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COMMUNICATION FROM THE COMMISSION

for enhanced transparency and good governance in the allocation of fishing opportunities by Member States: A vade mecum on the application of Articles 16 and 17 of Regulation (EU) No 1380/2013 on the Common Fisheries Policy

(C/2025/6227)

1. INTRODUCTION

Fishing opportunities provide a quantified legal entitlement to fish ([1]) and are essential to ensure sustainable management of a common natural resource that can be depleted if overexploited. When Member States allocate the fishing opportunities available to them, they must do so in line with their responsibility to manage and preserve a common shared natural resource in mind. At the same time, fisheries resources should be managed in a way that is consistent with the objectives of achieving economic, social and employment benefits. Moreover, as highlighted in the European Ocean Pact ([2]), a healthy ocean and regenerative practices will contribute to sustaining livelihoods, notably in coastal communities, and providing food security, including for future generations.

Allocating national fishing opportunities in an objective and transparent manner ensures equal treatment of fishers, builds trust among stakeholders, and promotes sustainable resource use and the protection of the marine environment on which fish resources and ultimately fisheries depend on to thrive. Transparent allocation can also contribute to preventing conflicts between operators, fleets or segments. The allocation of fishing opportunities can further be used to address emerging challenges and to create incentives for fishing vessels to deploy selective fishing gears, thereby encouraging and rewarding more sustainable behaviour and solutions.

The 2023 Communication by the Commission on the functioning of the CFP Regulation ([3]) emphasised, in the context of improving the CFP governance, that good governance also relies on more transparency. It highlighted the requirement of Article 17 of Regulation (EU) 1380/2013 on the Common Fisheries Policy ('CFP Regulation') ([4]) for Member States, when allocating fishing opportunities, to use transparent and objective criteria, including those of an environmental, social and economic nature. The 2023 Communication also confirmed the Commission's commitment to work together with scientific bodies and with Member States to further assess and ensure the transparency of those criteria and their conformity with the CFP provisions. The intention was to encourage the use of criteria that can foster sustainable fishing practices and support small-scale and coastal fishers, which represent nearly 75% of all fishing vessels registered in the EU and nearly half of all employment in the fishing sector.

Following up on that commitment, with this Communication, the Commission encourages Member States to act to improve good governance with respect to the allocation of fishing opportunities, via four avenues: 1) strengthening transparency and information; 2) fairness; 3) ensuring accuracy of the information provided; and 4) suitability of the allocation methods.

([1]) As per definition in Article 4(32) of Council Regulation (EC) No 1224/2009, Control Regulation: *'fishing opportunity' means a quantifies legal entitlement to fish, expressed in terms of catches and/or fishing effort*. Legal entitlement to fish can also include technical and geographical limitations on how, when and where fishing operations can take place.

([2]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions The European Ocean Pact. COM(2025) 281 final. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52025DC0281. Section 4 Protecting and empowering coastal communities and islands.

([3]) 'The common fisheries policy today and tomorrow: a Fisheries and Oceans Pact towards sustainable, science-based, innovative and inclusive fisheries management' COM/2023/103 final (as part of the wider Fisheries and Oceans Package). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023DC0103.

([4]) 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 L 354, 28.12.2013, p. 22–61.

This Communication also invites Member States to reflect on the systems and methods they currently use when allocating those fishing opportunities to foster sustainable fishing practices and support small-scale and coastal fishers.

The Annex to this Communication (named *vade mecum on the allocation of fishing opportunities by Member States*) sets out the findings of the Commission as regards the application of Articles 16 and 17 of the CFP Regulation, taking into account the engagement and the feedback received from Member States and stakeholders ([5]). The Annex also provides guidance on the implementation of those Articles when Member States allocate fishing opportunities to vessels flying their flag.

2. CLEARER INFORMATION ON ALLOCATION METHODS: STRENGTHENING TRANSPARENCY

Article 16(6) of the CFP Regulation requires Member States to inform the Commission of the methods they are using to allocate their fishing opportunities to vessels flying their flag. This reporting obligation is important for transparency reasons ([6]) and needed for the Commission and Member States to monitor trends and performance.

