underlying problems (lack of fishing gear selectivity) can and must be tackled under the existing framework.

SOLUTIONS

- The Commission should assess the status of implementation of the Technical Measures Regulation by Member States and draw up corrective action plans where needed, with time-bound targeted measures.
- MS should implement the Technical Measures Regulation to improve the selectivity of fishing gears, adopt selective measures already tested by scientists and fishers in EU-funded projects (e.g. Minouw, DiscardLess), develop avoidance techniques and deliver science-based joint recommendations. All potential mitigation measures must be applied to minimise unwanted catches. Exemptions (such as de minimis) should be used only as a means of last resort.
- MS, supported by the EC, must create and promote quota redistribution solutions, beyond traditional swaps, to avoid closing fisheries if quota is available elsewhere.
- The MS should introduce more robust controls. The role and responsibilities of the European Fisheries Control Agency (EFCA) in assisting the MS to implement and monitor the LO fully should also be enhanced.
- MS should punish illegal discarding as a serious infringement; it is IUU fishing and cannot be tolerated. The EC should audit the implementation of that requirement and of the control of the LO by MS and open infringement procedures when implementation gaps are identified.
- The EC and MS should monitor the probability of early fisheries closures⁴¹ and ensure that MS' data on implementation of the LO improves and informs annual fishing opportunities.
- If a high risk of early fishery closures remains, even after all possible measures have been applied, a bycatch reduction or elimination plan must be developed and implemented by MS, if necessary, with support from the EMFAF.
- The Council should adopt fishing opportunities below FMSY point value for some stocks, to reduce fishing pressure on less abundant stocks in mixed fisheries.
- Access to quota "top-ups" should be made conditional on demonstrated compliance with the LO, notably through remote electronic monitoring (REM).
- In the revised Control Regulation, the EU should make catch documentation more reliable through the mandatory use of REM for all vessels above 12m and those below 12m at high risk of non-compliance with the landing obligation, require e-logbooks for all EU vessels and monitor the implementation of LO exemptions⁴². Requiring an e-logbook for all EU vessels will help create full documentation of catches, which can be used to demonstrate industry efforts to reduce unwanted catches, to assess the effectiveness of mitigation measures and identify new ones, as well as to inform scientific assessments.



4 Member States fail to adopt management measures to reduce the harmful impacts of their fisheries on marine species and habitats

One of the CFP's objectives (art. 2.3) requires implementing the ecosystem-based approach to fisheries management to ensure that negative impacts of fishing activities on the marine ecosystem are minimised and the degradation of the marine environment is avoided. Member States can deliver this through regionalisation (CFP art.18) with joint recommendations under multi-annual management plans, or directly under CFP art.11 by adopting necessary conservation measures and complying with European environmental obligations, such as the Birds and Habitats Directives and the Marine Strategy Framework Directive. CFP art.8 also offers opportunities for spatial protection to protect essential fish habitats. These processes have yielded very few results so far.

