July 2026

Revision of the European Maritime, Fisheries and Aquaculture Fund

Transforming EMFAF for ocean health, social justice and future resilience

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Contents

ClientEarth welcomes the opportunity to provide feedback on the European Commission's call for evidence regarding the amendment of the European Maritime, Fisheries and Aquaculture Fund (EMFAF) Regulation (EU) 2021/1139. However, ClientEarth must express serious concern regarding the procedural framework chosen for this initiative. The explicit exclusion of an Impact Assessment, coupled with a short four-week feedback period and reliance on informal stakeholder meetings, violates the fundamental principles of evidence-based, transparent, and inclusive law-making.

In line with the findings of the European Ombudswoman following ClientEarth's successful joint complaint, the Commission cannot simply avoid an Impact Assessment for legislative revisions of this relevance[1]. Changes in political priorities or administrative "simplification" agendas do not justify bypassing procedural rules, nor can targeted stakeholder dialogues replace comprehensive public consultations and robust Impact Assessment[2]. As the Ombudswoman emphasized, legislative revisions that carry significant environmental, social, and economic consequences legally require a rigorous, evidence-based assessment to evaluate the full impact of the proposed options on ocean health and coastal communities. This is particularly crucial given that any revision must demonstrate how it will deliver on the core statutory objectives of the EMFAF Regulation, under Article 3, namely:

1) Fostering sustainable fisheries and the restoration and conservation of aquatic biological resources;

2) Fostering food security through sustainable aquaculture and markets; and

3) Enabling a sustainable blue economy in coastal, island, and inland areas.

Without a formal Impact Assessment, the Commission lacks the empirical baseline required to prove that its proposed "simplification" will support, rather than undermine, the core objectives of the fund. Furthermore, the deadline for submitting feedback coincided with 21 July 2026, the Belgian National Day and an official public holiday for the European Commission. Setting the closing date of a public consultation on an official public holiday does not appear consistent with the objective of ensuring the broadest possible stakeholder participation or with the principles of meaningful and effective public engagement in the legislative process.

The revision of the EMFAF should first and foremost be within the framework of the legal obligations grounded in the European Union's multilateral environmental and trade commitments. To ensure long-term ocean health, social equity, and economic resilience, any simplification of the fund must align with global sustainability frameworks. These frameworks mandate a pathway for identifying, phasing out, and redirecting harmful subsidies toward the environment and activities that provide clear social added value.

As detailed in ClientEarth's response to the Call for Evidence on the EMFAF mid-term evaluation, the fund is currently misaligned to its core objectives, resulting in public resources that often undermine the Common Fisheries Policy (CFP) rather than support them[3]. Since the mid-term evaluation, the EMFAF framework has failed to phase out environmentally harmful subsidies or redirect them toward critical needs, such as the conservation of marine biodiversity and the just transition of the fisheries sector.

[1] ClientEarth, EU watchdog slams Commission's undemocratic environmental rollbacks, November 2025.
[2] ClientEarth, Ombudswoman keeps heat on Commission over fast-tracked rollback agenda, June 2026.
[3] ClientEarth, EMFAF 2021-2027 – mid-term evaluation Response to the call for evidence, September 2024.

In this submission, ClientEarth structures its recommendations across three pillars:

1. **Full and effective transposition** of the WTO Agreement on Fisheries Subsidies while keeping current conditionalities and safeguards;
2. **Strategic reallocation** of remaining resources to support the ecological and social transition; and
3. **Targeted financing** for a genuine energy transition bound by robust environmental safeguards.

1) Full and effective transposition of the WTO Agreement on Fisheries Subsidies

The WTO Agreement on Fisheries Subsidies (AFS)[4] entered into force on 15 September 2025, following the EU's ratification and deposit of its instrument of acceptance on 7 June 2023[5]. Full and transparent transposition of the AFS into EU law is essential in order to preserve the Union's credibility, ensure a level playing field globally as well as within the EU internal market, and legally enforce in the European Union the prohibition of environmentally destructive subsidies.