However, practice has shown that Member States have informed the Commission in a variety of ways, with differing frequencies and providing different details. This makes it difficult to have a clear image of what is happening with the allocation of fishing opportunities for certain stocks, fleets and regions. Therefore, the Annex of this Communication invites Member States to include certain minimum information when reporting to the Commission pursuant to Article 16(6).

Furthermore, greater transparency vis-à-vis stakeholders is key for good governance. Member States are therefore encouraged to provide information to stakeholders about the methods they use to allocate fishing opportunities, the criteria used as laid down in Article 17 of the CFP, the weight given to each criterion and the rationale for that weight.

Member States need to ensure that the methods and criteria used comply with the requirements of the CFP Regulation (mainly Article 17). The Commission therefore invites Member States to verify whether this compliance is properly reflected in the reported information: (i) Does the provided information demonstrate the transparency and objectivity of the criteria? (ii) Is the weighing of environmental, social and economic criteria clearly set out? (iii) Does that information cover all allocated fishing opportunities?

3. ALLOCATING FISHING OPPORTUNITIES TO FOSTER SUSTAINABLE FISHING PRACTICES AND TO SUPPORT SMALL-SCALE AND COASTAL FISHERS

The design of the allocation system by Member States is important to align it with the objectives of the CFP ensuring the sustainability of fishing activities and maintaining sufficient flexibility to enable the EU fishing sector to adapt to emerging challenges.

The information gathered by the Commission and analysed by the Scientific, Technical and Economic Committee for Fisheries (STECF) shows significant disparities in the reported allocation methods and the use of criteria including those of an environmental, social and economic nature.

The Commission recognises that it is the Member States' responsibility to decide the allocation systems they use and that it is their prerogative to determine the respective weightings for the environmental, social and economic criteria they choose. Given the diversity of the sector and fisheries across the Member States, it is clear that a 'one size fits all' approach would not provide a suitable solution.

In particular, the Member States are not obliged to allocate fishing opportunities to the most sustainable fishing practices or to small-scale fishers.

([5]) More information on feedback can be found in the documents referenced in the Annex, mainly the Scientific, Technical and Economic Committee for Fisheries (STECF) reports 20-14, 22-14 and 23-17.

([6]) As stated in the 2023 Communication, the Common fisheries policy today and tomorrow (COM(2023) 103 final): 'Good governance also relies on more transparency'. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023DC0103.

However, the Commission is required to assess the alignment of those allocation methods with the objectives of the CFP.

In this sense, the Commission highlights the spirit of Article 17, reflected in Recital 33 of the CFP Regulation: *Member States should promote responsible fishing by providing incentives to those operators who fish in the least environmentally damaging way and who provide the greatest benefits for society*.

From the replies to the questionnaires and the stakeholders' consultations, the Commission has observed a degree of inertia in the way that fishing opportunities are allocated by Member States, including that some of the reported methods do not appear to address adequately emerging challenges faced by EU fisheries.

This is especially evident for small-scale coastal fishers which, in general, are more impacted by challenges ([7]), such as the energy crisis, natural fluctuation of stocks (abundance and distribution), competition for the use of the marine space, climate change, degradation of marine environment, invasive species or unfair competition from illegal, unreported and unregulated (IUU) fishing.

The Commission recognises the important role of small-scale coastal fisheries, which constitute almost 70% of the vessels fleet in the EU. It places special emphasis on their closer links with the social and economic fabric of fishing communities, their closer connection with the local environment, society and their important role in European culture and heritage. Recognition of this role is supported through: (i) preferential access to EU waters up to 12 nautical miles in the CFP Regulation; (ii) financial support of up to 100% under the European Maritime, Fisheries and Aquaculture Fund (EMFAF) ([8]); and (iii) certain derogations under the Control Regulation ([9]).

The allocation of fishing opportunities under Article 17 by Member States could better reflect the important role of small-scale coastal fisheries, for example by aligning allocation methods with the specific needs identified under the national EMFAF programme for the small-scale fishers to build resilience.

4. WHAT MEMBER STATES COULD DO TO IMPROVE GOOD GOVERNANCE WHEN ALLOCATING FISHING OPPORTUNITIES

A. Building trust based on transparency and communication

Allocation methods can be complex, and certain stakeholders have expressed the desire to understand better the methods used, and the criteria underlying them. Therefore, in addition to the legal requirements of informing the Commission on how they allocate fishing opportunities to the vessels flying their flag, Member States are invited to strengthen their information and communication tools, to **provide proactively information to stakeholders** on the methods used to allocate fishing opportunities (quotas and effort) and the rationale behind them.