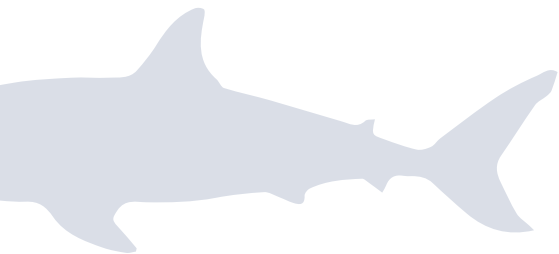
SOLUTIONS

- The EC should apply a zero-tolerance policy and initiate legal proceedings against MS who violate environmental legislation with regards to fishing activities such as: allowing destructive fishing to occur without assessment inside Marine Protected Areas (MPAs), allowing the capture or killing of protected and threatened species such as marine mammals, sharks, marine turtles and seabirds, allowing the use of prohibited gear over protected habitats and inside prohibited areas etc. This would help to ensure the effective protection of the EU's seas and contribute to the achievement of the protected area target of 30% of EU seas by 2030, including 10% under strict protection.
- The EU should restrict and phase out mobile bottom contacting gears in EU near-shore and coastal waters, to protect the most productive part of our sea, while preventing the increase of bycatch of sensitive species caused by other types of fisheries.
- MS should prohibit the use of destructive fishing gears in all Marine Protected Areas, and the EC should ensure effective enforcement of the legal obligation not to permit the deterioration of protected habitats and species from fishing activities in MPAs, while preventing the increase of bycatch of sensitive species caused by other types of fisheries.
- Based on the EC's Action Plan to conserve fisheries resources and protect marine ecosystems, due in 2021, MS should take all necessary measures to ensure a full transition to low-impact fisheries, including by prohibiting the use of non-selective and destructive fishing gear and techniques in EU waters and by EU vessels, including distant water fleets.
- The EC should adopt a robust policy for fisheries management in Natura 2000 sites under article 11 of the CFP, with standards such as prohibiting the most destructive fishing gears in MPAs, to ensure joint recommendations follow scientific advice and the precautionary principle.



- MS should adopt joint recommendations to tackle incidental catches of seabirds, marine mammals, sharks, and sea turtles as per the Technical Measures regulation. The MS should minimise and, where possible, eliminate bycatch of sensitive species by implementing mitigation measures including switching fishing methods, increasing survivability, adapting fishing techniques and (temporarily) closing certain areas to fishing. The EC should adopt emergency measures when MS fail to act (e.g. dolphins in the Bay of Biscay, Baltic harbour porpoises) and should take legal action against MS who obstruct the adoption of joint recommendations.
- MS should require use of e-logbooks by all fishing vessels; and they should introduce Remote Electronic Monitoring (REM) systems to collect data on the bycatch of protected species and on discards of unwanted species or undersized fish by vessels with a high expected rate of bycatch of sensitive species due to the type of gear used, or where direct evidence of such incidental catches exists.

- The EC and MS should collect and consolidate data to establish the extent and threat posed by bycatch of sensitive species, particularly species identified as being of conservation concern. They should do so by establishing an adequate observer programme to provide sound data collection on bycatch with adequate coverage and reliable information. That data on fisheries' impact on wider ecosystems should be registered in accordance with the 2017 Data Collection Framework Regulation.
- The EC and MS should implement and enforce the Deep-Sea Regulation to delineate the trawling footprint and expedite the protection of Vulnerable Marine Ecosystems with closures for mobile bottom-contacting gear.
- The EC and MS should use other relevant environmental legislation such as the Water Framework Directive to achieve greater biodiversity and habitat recovery, e.g. by removing barriers to the migration of diadromous species.



5 In most Member States, the current allocation of fishing opportunities favours industrial scale fishing rather than low-impact practices⁴³
MS fail to implement environmental criteria when allocating fishing opportunities.

SOLUTIONS

- MS should incentivise their national fishing fleets to deploy selective fishing gear and reduce the environmental impact by including clear environmental, compliance and socio-economic criteria in their national management and quota allocation systems. These should favour the most sustainable fishing practices, allocating a larger share of fishing opportunities to low-impact vessels.
- The EC should monitor compliance with CFP art.17 and require that the allocation criteria be made publicly available by MS.
- Through guidance, the EC should provide a precise definition of low-impact fishing⁴⁴.
- MS should reserve a percentage of quotas and fishing effort for best practitioners within a fishery to incentivise greater compliance.
- MS should reduce fleet overcapacity where it exists, seeking to preserve jobs in small-scale low-impact fisheries by prioritising reducing fleet capacity in larger, more damaging fleet segments.
- MS should use employment and social policy tools to support a just transition to a fishing fleet commensurate with available fishing opportunities and operating with minimum environmental impact. The EC should provide guidance on tackling social issues without harming the environment.
- The EC and MS should support more participation of representatives of artisanal and low-impact fishers in Advisory Councils.
- In case of changes to relative stability triggered by Brexit, national quota allocation systems should include provisions making access to quotas conditional on compliance with sustainability and scientific advice.



6 The EU continues to grant harmful fisheries subsidies, particularly under the EMFAF, the Energy Taxation Directive and fisheries state aid

The European Maritime and Fisheries Fund (EMFF) 2014-2020 has not funded enough solutions for more selective fishing and the protection of marine habitats⁴⁵. Regretfully, the new European Maritime, Fisheries and Aquaculture Fund (EMFAF) 2021-2027 will reintroduce harmful subsidies and will exacerbate overfishing.