A. Alignment with the broader international legal framework

The AFS does not exist in a vacuum; it is a critical component of a broader, cohesive international legal architecture. It directly operationalises:

- **The United Nations Sustainable Development Goal (SDG) 14.6:** This goal mandates the prohibition of fisheries subsidies that contribute to overcapacity, overfishing, and illegal, unreported, and unregulated (IUU) fishing[6].
- **The Kunming-Montreal Global Biodiversity Framework (GBF) Target 18:** This target requires the identification of biodiversity-harmful subsidies by 2025, and a progressive reduction of such incentives by at least $500 billion per year by 2030[7].

To meet these commitments, the EU must transpose the exact prohibitions of the WTO AFS into the EMFAF Regulation. This will eliminate legal gaps between the international agreement and EU law, preventing potential conflicting interpretations.

B. Direct and full transposition of key WTO prohibitions

To secure full compliance, the revised EMFAF Regulation must explicitly incorporate the textual obligations of Articles 3, 4, and 5 of the WTO AFS. While Article 3 (**Prohibition of Subsidies to IUU Fishing)** is already covered through Article 11(1)(b) EMFAF Regulation, the following needs to be incorporated:

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[4] World Trade Organization (WTO), Agreement on Fisheries Subsidies, 2022 – Articles 3–5.
[5] WTO, Instrument of Acceptance by the European Union of the Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization as regards the Agreement on Fisheries Subsidies, 8 June 2023.
[6] Goal 14.6 states: '*By 2020, prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the World Trade Organization fisheries subsidies negotiation'.*
[7] Target 18 states: '*Identify by 2025, and eliminate, phase out or reform incentives, including subsidies, harmful for biodiversity, in a proportionate, just, fair, effective and equitable way, while substantially and progressively reducing them by at least 500 billion United States dollars per year by 2030, starting with the most harmful incentives, and scale up positive incentives for the conservation and sustainable use of biodiversity'.*

- **Article 4 (Prohibition of Subsidies Regarding Overfished Stocks):** *"No Member shall grant or maintain subsidies for fishing or fishing related activities regarding an overfished stock."*
- **Article 5.1 (Prohibition of Subsidies for Unregulated High Seas Fishing):** *"No Member shall grant or maintain subsidies provided to fishing or fishing related activities outside of the jurisdiction of a coastal Member or a coastal non-Member and outside the competence of a relevant RFMO/A."*

These international provisions must be treated as a regulatory floor rather than a ceiling, enabling the European Commission to propose additional paragraphs that give real teeth to the prohibitions and prevent them from remaining mere paper commitments. The European Commission should give operational substance to the provisions that risk remaining too broad. For example, to give meaningful content to the prohibition in Article 4 on overfished stocks, the European Commission can render any funding request inadmissible if it supports fishing activities with catches of an overfished stock (defined as a stock falling below B_{MSY} or appropriate proxy according to the latest ICES, GFCM, or RFMO scientific advice), unless the project is explicitly and demonstrably designed to support the recovery of that specific stock[8].

C. Policy coherence in EU marine and fisheries policies

As noted in ClientEarth's response to the Call for Evidence on the EU Ocean Act, achieving full environmental coherence requires that WTO AFS objectives are not confined to the single EMFAF Regulation[9].

Policy coherence must be guaranteed across all ocean-related frameworks. Because the WTO AFS establishes binding international obligations for both the EU and its Member States, its core objectives must not only be transposed into the EMFAF Regulation but also explicitly anchored into the upcoming EU Ocean Act. Cross-legislative alignment is essential to ensure that all EU marine policies, funding instruments and conservation measures work in synergy to eliminate harmful subsidies and safeguard ocean health.

D. Operationalising the WTO Agreement: strengthening Article 11 of the EMFAF Regulation (inadmissibility)

Article 11 of the EMFAF Regulation serves as the primary gateway for funding eligibility, laying down the specific grounds under which an operator's application must be declared inadmissible. Currently, Article 11 disqualifies operators involved in severe infringements, environmental crimes, or listed IUU fishing activities.

To prevent the WTO AFS prohibitions from remaining abstract commitments, the transposition must operationalise them by directly linking them to the inadmissibility of funding applications under the EMFAF. ClientEarth proposes transposing the new WTO prohibitions into Article 11 of the EMFAF Regulation as well to explicitly include non-compliance with Articles 4, and 5(1) of the WTO AFS as a statutory trigger for inadmissibility.