The Commission emphasises that Article 17 could be a tool to respond to the emerging challenges faced by EU fisheries. These challenges could be overcome by promoting dialogue and involving all stakeholders more actively in the allocation of fishing opportunities by Member States.

B. Building trust based on fairness

The Commission encourages **Member States to take further actions to use the full potential of Article 17 to promote sustainable fishing practices and to support small-scale and coastal fishers**.

([7]) Scientific, Technical and Economic Committee for Fisheries (STECF) - The 2024 Annual Economic Report on the EU Fishing Fleet (STECF 24-03 and 24-07), PRELLEZO, R., SABATELLA, E.C., VIRTANEN, J., TARDY MARTORELL, M. and GUILLEN, J. editor(s), Publications Office of the European Union, Luxembourg, 2024, doi:10.2760/5037826, JRC139642. Chapter 2.7 EU Small-Scale Coastal Fleet (SSCF). Pages 45 to 60. https://publications.jrc.ec.europa.eu/repository/handle/JRC139642.

([8]) Regulation (EU) 2021/1139 of the European Parliament and of the Council of 7 July 2021 establishing the European Maritime, Fisheries and Aquaculture Fund.

([9]) Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amended by the Regulation (EU) 2023/2842 of the European Parliament and of the Council.

First, the Commission invites Member States to reflect on the examples of criteria included in Article 17 and the impact of allocating fishing opportunities to: (i) vessels with a larger environmental impact than others present in their fleets; (ii) vessels with a history of non-compliance; or (iii) vessels that displace traditional activities or established sustainable economic activities.

Second, the Commission encourages Member States to implement actions supporting small-scale fishers and to use all the possibilities given under Article 17 that could incentivise the long-term sustainability of these fisheries, especially for those with lower impact on the environment.

C. **Building trust based on accuracy of the information provided**

The type, amount and level of detail of information provided by Member States varies widely ([10]).

The Commission therefore invites Member States to inform the Commission, as per Article 16(6), and stakeholders, as a matter of transparency and good governance, about the allocation methods and criteria used **for all fishing opportunities**. This includes quotas and fishing effort in EU waters and the fishing opportunities attributed to Member States in international waters and via international agreements (such as regional fisheries management organisations, sustainable fisheries partnership agreements or other types of bilateral or multilateral agreements).

The Commission calls Member States to report the allocation method they use considering the three categories of criteria referred to in Article 17, i.e. **environmental**, **social** and **economic criteria**.

Transparency and communication to stakeholders, as key components of good governance, are also relevant for fishing opportunities subject to transferable fishing concessions (TFCs) despite their exclusion from the obligation to inform the Commission, as laid down in Article 16(6).

D. **Building trust based on suitability of the allocation methods**

The Commission encourages Member States to use criteria for the allocation of fishing opportunities, as per Article 17 of the CFP Regulation, to incentivise adaptation to emerging challenges. The allocation **methods should not undermine the ability of Member States to react** quickly to unexpected issues.

The Commission invites Member States to develop allocation methods that include the possibility of reallocating unused fishing opportunities in a timely, transparent and active way.

The Commission also encourages Member States to conduct periodical reassessments of the allocation systems to ensure that the **methods and criteria used are still relevant and appropriate** to the current needs of their fisheries sector.

5. **CONCLUSION**

The Commission has been working with Member States, the STECF and stakeholders to obtain a clearer picture of the methods used to allocate fishing opportunities ([11]).

In light of this process, the Commission invites Member States to take further actions to use the full potential offered by Article 17 to promote sustainable fishing practices and to support small-scale and coastal fishers.

The Commission encourages Member States to reflect on the main problems from which their small-scale fishers are suffering and to use Article 17 to provide support and space for certain fishing vessels that merit access to fishing opportunities to sustain their contribution to sustainable fishing and fishing communities.