SOLUTIONS

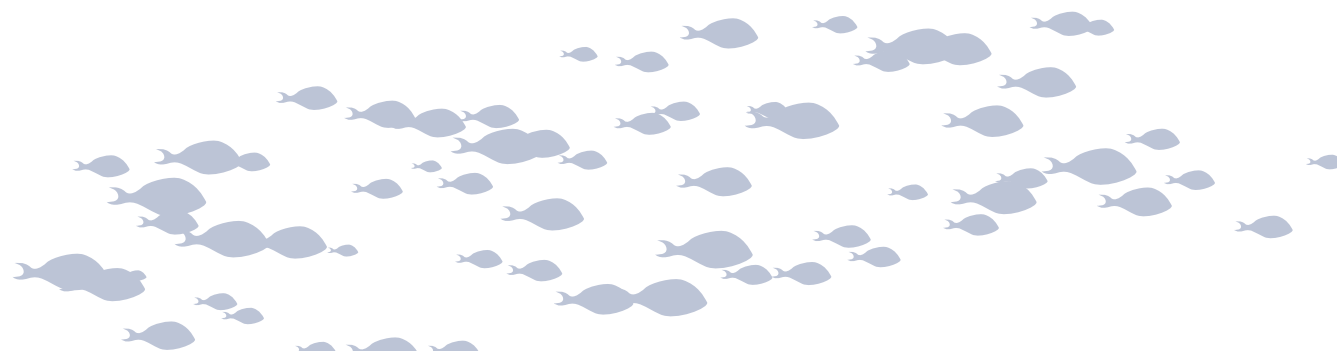
- The EC and the MS should ensure EMFAF spending is in line with the environmental and sustainability objectives of the EU Green Deal and other EU legislation and that at least 25% of the Fund is spent for nature.
- The MS should use EMFAF resources to control fishing activities, to collect data on the impact on fish populations and the marine environment, to find solutions to tackle environmental problems and to enhance our scientific knowledge of the marine environment. The EC should also ensure that EMFAF is financing projects that are beneficial to the EU marine environment and linked to the restoration and conservation of the marine environment, as well as cooperation between fishers and scientists to create a culture of co-ownership of environmentally innovative projects.
- The MS should provide technical assistance to low-impact fishers to access EU funds.
- The EU should ensure that the fuel tax exemption for fishing vessels is removed from the revised Energy Taxation Directive, as it has been detrimental to the economic, social and environmental sustainability of the sector.
- The EU should publish guidance on how to spend the EU Recovery Funds to ensure that EU money does not end up fuelling overcapacity, overfishing or illegal fishing, but instead truly leads to a green recovery⁴⁶.
- The revision of the State Aid Guidelines is an opportunity to establish stricter conditions ensuring that state aid granted to fisheries is not harmful to the environment and follows the objectives of the EU Green Deal.

7 The regionalisation process is deeply flawed and ineffective in delivering sustainable fisheries

Regionalisation and multi-annual plans (MAPs) were meant to be game changers to achieve a less centralised system of fisheries management. However, instead of a tailor-made approach delivering the CFP's objectives in each sea basin or fishery, they weakened the CFP's objectives. The discard plans, developed by MS through joint recommendations, mostly consist of exemptions and flexibilities hampering the policy's implementation. Regionalisation in this form is watering down the CFP's purpose: to restore stocks, maintain healthy ecosystems and safeguard stable, profitable fisheries for the EU fleet⁴⁷.