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[8] Blue Marine Foundation, Response to the European Commission call for evidence Amendment of the European Maritime, Fisheries and Aquaculture Fund for simplification and transposition of the WTO Agreement, 8 July 2026, page 3.
[9] ClientEarth, Ocean Act: Charting a course from paper commitments to real practice, February 2026.

To incorporate the prohibitions set out in Articles 4, and 5.1 of the WTO Agreement on Fisheries Subsidies (AFS), we propose adding a new point (**d**) to paragraph 1:

> "(d) **has benefited from subsidies or has involved in fishing or fishing-related activities in violation of the prohibitions laid down in Articles 4, and 5, paragraph 1, of the WTO Agreement on Fisheries Subsidies.**"

Because paragraph 2 of Article 11 already refers to *"any of the situations referred to in paragraph 1 of this Article"*, inserting the new point (d) **automatically extends the claw-back obligation**. If a WTO prohibition violation (e.g., fishing an overfished stock or operating in unregulated high seas) occurs after the application is submitted and up to five years after the final payment, the funds must be recovered. No text changes are needed in paragraph 2, keeping the amendment simple and clear.

Furthermore, to provide the Commission with an explicit legal basis to detail the inadmissibility periods and recovery rules for WTO violations, points (a) and (b) of paragraph 4 must be adjusted as follows:

> *"(a) the identification of the threshold triggering, and the period of time of, the inadmissibility referred to in paragraphs 1 and 3 of this Article, which shall be proportionate to the nature, gravity, duration and repetition of the serious infringements, offences**, violations of the WTO Agreement prohibitions** or fraud committed, and shall be of at least one year's duration;"*

> *"(b) in accordance with Article 44 of this Regulation and Article 103 of Regulation (EU) 2021/1060, the arrangements for recovering the support granted pursuant to paragraph 2 of this Article, which shall be proportionate to the nature, gravity, duration and repetition of the serious infringements**, offences or violations of the WTO Agreement prohibitions ** committed;"*

Once the EMFAF Regulation is amended, the Commission must operationalize the new prohibitions via the **Delegated Regulation (EU) 2022/2181** (which establishes the inadmissibility periods)[10]. While inadmissibility rules for IUU fishing already exist under the Delegated Regulation, no such rules currently exist in EU law to address:

1. Subsidies for fishing overfished stocks (Article 4 WTO AFS).
2. Subsidies for unregulated high seas fishing (Article 5.1 WTO AFS).

The revised Delegated Regulation must therefore define clear inadmissibility periods for both scenarios, distinguishing between two temporal application cases:

- **Prior inadmissibility:** Cases where the grounds for inadmissibility already existed *before* the support was granted. Since the WTO AFS entered into force on 15 September 2025, any subsidy granted to ineligible vessels or operators after this date is unlawful and must be recovered.
- **Subsequent inadmissibility:** Cases where support was lawfully granted, but the vessel or operator subsequently engaged in prohibited activities (e.g., fishing an overfished stock or operating in unregulated high seas without authorization). A robust recovery mechanism must be established to claw back funds in these circumstances.

[10] Commission Delegated Regulation (EU) 2022/2181 of 29 June 2022 supplementing Regulation (EU) 2021/1139 of the European Parliament and of the Council on the European Maritime, Fisheries and Aquaculture Fund as regards the starting dates and time periods for the inadmissibility of applications for support [2022] OJ L 288/7.

E. Transparency

To ensure compliance, Member States must be equipped with the administrative capacity, scientific data, and clear guidance to trigger Article 11 EMFAF and the new prohibitions effectively. Crucially, the Commission must include a provision as part of the transposition process requiring public transparency regarding the application of Article 11. Member States should enable the regular publication of sharable data related to the funding applications. This could include details of the applications such as type of organisation, number of accepted and rejected applications under Article 11, nature of ground of inadmissibility (such as ties to IUU activities, fraud, overfished stocks, environmental offences etc.), amount of funds recovered following non-compliance events.

2) Reallocating remaining EMFAF resources for enabling the transition

Building upon these international compliance measures, the structural simplification of the EMFAF must be leveraged to drive real change on the water by prioritizing the most vulnerable segments of the fleet that deliver the highest socio-economic and environmental returns, as well as supporting the conservation and protection of marine biodiversity.