([10]) See, for example, Scientific Technical and Economic Committee for Fisheries (STECF) – Social Data in Fisheries (STECF 23-17), Van Hoof, L., Goti, L., Tardy Martorell, M. and Guillen, J. editor(s), Publications Office of the European Union, Luxembourg, 2024, doi:10.2760/982497, JRC136326. https://publications.jrc.ec.europa.eu/repository/handle/JRC136326.

([11]) Latest report published previously referred: Scientific Technical and Economic Committee for Fisheries (STECF) – Social Data in Fisheries (STECF 23-17).

To increase confidence in policies, the Commission encourages Member States to improve the information provided to stakeholders on how fishing opportunities are allocated.

As next steps, the Commission invites Member States to reflect on the methods and criteria they use to allocate fishing opportunities, bearing in mind the need to promote sustainable fishing practices, support small-scale and coastal fishers, and improve communication and transparency. It stands ready to assist Member States in this regard.

ANNEX

Vade mecum on the allocation of fishing opportunities by Member States (Article 17 of the CFP Regulation)

This vade mecum provides additional information that could assist Member States in the implementation and application of Article 17 of the CFP Regulation (hereinafter 'Article 17').3

Article 17 CFP Regulation

Criteria for the allocation of fishing opportunities by Member States

When allocating the fishing opportunities available to them, as referred to in Article 16, Member States shall use transparent and objective criteria including those of an environmental, social and economic nature. The criteria to be used may include, inter alia, the impact of fishing on the environment, the history of compliance, the contribution to the local economy and historic catch levels. Within the fishing opportunities allocated to them, Member States shall endeavour to provide incentives to fishing vessels deploying selective fishing gear or using fishing techniques with reduced environmental impact, such as reduced energy consumption or habitat damage.

REPORTED ALLOCATION METHODS AND CRITERIA USED BY MEMBER STATES

Since the adoption of the 2013 CFP Regulation, the Commission has worked with Member States to obtain a complete picture of how they apply and implement Article 17.

In the 2023 Communication by the Commission on the functioning of the CFP Regulation ([1]) the Commission announced its intention to 'initiate discussions among Member States and stakeholders with a view to preparing a vade mecum on the allocation of fishing opportunities in order to improve transparency, promote sustainable fishing practices across the EU, and support small-scale and coastal fishers.'

In the European Ocean Pact, the Commission recognises the support of small-scale fisheries as a priority and recommits to preparing this vade mecum to help improve transparency and promote sustainable fishing ([2]).

This vade mecum builds on the following documents and processes:

— the European Parliament resolution of 7 June 2022 on the implementation of Article 17 of the Common Fisheries Policy Regulation (2021/2168(INI)) ([3]);

— four questionnaires completed by the 22 coastal Member States in 2016, 2020, 2022 and 2023;

([1]) 'The common fisheries policy today and tomorrow: a Fisheries and Oceans Pact towards sustainable, science-based, innovative and inclusive fisheries management' COM/2023/103 final (as part of the wider Fisheries and Oceans Package). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023DC0103.

([2]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions The European Ocean Pact. COM/2025/281 final. Section 3.1. Page 10. https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=comnat:COM_2025_0281_FIN.

([3]) Report on the implementation of Article 17 of the CFP Regulation (2021/2168(INI)) https://oeil.secure.europarl.europa.eu/oeil/en/procedure-file?reference=2021/2168(INI).

— three reports by the Scientific, Technical and Economic Committee for Fisheries (STECF) (20-14 ([4]), 22-14 ([5]), 23-17) ([6]); and

— a dedicated stakeholder consultation held from February to April 2024.

The above documents and consultations highlighted the need for the Commission to provide guidance on Article 17 of the CFP Regulation and on how Member States inform the Commission of the allocation methods they use, as required in Article 16(6) of the CFP Regulation (hereinafter 'Article 16(6)').

In the four questionnaires the Commission sent in 2016, 2020, 2022 and 2023, the 22 coastal Member States were asked to provide information on the methods they use to allocate fishing opportunities under Article 16, read in conjunction with Article 17. The replies to those questionnaires were assessed by the STECF. Information was completed with one stakeholder consultation held from February to April 2024 ([7]).

While all 22 coastal Member States replied to the questionnaires, the type, amount and level of detail of the information they provided varied widely. Overall, the replies, along with the STECF reports, revealed diversity among Member States in how they interpret the requirements in Article 17.