SOLUTIONS

- The EC should evaluate, revise, and amend MAPs and discard plans to make them fit for purpose through a REFIT (Regulatory Fitness and Performance) check.
- The EC should open infringement proceedings against MS who fail to apply the CFP rules in joint recommendations - particularly those failing to uphold the CFP's environmental objectives. MS should include impact assessments in their joint recommendations to understand their consequences for protected habitats and species.
- The EC should propose fisheries management measures when there is sufficient scientific evidence of a problem and when MS fail to come to a timely agreement.
- The EC should not hesitate to use more delegated and implementing acts when the regionalisation process fails, and not shy away from emergency conservation measures.
- The EC and MS should fully implement the Western Mediterranean MAP.
- The EC should make sure that to fulfil their role as tailored, ecosystem-based conservation measures based on the precautionary approach, MAPs must cover all fisheries comprehensively and include clear environmental and socio-economic objectives. They must also include selectivity and bycatch mitigation measures.
- The EC and MS should reject Advisory Councils' (ACs) advice that undermines the CFP objectives, for example when ACs support TACs above scientific advice. MS and ACs should ensure that the regionalisation process leads to strong and effective measures by applying the precautionary principle and high scientific standards when drafting and evaluating joint recommendations.
- The EC should be more proactive, monitor ACs functionality and intervene when necessary. It should also provide clear protocols for the development and presentation of advice.
- The EC should share and encourage good practices and governance to promote respect and a balanced representation of stakeholders in ACs. The ACs' members should support impartial secretariats and rotating chairpersons to increase transparency.
- The EC should organise annual performance reviews for ACs: an independent, uniform audit to assess ACs' functioning and their contributions to the CFP implementation.





8 The internal and external dimensions of the CFP are not sufficiently aligned
Fishing activities of the EU's Distant Water Fleet, together with other non-EU vessels, have a cumulative impact on fish stocks and the marine ecosystem. In this context, transparency and traceability should be improved.

SOLUTIONS

- The EU should lead by example and show a consistent approach to its own standards when acting in RFMOs and under international conventions (e.g. HELCOM, OSPAR, UNEP-MAP, BSC, ICCAT, GFCM, NAFO, NEAFC and others).
- The EU should improve coherence between RFMO measures and other international frameworks (CITES, Regional Seas Conventions) to provide a strong legal framework for the protection and conservation of sensitive species and habitats.
- The EU should translate critical CFP objectives (including plans for reduction of discards, data collection of bycatch, precautionary and ecosystem-based approach, and other sustainability principles) in all future Sustainable Fisheries Partnership Agreement (SFPAs).
- The EU should embed in SFPAs a requirement for coastal States to improve transparency (i.e. number of vessels, catches, bycatch) beyond the sole EU fleets by publishing other access agreements (private and public), as well as information on joint ventures and chartering arrangements in line with Article 238 of the 2019 United Nations General Assembly Resolution 74.18.
- The EC and MS should fully implement the SMEFF Regulation and the EC should create a user-friendly database that makes it possible to find fishing authorisations of EU vessels in non-EU waters from 2018 to date.
- The EC and MS should improve transparency of the activities of the EU external fishing fleet and make public the information on beneficial ownership of EU flagged vessels as well as activity of EU citizens under non-EU flags.
- MS should apply a zero tolerance policy towards IUU fishing in the EU market and waters, by EU vessels or citizens.
- The EC and the MS should better align the external dimension of the CFP with the EU trade policy, for example by using the option to suspend preferential tariffs if an IUU yellow card is issued.
- In SFPAs, the EC and the MS must ensure the non-discriminatory treatment of EU fleet vis-à-vis other foreign fleets; all technical measures that are applied to the EU fleet must be applied equally to all foreign industrial fleets in the waters of the given coastal State.
- The EU should improve the traceability of all seafood products (including imports and processed and prepared products) in the revised Control Regulation and in the upcoming Sustainable Corporate Governance, to ensure that seafood imports meet EU standards on sustainability, human rights and labour conditions, and are accompanied by information on the fishing area, the vessel's IMO number and the fishing gear used.
- Through the revised Control Regulation, MS should use the EU electronic database for catch certificates to prevent illegal fisheries products from entering the EU market.
- The EC should propose additional legislation to tackle the use of flags of convenience by EU nationals and abusive reflagging.