The revision must strictly operate within the framework of two non-negotiable, cross-cutting prerequisites:

- **No watering down of conditionalities:** The drive for administrative simplification must under no circumstances serve as a backdoor to weaken, bypass, or eliminate existing environmental and compliance conditionalities. Access to public funds must remain strictly contingent upon full compliance with EU environmental laws and the rules against serious infringements (such as Article 11 as well as the subsequent provisions which exclude certain types of activities from eligibility). Simplification should ease the bureaucratic burden for virtuous operators, but it must never lower the legal checks or shield non-compliant actors from financial accountability.
- **Rigorous Implementation of the CFP Objectives:** The EMFAF is the financial engine designed to operationalise the CFP. Consequently, every simplified funding line and national operational programme must be legally bound to implement the core objectives of Article 2 of the CFP.

The Commission's proposal of the EMFAF revision must clearly define its limited scope and ensure that no other amendments may water down the legal framework.

A. Thriving small-scale, low impact fishing practices

In line with the call for simplification, the next revision of the EMFAF Regulation should prioritize and enable better access and support for the transition of small-scale, low impact fisheries[11]. The current EMFAF Regulation does not currently prioritize funding for small-scale and low-impact fishers, nor does it provide preferential treatment for vessels under 12 meters in length. Historically, under the previous European Maritime and Fisheries Fund (EMFF), the small-scale coastal fishing sector received only

[11] Small actors refer to small-scale fishers or low-impact operators, start-ups, micro-enterprises and other organisations that may lack the administrative capacity or financial resources to easily access EU funding mechanisms. Small-scale coastal fishing is defined as marine and inland fishing vessels of an overall length of less than 12 metres and not using towed gear as defined in point (1) of Article 2 of Council Regulation (EC) No 1967/2006 (28).

about **20% of the funding**, despite representing **75% of the total EU fleet** and being indispensable to the resilience of the EU fishing industry[12].

Supporting small-scale, low-impact fisheries and promoting locally caught, sustainable seafood products directly leads to greater food sovereignty, a resilient and localized coastal economy, and enhanced marine biodiversity conservation due to the lower environmental footprint of these practices. Despite these benefits being formally recognized as core objectives of the Common Fisheries Policy (CFP), effective support to this segment of the EU fleet has been severely lacking. For example, while the EMFAF technically allows for a 100% co-financing rate for SSF, this provision has rarely translated into dedicated, accessible programme lines within the National Operational Programmes of most Member States. This has resulted in systemic, structural disadvantages for small-scale fishers attempting to access public funds. **The current EMFAF revision represents a critical, overdue moment to align with the international and CFP obligations and to rebalance this distribution of public subsidies, empowering small-scale fisheries and eliminating the structural gaps experienced during the current programming period**.

To ensure that these priorities are not lost during national implementation, the revised EMFAF Regulation must transition from "encouraging" Member States to **legally obliging** them to prioritize SSF. While national programmes technically mention SSF, the absence of binding EU-level operational mandates in the EMFAF Regulation – despite the clear CFP objectives, principles and obligations – has resulted in Member States overlooking the specific needs of this sector.

Administrative burdens and lack of time, human resources and technical knowledge often hinder access to EU funding for small actors. To design solutions, ClientEarth conducted extensive field interviews with numerous small-scale fishers across the EU who actively attempted to access EMFAF funding but were blocked by administrative and financial barriers[13]. Based on these direct testimonies, ClientEarth proposes that the revised EMFAF Regulation must include explicit provisions requiring Member States to integrate the following simplified access mechanisms directly into their national management frameworks:

- **Mandatory dedicated budget allocation**: The revised EMFAF must introduce a binding requirement for Member States to establish distinct, ring-fenced budget lines specifically for small-scale, low-impact fishers, protecting these resources to compete with large-scale industrial fishers.
- **Streamlined administrative procedures and local support:** To reduce disproportionate bureaucratic burdens, the EMFAF must oblige Member States to establish dedicated national contact points and local administrative desks. These units must be tasked with raising awareness of funding opportunities, providing hands-on technical assistance with applications, and connecting operators with cooperative credit institutions.
- **Removal of financial and capital barriers:** National rules must make it easier for small-scale, low-impact fishers to apply for EMFAF funding. Managing Authorities should remove unfair financial obstacles – such as requiring commercial bank guarantees – and provide upfront

[12] ClientEarth, Small-scale fishers revealed as least supported recipients of EU funds, 3 April 2023, page 3.
[13] ClientEarth, Rethinking Fisheries Subsidies: giving voice and justice to small scale, low impact fishers, June 2025.

payments (pre-financing) so fishers are not forced to cover total project costs before receiving reimbursement.