According to the STECF, there is no clear trend in the use by Member States of criteria based on geography, type of fishing opportunity or fleet segment. The STECF also highlighted the diversity of Member State systems to allocate fishing opportunities, indicating that no two Member States use the same system. For example, while some Member States use transferable fishing concessions ([8]) only (such as individual transferable quotas), others implement a mixed system with transferable fishing concessions and a criteria-based allocation. Certain Member States reported that they also apply further sorting criteria to the transferable fishing concessions.

The replies provided by certain Member States did not provide sufficient details regarding how the allocation methods work. For example, the information provided did not always indicate whether the same criteria and allocation methods were applied to all species for which there was a quota, or only to the examples provided. Certain Member States also did not describe how the environmental, social and economic criteria were weighted.

Only around half of the Member States reported allocating fishing opportunities based on precise criteria. The following elements could be identified from the answers to the questionnaires:

— The most frequently applied criterion is the allocation based on historical catches;

— Many allocation methods involve the use of one or more criteria related to vessel size to allocate fishing opportunities between large-scale and small-scale fleets;

([4]) Scientific, Technical and Economic Committee for Fisheries (STECF) – Social dimension of the CFP (STECF-20-14), Doering, R., Fitzpatrick, M. and Guillen Garcia, J. editor(s), EUR 28359 EN, Publications Office of the European Union, Luxembourg, 2020, ISBN 978-92-76-27169-7, doi:10.2760/255978, JRC123058. https://publications.jrc.ec.europa.eu/repository/handle/JRC123058.

([5]) Scientific, Technical and Economic Committee for Fisheries (STECF) - Social Data in Fisheries – update of the national profiles (STECF-22-14), Goti, L., Van Hoof, L., Virtanen, J. and Guillen Garcia, J. editor(s), Publications Office of the European Union, Luxembourg, 2023, doi:10.2760/31328, JRC133702. https://publications.jrc.ec.europa.eu/repository/handle/JRC133702.

([6]) Scientific Technical and Economic Committee for Fisheries (STECF) – Social Data in Fisheries (STECF 23-17), Van Hoof, L., Goti, L., Tardy Martorell, M. and Guillen, J. editor(s), Publications Office of the European Union, Luxembourg, 2024, doi:10.2760/982497, JRC136326. https://publications.jrc.ec.europa.eu/repository/handle/JRC136326.

([7]) DG MARE sent out a letter in February 2024 to Advisory Councils, Member States authorities, social partners and NGOs asking for their views on the analysis, conducted by STECF, of Member States' answer regarding the method of allocation of fishing opportunities at national level. A total of 25 replies were received to this consultation.

([8]) As defined in the CFP Regulation 1380/2013, Article 4 (23) *'transferable fishing concession' means a revocable user entitlement to a specific part of fishing opportunities allocated to a Member State or established in a management plan adopted by a Member State in accordance with Article 19 of Council Regulation (EC) No 1967/2006 (1), which the holder may transfer.*

— Most of the reported methods involve the allocation of opportunities based on quotas, with more limited details provided on the methods used to allocate fishing opportunities based on fishing effort;

— Certain Member States indicated that the specific criteria applied depend on the fleet segment, species and/or fishing techniques used (e.g. Croatia, Greece, Ireland and Sweden);

— Environmental criteria are used to incentivise fishing practices and to compensate inevitable interactions such as unavoidable by-catches in mixed fisheries. For example, quotas are allocated:

  — according to specific fishing gears (e.g. Denmark, France, Greece, Ireland, Malta and Sweden);

  — for vessels using active acoustic devices to deter species, such as cetaceans, from fishing gear (e.g. Bulgaria);

  — for the purpose of unavoidable by-catches (e.g. Croatia, Cyprus, Denmark, Greece, Malta and Spain).

— Social criteria are used to allocate quotas to:

  — younger fishers (e.g. Bulgaria, Denmark and Greece);

  — newcomers in the fishing industry (e.g. Germany and Malta);

  — fishers with dependents and/or disabilities (e.g. Greece).

— Economic criteria are used (e.g. by France, Germany and Ireland), in particular to address market conditions (e.g. demand) and quota uptake (e.g. Bulgaria and Romania). Reported examples are:

  — contribution of fisheries to the national/local community economy (e.g. Portugal, Germany and Greece), and

  — fleets using specific gears fully dependent on certain species (e.g. France, Portugal and Spain).