9 The CFP is mute on the biggest challenge of our generation
The word "climate" does not feature once in the text of the CFP Basic Regulation. While climate change impacts are becoming increasingly evident, and while the scientific consensus is that these impacts will continue and intensify in the coming years and decades, European fisheries policy provides no answer. It is urgent to consider how to manage our fisheries resources and the impacts of fishing on marine ecosystems to mitigate the contribution of the fishing sector to global greenhouse gas emissions, to adapt our fishing operations to changed conditions, to enhance the resilience of the environment to these changes, and to ensure that our ocean continues to absorb and sequester vast quantities of carbon. Other legal instruments can be used to fill this gap. In particular, the upcoming Action Plan to conserve fisheries resources and protect marine ecosystems can address climate considerations currently absent from the CFP.

SOLUTIONS

- The EC should request ICES to conduct climate and ecosystem assessments of EU fisheries, including on the carbon sequestration potential of fish populations and of the seabed/habitats, and CO2 emissions from fuel consumption, and identify a roadmap of action for a just transition to climate-friendly, low-impact fisheries.
- Where relevant, the EC should propose fishing limits below the MSY point value to provide a "climate buffer" for stocks under multiple environmental stressors. It should incorporate such measures in the Action Plan to improve fish populations' resilience to climate change and account for ecosystem interactions.
- The EC should consider the need for increased flexibility and responsiveness in fisheries governance to account for changed conditions – including geographical shifts in stock distribution and potential conflicts with neighbouring countries.
- The EC should include in the upcoming EU restoration law ambitious, legally binding targets for marine habitat protection, prioritising strictly protected MPAs, carbon rich ecosystems and essential fish habitats (e.g. nurseries and spawning grounds). It should protect "blue carbon" ecosystems and their carbon sequestration capacity in habitats such as tidal marshes, seagrass and kelp forests to increase coastal protection.
- The EC should deliver guidance in 2021 on the strict protection of MPAs making up 10% of the EU's seas under the Biodiversity Strategy.
- The EU should prohibit destructive fishing gear in all European MPAs, coastal areas and on known Vulnerable Marine Ecosystems, to strengthen ocean resilience to climate and protect carbon-rich habitats. The ocean floor is the world's largest carbon storehouse, it should be left undisturbed⁴⁸.
- The EU should eliminate harmful fisheries subsidies that overwhelmingly contribute to maintaining the fleet segments with the highest carbon footprint afloat. Removing the fuel tax exemption under the Energy Taxation Directive (ETD) would make fuel-intensive, destructive fishing practices such as mobile bottom-contacting gears much less prevalent.
- MS should provide state aid and design operational plans for the EMFAF that assist the just transition of the most fuel-intensive and destructive segments of the fleet to climate-friendly, low-impact fisheries.

CONCLUSION

The problems and solutions set out above show that there is a long way to go to implement the CFP fully. It is premature

to write off the policy and seek a new reform. Such a misguided approach would place additional burdens on Member States and the fishing sector, who depend on stability and legal certainty. The current policy needs to “spread its wings” and show its real transformative power.

Environmental organisations remain committed to reaching the objectives of the Common Fisheries Policy. We urge the European Commission, the European Parliament, the Council of the EU and the Member States, and the industry to implement the CFP and finally deliver the EU's transition to fully sustainable fisheries.

ENDNOTES

¹ NGOs report, “Setting the right safety net: A framework for fisheries support policies in response to COVID-19. Executive Summary” (2020), <https://europe.oceana.org/en/publications/reports/setting-right-safety-net-framework-fisheries-support-policies-response-covid-19>

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² IPCC, “Special Report on the Ocean and Cryosphere in a Changing Climate” (2019), <https://www.ipcc.ch/srocc/>; IPBES, “Global Assessment Report on Biodiversity and Ecosystem Services” (2019), <https://ipbes.net/global-assessment>

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⁴ Scientific, Technical and Economic Committee for Fisheries (STECF), “Monitoring the performance of the Common Fisheries Policy” (2021), <https://bit.ly/3enUvJ5>

⁵ NGOs recommendations, “Turning the Tide on EU Seas with a Green Recovery” (2020), https://www.birdlife.org/sites/default/files/turning-the-tide-june2020_1.pdf

⁶ NGOs, “Blue Manifesto - The Roadmap to a Healthy Ocean in 2030” (2020), <https://seas-at-risk.org/24-publications/1020-blue-manifesto-the-roadmap-to-a-healthy-ocean-in-2030.html>