B. Socio-Economic justification for policy realignment

The Commission's evaluation of the Common Fisheries Policy (CFP)[14] provides a clear socio-economic justification for reallocating public resources toward low-impact fleet segments.

The Small-Scale Coastal Fleet (SSCF), demonstrates remarkable structural resilience and improving economic viability: despite facing broader macroeconomic shocks, SSCF net profit increased from €40 million in 2022 (3% net profit margin) to €93 million in 2023 (8% margin), with projections reaching €143 million by 2025 (14% margin). Remarkably, this economic recovery occurred as operating subsidies to the SSCF declined from their 2022 crisis peak (€44.6 million) to €32.6 million in 2025, proving that its performance is driven by structural efficiency rather than state dependency[15].

By contrast, public financial support has overwhelmingly favoured fuel-intensive industrial fleets with poor socio-economic returns. In 2023, operating subsidies surged to €250.4 million for the Large-Scale Fleet (LSF) and €46.4 million for the Distant Water Fleet (DWF), remaining exceptionally high through 2025 (€229 million and €44.8 million respectively). Yet, despite absorbing nearly €274 million in subsidies in 2025 alone, these fleets remain economically fragile and hyper-vulnerable to fuel spikes – consuming over 1.4 billion liters of fuel combined in 2023 alone. In 2023, the LSF plunged into net losses of -€76 million, and even with projected 2025 nowcasts showing a slight profit recovery (€195 million for LSF; €82 million for DWF), their overall profitability remains drastically lower than a decade ago (DWF net profit down 63% compared to 2013)[16].

These data points confirm a concerning misallocation of public funds under the EMFAF framework. The CFP evaluation report directly dismisses the industry argument that poor economic performance is an unavoidable consequence of CFP regulation. Instead, the evidence shows that public subsidies are actively propping up energy-intensive, environmentally impacting industrial fleets while starving the low-impact, highly employment-efficient small-scale sector**. By contrast, small-scale coastal fishing is a highly efficient generator of local employment per landed ton, maintains the socio-cultural fabric of coastal communities, and operates with a significantly lower carbon and ecological footprint. Directing public investments and quota allocations toward small-scale, low-impact fisheries is therefore the only logical pathway to align the EU's financial framework with its legal, social, and environmental mandates.**

C. Ocean subsidies: realigning public spending with marine restoration targets

Specific Objective 1.6 of the EMFAF Regulation explicitly targets the restoration and conservation of aquatic biological resources. However, a critical legislative loophole remains: the regulation lacks a binding, mandatory percentage earmarked exclusively for marine biodiversity and conservation measures. This creates a stark paradox where high-level policy objectives are disconnected from budgetary realities on the ground – a misalignment that the current EMFAF revision must directly correct.

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[14] European Commission, Commission Staff Working Document: Evaluation of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, SWD(2026) 120 final, 30 April 2026.
[15] *Ibid.*, p. 152.
[16] *Ibid.*, pp. 154-155.

Given that the protection of marine biological resources is an exclusive EU competence under Article 6(1) of the TFEU, public funds must be legally tied to the protection of this common resource. The persistent underinvestment in marine ecosystems, among others, directly jeopardises compliance with the Marine Strategy Framework Directive (MSFD), the Birds and Habitats Directives, the Nature Restoration Regulation, and the EU Biodiversity Strategy for 2030. This compliance failure carries profound economic consequences; the European Commission's 2025 Environmental Implementation Review estimates that generally, the poor implementation of EU environmental law costs the Union approximately €180 billion annually[17].

The European Court of Auditors has consistently criticized the current funding architecture, underscoring the urgent need for increased, highly targeted financial streams to support Marine Protected Areas (MPAs) and active ecosystem restoration[18].