More details on the methods and criteria reported by Member States can be found in STECF 23-17 report.

GUIDING THE APPLICATION OF ARTICLE 17

This section compiles the main issues related to the implementation of Article 17 that were reported by stakeholders during the dedicated consultation held from February to April 2024 and by the STECF in its analysis of the replies by the 22 coastal Member States to the questionnaires of 2016, 2020, 2022 and 2023.

Fishing opportunities

The STECF 23-17 report noted that the definition of fishing opportunities chosen by Member States 'coincides with the most restrictive definition which only includes TAC [Total Allowable Catches]' ([9]). But it is to be noted that the term 'fishing opportunities' includes a broader definition, as set out in Article 4(32) of the Control Regulation ([10]):

> *'fishing opportunity' means a quantified legal entitlement to fish, expressed in terms of catches and/or fishing effort*

([9]) Section 4.1, STECF 23-17 report. Page 68. https://publications.jrc.ec.europa.eu/repository/handle/JRC136326.

([10]) Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amended by Regulation (EU) 2023/2842 of the European Parliament and of the Council.

Good practice 1: the use of transparent and objective criteria is **applied to all fishing opportunities**, whether based on quota or fishing effort, and in EU waters and non-EU waters, and is **reported** to the Commission.

Transparent criteria

The requirement of transparent criteria is related to the principle of legal certainty meaning that, when a criterion is set out in a legislative provision (or a published administrative act), it should thus be considered transparent ([11]).

Some Member States consider that they meet the requirement to use transparent criteria by making all the related information publicly available. Other Member States have an information system in place that reports to stakeholders or is available on request. STECF analysis on Member States replies also recognise difficulties in assessing transparency due to, 'among others, the lack of a baseline' ([12]).

It has been argued that while Article 17 requires the criteria used to be transparent, it does not require the authorities to make all the allocation details publicly available.

However, as mentioned in the 2023 Communication on the functioning of the CFP, 'good governance also relies on more transparency' and 'stakeholders need to have clear information about how Member States allocate fishing opportunities and manage fleet capacity at national level.'

Good practice 2: the **information** regarding methods and criteria used to allocate fishing opportunities at Member State level is **provided proactively to all stakeholders**.

Objective criteria

The requirement to use objective criteria is related to the capacity to verify and measure the data used to set the criteria ([13]).

Most of the reported criteria (e.g. historical catches, type of gear or vessel size) are considered to meet this requirement.

Towards a common understanding of the notion 'including those of an environmental, social and economic nature'

The CFP Regulation does not establish harmonised criteria of an environmental, social and economic nature. It only includes in the second part of Article 17 a non-exhaustive list of examples of criteria that could be used ([14]). This has been reported as a challenge by STECF, while giving Member States a margin of discretion in choosing and designing allocation methods so that they can adapt them to their specific needs.

([11]) Judgment of 12 July 2018, *Spika and Others*, C-540/16, EU:C:2018:565, paragraph 29 to 31.

([12]) Section 4.1, STECF 23-17 report. Page 67. https://publications.jrc.ec.europa.eu/repository/handle/JRC136326.

([13]) Judgment of 12 July 2018, *Spika and Others*, C-540/16, EU:C:2018:565, paragraph 30: *"That criterion is expressly referred to in Article 17 of Regulation No 1380/2013, in the list of criteria that the Member States may choose to use for allocating the fishing opportunities that they have been granted. That criterion is also set out in a legislative provision, namely Article 171 of the Law on Fisheries, which, by referring to the historical share of the operators in question, is based on objective data, measurable and verifiable by the competent authorities."*

([14]) *The criteria to be used may include, inter alia, the impact of fishing on the environment, the history of compliance, the contribution to the local economy and historic catch levels.* (Article 17 of the CFP Regulation).

The information gathered and analysed by STECF shows significant disparity in the use by Member States of criteria including those of an environmental, social and economic nature. While reported allocation methods do include criteria in these three areas, it is not always clear whether the criteria are applied evenly to all stocks. It is also unclear what weighting is given to each of them, or whether criteria from more than one type are combined in each reported allocation method. In addition, one criterion can contribute to more than one category, and the rationale behind the selection of those criteria is not always evident.