⁷ United Nations Decade of Ocean Science for Sustainable Development <https://www.oceansdecade.org/>

⁸ H. Guille, C. Gilmore, E. Willstedt, “UK Fisheries Audit. Report produced by Macalister Elliott and Partners Ltd. for Oceana” (2021), <https://europe.oceana.org/en/uk-fisheries-audit-2021>

⁹ European Commission, “Press remarks by President von der Leyen on the occasion of the adoption of the European Green Deal” (2019), https://ec.europa.eu/commission/presscorner/detail/en/speech_19_6749

¹⁰ Eurostat, “Sustainable development in the European Union – Monitoring report on progress towards the SDGs in an EU context” (2020) <https://ec.europa.eu/eurostat/web/products-statistical-books/-/KS-02-20-202>

A 2019 report by the European Court of Auditors had also highlighted lack of action by the European Commission and big gaps in reporting and monitoring on how the EU budget and policies contributed to achieving the SDGs: https://www.eca.europa.eu/lists/ecdadocuments/inrcr-reporting-on-sustainability/inrcr-reporting-on-sustainability_en.pdf

¹¹ European Commission, “New report: EU's performance on the UN sustainable development goal 14” (2021), https://ec.europa.eu/oceans-and-fisheries/news/new-report-eus-performance-un-sustainable-development-goal-14-2021-05-11_en

¹² European Court of Auditors, “Special Report 26/2020: Marine environment: EU protection is wide but not deep,” <https://www.eca.europa.eu/en/Pages/DocItem.aspx?docid=57066>

¹³ European Environment Agency, “Report No 17/2019. Marine messages II: Navigating the course towards clean, healthy and productive seas through implementation of an ecosystem-based approach” (2020), <https://www.eea.europa.eu/highlights/europes-seas-face-uncertain-future>

European Union, “Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008: Establishing a Framework for Community Action in the Field of Marine Environmental Policy (Marine Strategy Framework Directive),” https://ec.europa.eu/environment/marine/eu-coast-and-marine-policy/marine-strategy-framework-directive/index_en.htm

¹⁴ European Environment Agency, “Report No 17/2019. Marine messages II” <https://www.eea.europa.eu/highlights/europes-seas-face-uncertain-future>

¹⁵ The Pew Charitable Trusts, “Lessons From Implementation of the EU's Common Fisheries Policy” (2021), <https://www.pewtrusts.org/en/research-and-analysis/reports/2021/03/lessons-from-implementation-of-the-eus-common-fisheries-policy>

¹⁶ BirdLife Europe's reports on the use of the European Maritime and Fisheries Fund (EMFF) in France, Croatia and Spain (2020): https://www.birdlife.org/sites/default/files/po_report_use_of_emff.pdf

http://www.birdlife.org/sites/default/files/biom_report_emff_2020_en.pdf

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¹⁸ Oceana, “Unmanaged + Unprotected: Europe's marine paper parks” (2020), <https://europe.oceana.org/en/publications/reports/unmanaged-unprotected-europes-marine-paper-parks>

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19 of 23 marine EU Member States fall behind on developing management plans for their MPAs. Only 1.8% of the EU marine area is covered by MPAs with management plans, despite 12.4% being designated for protection. <https://www.wwf.eu/2uNewsID=352796>

¹⁹ FAO, “The State of World Fisheries and Aquaculture (SOFIA 2020).” In 2017, the Mediterranean and Black Sea had the highest percentage (62.5%) of stocks fished at unsustainable levels. <http://www.fao.org/documents/card/en/c/ca9229en>

²⁰ <https://www.stockholmresilience.org/research/research-news/2017-02-28-contributions-to-agenda-2030.html>

²¹ Scientific, Technical and Economic Committee for Fisheries (STECF), “Monitoring the performance of the Common Fisheries Policy” (2021), <https://bit.ly/3enUvJ5>

STECF confirms again that many stocks remain overfished and/or outside safe biological limits, and that progress achieved until 2019 is obviously too slow to ensure that all stocks are fished at or below FMSY in 2020.