Despite these clear regulatory objectives, the warnings from the Court of Auditors, and the substantial funding deficits, a cross-country analysis of the current EMFAF National Operational Programmes (OPs) reveals systemic underfunding by major maritime Member States. Biggest EMFAF recipient Member States allocate a negligible 4% to 8% of their national envelopes to biodiversity, while, in contrast, channelling an estimated 5% to 12% (€59 million to €138 million) annually into environmentally harmful subsidies that exacerbate overcapacity and overfishing[19].

To resolve these contradictions and successfully support incoming baseline frameworks like the Ocean Act, ClientEarth recommends the following structural updates to the text of the revised EMFAF Regulation:

The revised EMFAF text must establish a **binding, minimum allocation of at least 25% of each Member State's national envelope dedicated exclusively to Specific Objective 1.6** ("Contribute to the protection and restoration of biodiversity and of aquatic ecosystems"). This minimum threshold aligns with the NGO coalition's FAIR recommendations and restores the baseline ambition seen in previous funding cycles[20].

3) Energy Transition

Just as public spending must be realigned with marine restoration targets, it must also address the climate footprint of the fishing sector. ClientEarth welcomes the opportunity to redirect public funding toward a genuine energy transition, provided this process is bound by rigorous environmental safeguards and conditionalities. The decarbonisation of the fisheries sector cannot be achieved through mere technical adjustments to fuel-intensive fleets; it requires a structural transition toward less destructive, energy-efficient, and low-impact fishing practices that allow the ocean to function as a vital climate regulator and carbon sink.

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[17] European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: 2025 Environmental Implementation Review – Environmental implementation for prosperity and security, COM(2025) 420 final, 7 July 2025.
[18] European Court of Auditors, Marine environment: EU protection is wide but not deep, 2020.
[19] ClintEarth, Seas At Risk & BirdLife, Policy Brief: Misalignment of EMFAF operational programmes with EU environmental and social objectives 2021-2027, September 2025, page 6.
[20] ClientEarth, 15 Recommendations for spending the European Maritime Fisheries and Aquaculture Fund (EMFAF), November 2021.

The EMFAF revision must recognize that a genuine energy transition is intrinsically linked to an ecological and social transition; it cannot be reduced to merely swapping fossil fuel engines for electric ones on large industrial vessels. Instead, the fund must mandate a holistic approach that fundamentally alters how fishing operations are conducted. **Funding must prioritize small-scale vessels that already inherently consume less energy, while requiring larger vessels to transition toward less intensive, lower-impact fishing practices. By shifting away from heavy, active, and fuel-intensive gears (such as bottom trawling) toward passive, highly selective gears, fleets will naturally reduce their fuel consumption and carbon footprint while minimizing their physical impact on marine ecosystems.**

To operationalise this, the revised EMFAF must fully integrate the consensus-driven recommendations of the Energy Transition Partnership (ETP) NGO Working Group[21]. This transition must not be treated in isolation but must be fully aligned with the European Green Deal, the 8th Environmental Action Programme (EAP), the EU Climate Law, the Nature Restoration Regulation, and the Marine Action Plan – and is even more needed to implement the European Ocean Pact and specifically the upcoming EU Ocean Act.

Key recommendations for the EMFAF revision on Energy Transition

To resolve these contradictions and align the revised EMFAF with a genuinely sustainable and competitive blue economy, ClientEarth proposes the following updates to the regulatory text:

A. Implement Article 17 of the CFP as the transition lever

As the EMFAF is the financial engine designed to operationalise the CFP, the EMFAF revision must particularly help implementing Article 17 CFP. This provision is a key tool for Member States to provide incentives to fishing vessels deploying low impact selective fishing gear or using fishing techniques with reduced environmental impact, such as reduced energy consumption or habitat damage. In the new Vademecum on Article 17 CFP[22], the European Commission confirms that the Commission “is required to assess the alignment of [the] allocation methods with the objectives of the CFP”[23]. The Commission also calls on Member States to make “every effort to incentivise selectivity and reduce environmental impact when allocating fishing opportunities”[24]. Setting incentives through quota allocation is closely interlinked with providing incentives through the actual funding to low-impact fishing activities. Therefore, the EMFAF revision must contribute to the full utilization of Article 17 CFP and support the Member States’ adjustments of their allocation methods. The revised EMFAF should explicitly dedicate transition fundings only to operators that demonstrate compliance with these criteria.