Some examples of reported criteria used by Member States are detailed below in Outline 1.

Outline 1. Non-exhaustive list of criteria reported by Member States when allocating the fishing opportunities to vessels flying their flag.

a. Environmental:
   i. deploying selective fishing gear
   ii. using fishing techniques with reduced environmental impact
   iii. reduced energy consumption
   iv. reduced habitat damage

b. Social
   i. crew size
   ii. new vessel owners or young fishers
   iii. crew with employment contract and young fishers
   iv. small-scale fishers
   v. vessels fishing only regionally
   vi. vessels investing in training of the crew

c. Economic
   i. viability or feasibility
   ii. contribution to the local economy
   iii. historic catch level
   iv. history of compliance

The inclusion of certain criteria under one or more than one category is possible. This is not an exhaustive list of examples and cannot be seen as a specific recommendation, good practice or endorsement of such criteria by the Commission, since what is considered positive in certain contexts could be counter-productive in others. As previously mentioned, it is the Member States themselves who are best placed to decide the most appropriate approach to satisfy Article 17.

Article 17 requires Member States to allocate the fishing opportunities among their vessels, in a way that contributes to long-term environmental, economic and social sustainability.

Article 17 gives Member States discretion in how the criteria are applied: for example, they can select more (or fewer) criteria under each category, as per the example in Outline 1.

Good practice 3: the **information** reported to the Commission and provided to stakeholders **reflects all three types of criteria** referred to in Article 17. i.e. environmental, social and economic criteria.

OTHER CONSIDERATIONS FOR THE APPLICATION OF ARTICLE 17

This section lists other issues that emerged from the dedicated stakeholders' consultation, the Member States' replies to questionnaires and the STECF's analysis.

To give clarity and guidance, this section is structured as replies to the concerns expressed in these various interactions.

Concern: 'Article 17 refers only to the allocation of quotas in EU waters by Member States.'

Articles 16 and 17 refer to fishing opportunities which, as previously described, **encompass both quotas and fishing effort**. The Article is **not also restricted to** fishing opportunities allocated to Member States in **EU waters** only but also applies to non-EU waters (international and third countries' waters).

Concern: 'Article 17 is only applicable to the allocation of new fishing opportunities. The allocation systems used in my Member State were established long before Article 17 was included in the CFP Regulation and are the result of complex and long discussions and consensus with different fleet segments. Changing them would be a complex and long process affecting the already existing business models.'

The requirements set out in Article 17 apply to the allocation methods decided by Member States. They do not require Member States to change methods insofar as they already use transparent and objective criteria, including those of an environmental, social and economic nature.

The Commission acknowledges the efforts reported by some Member States to promote dialogue and build consensus among different fleet segments in the allocation of fishing opportunities. The Commission is also aware of the importance that stability and legal certainty have for fishers. But the challenges affecting fisheries in the EU require systems that are able to adapt. Methods that worked decades ago may no longer be the most appropriate to address new challenges.

Good practice 4: The methods and criteria used by Member States to allocate fishing opportunities are **periodically reviewed to ensure that they remain relevant**.

Concern: 'Article 17 does not refer to allocation of fishing opportunities subject to a system of transferable fishing concessions (TFCs).'

The obligation to inform the Commission about the allocation methods of fishing opportunities that Member States are using to allocate those opportunities to vessels flying their flag, as laid down in Article 16(6), does not concern the fishing opportunities that are subject to a system of TFCs.

At the same time, this does not alter the requirement on Member States to allocate fishing opportunities in line with the wider objectives of the CFP.

Good practice 5: transparency and communication improvements are **also considered for fishing opportunities subject to TFCs.**

The STECF report 23-17 ([15]) noted that Member States with Individual Transferable Quotas ('ITQ') 'have not made relevant modifications to their existing setups'. The STECF considered that 'the issue of TFC/ITQ can be better dealt with by separating primary and secondary allocation ([16]), where more information can normally be given on the primary allocation'.

([15]) STECF 23-17 report: https://publications.jrc.ec.europa.eu/repository/handle/JRC136326.