²² European Commission, “President von der Leyen's mission letter to Virginijus Sinkevičius” (2019), https://ec.europa.eu/commission/commissioners/2019-2024/sinkevicius_en

²³ See WWF's comprehensive report on implementation of key CFP articles: “Evaluating Europe's course to sustainable fisheries by 2020” (2018), https://www.wwf.eu/wwf_news/media-centre/2uNewsID=339493

In the MS scorecard, achievement rates vary between 8% (Latvia, Romania) and 69% (Germany). Only one out of 46 CFP actions assessed in this report has been accomplished by all EU Member States.

²⁴ The Pew Charitable Trusts, “Lessons From Implementation of the EU's Common Fisheries Policy” (2021), <https://www.pewtrusts.org/en/research-and-analysis/reports/2021/03/lessons-from-implementation-of-the-eus-common-fisheries-policy>

²⁵ Article 17 of the Treaty on European Union (TEU) states that the European Commission is the guardian of the EU treaties. It thus has the task of monitoring the compliance with the EU primary and secondary law and ensuring its uniform application throughout the EU.

²⁶ The Commission also is obliged to regularly report to the Parliament on fish stock recovery areas, adjustment and management of EU fleets fishing capacity, as well as evaluation of sustainable fisheries partnership agreements (CFP art. 8, 22, 31). Furthermore, the Parliament has power to scrutinize delegated acts proposed by the Commission, for example adopting fisheries management for Marine Protected Areas (CFP art. 11).

²⁷ Examples of EP's counterproductive activity include erosion of the MSY principle in the multiannual plans (MAPs); postponing the CFP 2020 deadline in the Western Mediterranean MAP and trying to do so in the Western Waters MAP; watering down of the technical measures regulation; and reintroducing harmful subsidies in the European Maritime, Fisheries and Aquaculture Fund (EMFAF).

²⁸ STECF, “Annual Economic Report on the EU Fishing Fleet” (2020), https://stecf.jrc.ec.europa.eu/reports/economic/-/asset_publisher/d7le/document/id/2788167

²⁹ Communication from the Commission to the European Parliament and the Council, “Towards more sustainable fishing in the EU: state of play and orientations for 2021” (2020), https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1072

³⁰ New Economics Foundation, “Landing the Blame” annual reports, <https://neweconomics.org/campaigns/landing-the-blame>

The Pew Charitable Trusts, “EU Fisheries Management Still Not in Line With Scientific Advice,” (2020), <https://www.pewtrusts.org/en/research-and-analysis/articles/2020/09/02/eu-fisheries-management-still-not-in-line-with-scientific-advice-despite-2020-deadline>

³¹ As well as UN 2020 deadline for target 14.4 of SDG 14 which requires to effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics.

³² NGOs detailed recommendations on the setting of fishing opportunities:

<https://europe.oceana.org/en/publications/reports/neo-reply-european-commission-consultation-cfp-progress-and-fishing>

<https://europe.oceana.org/en/publications/reports/recommendations-european-commission-and-eu-council-setting-northeast-atlantic>

<https://europe.oceana.org/en/publications/reports/recommendations-parties-manage-shared-fish-stocks-northeast-atlantic>

<https://europe.oceana.org/en/publications/reports/joint-ngo-recommendations-baltic-sea-fishing-opportunities-2021>

<https://europe.oceana.org/en/publications/reports/joint-ngo-recommendations-deep-sea-fishing-limits-2021-2022>

³³ European Ombudsman, “Recommendation of the in case 640/2019/FP on the transparency of the Council of the EU's decision-making process leading to the adoption of annual regulations setting fishing quotas (total allowable catches)” (2019), <https://www.ombudsman.europa.eu/en/recommendation/en/120761>

See also: Transparency International, “Overfishing in the Darkness” (2016), <https://transparency.eu/wp-content/uploads/2016/10/21-09-2016-Fishing-report-web.pdf>

³⁴ UNECE, “Convention on Access to Information, Public Participation in Decision - Making and Access to Justice in Environmental Matters” (1998), <https://unece.org/environment-policy/public-participation/aarhus-convention-text>

³⁵ ClientEarth, “Mismatch between TACs and ICES advice” (2016), <https://www.documents.clientearth.org/wp-content/uploads/library/2016-12-02-mismatch-between-tacs-and-ices-advice-ce-en.pdf>

³⁶ Scientific, Technical and Economic Committee for Fisheries (STECF), “Monitoring the performance of the Common Fisheries Policy” (2021), <https://bit.ly/3enUvJ5>

³⁷ European Union, “Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea,” <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32006R1967>

Oceana's recent comprehensive report shows overall weak implementation of the regulation, clear infringements by EU Member States and poor enforcement by the European Commission.