B. Establish a strict "Do No Significant Harm" (DNSH) and capacity uardrail

The energy transition must not be used as a backdoor for fleet expansion. In line with the "Do No Significant Harm" (DNSH) principle, any financial support aimed at the energy transition must be subject to rigorous capacity checks to ensure that decarbonisation efforts do not inadvertently lead to overcapacity or increased fishing pressure.

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[21] Energy Transition Partnership, NGO Working Group Recommendations.

[22] European Commission, 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, 17 November 2025.

[23] Specifically, the European Commission stresses that “Methods that worked decades ago may no longer be the most appropriate to address new challenges.”

[24] *Ibid.*

Specifically, public subsidies allocated for engine replacements or modernization (e.g., transitioning from fossil fuel engines to electric or hybrid propulsion) must be strictly conditioned. Funding must not, under any circumstances, be used to increase a vessel's ability to catch fish, its engine power (kW), or its gross tonnage (GT). If an engine replacement allows a vessel to spend more time at sea, tow heavier gear, or access new fishing grounds, it violates the DNSH principle and directly contravenes the sustainability objectives of the CFP and the WTO Agreement on Fisheries Subsidies.

This is not only an environmental imperative, but also a socio-economic one, as demonstrated by the European Commission in its CFP evaluation report itself: "Insufficient progress towards capacity balance undermines profitability and incomes"; and "The need for Member States to further rationalise or re-distribute the capacity of their fleets therefore appears to be an imperative both for long-term socio-economic viability and for a successful energy transition"[25].

C. Removing the EU system contradiction: fossil fuel tax exemptions vs. climate ambition

A fundamental policy coherence gap exists between the European Commission's energy transition ambitions under the EMFAF and the current EU tax system. The Energy Taxation Directive (ETD) continues to grant fossil fuel tax exemptions to the fishing sector, creating a perverse incentive structure that actively rewards carbon-intensive fishing and undermines the objectives of the CFP.

The EU fishing fleet benefits from fuel tax breaks valued at between €759 million and €1.5 billion annually, which artificially sustains highly unprofitable, fuel-intensive, and destructive fishing segments[26]. However, because large-scale industrial fleets consume significantly higher volumes of fuel per landed tonne, they absorb the vast majority of these tax savings. These exemptions heavily bias the market in favor of large-scale, industrial fleets. Due to their scale and capital, large industrial vessels absorb the bigger share of these tax breaks, while small-scale, low-impact coastal fishers – who have narrow profit margins and operate with much higher fuel efficiency per landed ton – face disproportionate relative costs and competitive disadvantages.

The continuation of these exemptions represents more than €1 billion annually in uncollected public revenue – funds that could otherwise be channelled directly to finance the decarbonisation and transition of the fishing sector. As the Organisation for Economic Co-operation and Development (OECD) stresses, public subsidies for fuel, vessel construction, and capacity modernisation are among the most environmentally harmful when decoupled from strict sustainability conditions[27].

While Member States retain national discretion under the ETD to remove or limit these fuel tax exemptions, most have failed to do so. In line with the EU principle of sincere cooperation and international climate commitments, Member States must exercise their national prerogatives to phase out fuel tax breaks and align national taxation with EU environmental goals.

[25] European Commission, Commission Staff Working Document: Evaluation of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, SWD(2026) 120 final, 30 April 2026.
[26] ClientEarth, Capacity ceilings in EU fisheries: obstacle or opportunity for the decarbonisation process?, p. 6.
[27] OECD, Review of Fisheries 2022 – Subsidies, Overcapacity and Overfishing, 2022.

About ClientEarth

ClientEarth is a non-profit organisation that uses the law to create systemic change that protects the Earth for – and with – its inhabitants. We are tackling climate change, protecting nature and stopping pollution, with partners and citizens around the globe. We hold industry and governments to account, and defend everyone’s right to a healthy world. From our offices in Europe, Asia and the USA we shape, implement and enforce the law, to build a future for our planet in which people and nature can thrive together.

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