([16]) From STECF 23-17 report: Primary allocation: allocation from the Member State to Producer Organisations, firms, or individuals. Secondary allocation: allocation from the quota holder, e.g. Producer Organisation, to its members including exchanges.

Concern: 'Current allocation systems used by Member States do not allow for flexibility and quick reactions to ensure the optimisation of the use of the available fishing opportunities.'

There are numerous examples of methods that Member States use, including TFCs/ITQs systems, to allocate fishing opportunities among fleet segments, regions, producers organisations, companies or vessels, that are akin to a domestic relative stability key. Even when swaps are possible, they may be not offered or accepted for competitive market reasons between operators.

For example, when quota allocation is made by fleet segments and a given segment has several quotas for different stocks, it can decide to fish for those more profitable and not to target for those of a lesser value, without transferring the quotas to other fleet segments.

Member States authorities could have limited capacity to reuse the unused quotas if the allocation systems did not previously consider such situations (for example by setting quota reserves). In a similar example, under the ITQ system, operators can decide to leave quotas unfished for several reasons and any external decision would have a direct impact on the company and, most probably, would lead to national internal litigations.

Non-used fishing opportunities can undermine the EU position at international negotiations and, overall, create a social problem of unfair distribution of a common shared natural resource.

Good practice 6: Allocation methods **take account of the possibility of reallocating unused fishing opportunities** in a transparent, timely and active way.

Concern: 'According to Article 17, the Commission should ensure that Member States give priority to certain criteria over others.'

Member States did not equally report the presence of environmental, social and economic criteria for all allocation methods, meaning that the priority given to any of them was not always evident.

The Commission recognises that it is the Member States' prerogative to determine the respective weightings for the environmental, social and economic criteria they choose.

The Commission analyses whether reported methods contribute to the long-term environmental, economic and social sustainability, as laid down in the CFP Regulation.

Good practice 7: the allocation of fishing opportunities is based on a methodology encompassing **a combination** of environmental, social and economic criteria.

Concern: 'Article 17 cites as criteria the impact of fishing on the environment, compliance history, the contribution to the local economy and historic catch levels. Therefore, these criteria should receive adequate consideration in allocation systems.'

Article 17 states that 'the criteria to be used may include, inter alia, the impact of fishing on the environment, the history of compliance, the contribution to the local economy and historic catch levels.' The use of the wording 'may include… inter alia' means that those criteria should be interpreted as an illustrative list, but it does not mean that they must be always present.

Furthermore, Article 17 requires Member States to make every effort to incentivise selectivity and reduce environmental impact when allocating the fishing opportunities available to them ([17]).

([17]) 'Member States shall endeavour to provide incentives to fishing vessels deploying selective fishing gear or using fishing techniques with reduced environmental impact, such as reduced energy consumption or habitat damage'.

The Commission invites Member States to reflect on the examples laid down in Article 17 and on the effect of allocating fishing opportunities to: (i) vessels with a bigger environmental impact than others present in their fleets; (ii) vessels with a history of non-compliance; or (iii) vessels that are going to displace traditional activities or established sustainable economic activities.

Good practice 8: the allocation of fishing opportunities **incentivises sustainable fishing practices** and boosts **adaptation to major challenges**.

INFORMING THE COMMISSION OF ALLOCATION METHODS

Article 16(6) of the CFP Regulation requires Member States to inform the Commission of the methods they are using to allocate their fishing opportunities to vessels flying their flag.

Practice has shown that Member States have informed the Commission in a variety of ways, with differing frequencies and providing different details. This, sometimes, makes it difficult to have a clear image of what is happening with the allocation of fishing opportunities for certain stocks, fleets and regions.

To improve this situation, the Commission invites Member States to include the information detailed below in Outline 2, when informing the Commission of the methods and criteria used to allocate fishing opportunities.

Outline 2: Information to be included when informing the Commission of the methods and criteria used to allocate fishing opportunities.

— the form taken by fishing opportunities, be it quantified total allowable catches (TAC), quotas and fishing effort limits.

— the criteria applied to allocate those opportunities, including at least one environmental criterion, one social criterion and one economic criterion.

— how the criteria are weighted, including the existence of incentives provided, if any, as encouraged in Article 17.

— the instruments used to ensure transparency, including the involvement of stakeholders in setting allocation methods and the communication of the results to the wider public.