“Habitat protection under the Mediterranean Sea Regulation: A missed opportunity?” (2020), <https://europe.oceana.org/en/publications/reports/habitat-protection-under-mediterranean-sea-regulation-missed-opportunity>

³⁸ Through joint approaches among stakeholders as the one that delivered the establishment of the fully functioning Jabuka Pit Fisheries Restricted Area (FRA).

³⁹ Communication from the Commission to the European Parliament and the Council, “Towards more sustainable fishing in the EU: state of play and orientations for 2021” (2020), https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1072

⁴⁰ L. Borges, “The Unintended Impact of the European Discard Ban,” ICES Journal of Marine Science (2020), <https://doi.org/10.1093/icesjms/fsaa200>. See also ClientEarth's and Our Fish's briefings on the landing obligation:

<https://www.documents.clientearth.org/wp-content/uploads/library/2020-07-30-setting-total-allowable-catches-tacs-in-the-context-of-the-landing-obligation-ce-en.pdf>

<https://our.fish/wp-content/uploads/2020/11/Science-Briefing-EU-fisheries-management-system-likely-to-implode-the-unintended-impact-of-not-enforcing-the-ban-on-fish-discards.pdf>

⁴¹ For choke mitigation tools, please see the NGO paper “Recovering fish stocks and fully implementing the Landing Obligation” (2018).

<https://europe.oceana.org/en/publications/reports/recovering-fish-stocks-and-fully-implementing-landing-obligation>

⁴² The EU Fisheries Control Coalition (The Environmental Justice Foundation, The Nature Conservancy, Oceana, Seas At Risk, WWF, ClientEarth, The Fisheries Secretariat, Our Fish and Sciaena), “Remote Electronic Monitoring Fact Sheet” (2020), <http://www.transparentfisheries.org/our-work/remote-electronic-monitoring/>

⁴³ New Economics Foundation, G. Carpenter and R. Kleinjans, “Who Gets to Fish? The Allocation of Fishing Opportunities in EU Member States” (2017), <https://neweconomics.org/uploads/files/Carpenter-Kleinjans-Who-gets-to-fish-16-03.pdf>

⁴⁴ Also see: <https://www.cambridgeconservation.org/project/defining-and-measuring-destructive-fishing-in-support-of-achieving-sdg14-life-below-water/>

⁴⁵ European Commission, “European Maritime & Fisheries Fund,” <https://cohesiondata.ec.europa.eu/funds/emff>

⁴⁶ NGOs report, “Setting the right safety net: A framework for fisheries support policies in response to COVID-19. Executive Summary” (2020), <https://europe.oceana.org/en/publications/reports/setting-right-safety-net-framework-fisheries-support-policies-response-covid-19>

⁴⁷ See a case study of the Baltic Sea MAP: The Pew Charitable Trusts, “Fit for Purpose? An Assessment of the Effectiveness of the Baltic Sea Multi-Annual Plan (BSMAP)” (2019), <https://www.pewtrusts.org/en/analysis/assess/2019/09/baltic-map-review-final.pdf>

⁴⁸ E. Sala, J. Mayorga, D. Bradley, et al., “Protecting the global ocean for biodiversity, food and climate,” Nature (2021), <https://www.nature.com/articles/s41586-021-03371-z>. This recent scientific paper estimated the climate impact of bottom trawling at 274 million tons of CO₂ annually. The carbon released from trawling the seabed does not immediately make it into the atmosphere, it also contributes to ocean acidification and it changes the capacity of the ocean for CO₂ sequestration.

