

Terms of Reference for the Monitoring Committee of the EMFF 2014-2020

May 2015

Preamble

With respect to Commission Decision C(2015) 1455 of 3rd March 2015 approving the European Maritime and Fisheries Fund Operational Programme for Malta and in compliance with Article 47 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17th December 2013, laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (hereinafter 'Common Provision Regulation') and Articles 112 and 113 of EMFF Regulation (EU) No. 508/2014, Malta establishes a Monitoring Committee (hereinafter 'MC') for the purpose of monitoring and assessing the implementation and efficient spending of funds under the Maritime and Fisheries Operational Programme. This is co-financed by the European Maritime and Fisheries Fund (EMFF).

In line with Regulation (EU) No 1303/2013 and Regulation EU No 240/2014, the mandate of the MC and its rules of procedure are hereinafter laid down

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Rules of Procedure

Article 1: Functions

- (1) The role of the MC is to satisfy itself as to the effectiveness and quality of the implementation of the Operational Programme, in accordance with Articles 49 of Regulation (EU) 1303/2013 and Article 113 of EMFF Regulation 508/2014 which include the following provisions: the MC:
- a) Shall meet at least once a year and shall review implementation of the programme and progress made towards achieving its objectives. In doing so, it shall have regard to the financial data, common and programme-specific indicators, including changes in the value of result indicators and progress towards quantified target values, and the milestones defined in the performance framework referred to in Article 21(1), and, where relevant, the results of qualitative analyses.
 - b) Shall examine all issues that affect the performance of the programme, including the conclusions of the performance review.
 - c) Shall be consulted and shall, if it considers it to be appropriate, give an opinion on any amendment of the programme proposed by the managing authority.
 - d) Shall make observations to the managing authority regarding implementation and evaluation of the programme including actions related to the reduction of the administrative burden on beneficiaries. The monitoring committee shall monitor actions taken as a result of its observations
 - e) Shall be consulted and shall approve, within six months of the decision approving the programme, the selection criteria for the financed operations; the selection criteria shall be revised in accordance with programming needs;
 - f) Shall examine the activities and outputs related to the evaluation plan of the programme;
 - g) Shall examine actions in the programme relating to the fulfilment of specific ex ante conditionalities;
 - h) Shall examine and approve the annual implementation reports before they are sent to the Commission;
 - i) Shall examine actions to promote equality between men and women, equal opportunities, and non-discrimination, including accessibility for disabled persons.
 - j) The MC shall not be consulted on the work plans for data collection referred to in Article 21 (of Regulation 508/2014).

Article 2: Duties of Members

- (1) Members of the Monitoring Committee shall avoid any conflict of interest during the execution of their functions as listed under Article 1.

- (2) The MC members have the following tasks:
 - a. Shall participate in the MC meetings and in the decision-making process;
 - b. Each member shall ensure that statements and/or recommendations made are in the interest of the effective and efficient implementation of the Operational Programme. Participation in the Monitoring Committee shall not be of any personal gain to any participant;
 - c. Shall bring in for discussion only the relevant matters related to the implementation of the Operational Programme.
- (3) The membership shall end when the person appointed to the MC finds himself/herself in the following situation:
 - a. The person no longer holds the capacity under which she/he was appointed in the relevant institution. Members shall be responsible for informing the secretariat in such cases;
 - b. The MC recommends revoking the membership for breaching the provisions of the Code of Conduct (Annex 1).

Article 3: The Chairperson

- (1) The Chairperson shall chair the meetings, mediate and ensure successful and timely conclusion of the issues brought to the attention of the MC;
- (2) The Chair may, in duly justified cases, suspend the debates.
- (3) In the event of the Chairperson being unable to attend a meeting, he/she shall delegate his/her tasks to a member of the Managing Authority.
- (4) The ruling of the Chair shall determine any disputes in relation to the interpretation of the rules of procedure.

Article 4: Secretariat

- (1) The Secretariat to the MC will be provided by the Managing Authority.
- (2) Secretariat's responsibilities include:
 - a. The preparation of written documents submitted to MC meetings (including distribution of documents to the Members of the MC);
 - b. Technical and organisational issues and administration activities for MC meetings;
 - c. Keeping the minutes of meetings;
 - d. Any request for information from members and observers in relation to the MC activity shall be addressed to the Secretariat, in electronic version or on paper support.

Article 5: Meetings

- (1) The Chairperson will convene the MC at least once annually and the MC shall review the implementation of the programme and progress made towards achieving its objectives. In

doing so, it shall have regard to the financial data, common and programme-specific indicators, including changes in the value of result indicators and progress towards quantified target values and the milestones defined in the performance framework referred to in Article 21(1) of Regulation (EU) 1303/2013, and, where relevant, the results of qualitative analyses.

- (2) The Chairperson may invite ad hoc experts and other persons in the meetings of the MC (or parts thereof) to give clarifications and/or make presentations on particular issues related to the implementation of the Operational Programme.
- (3) The Secretariat shall convoke the meetings and shall send the invitations at least ten (10) working days before the meeting date.
- (4) The MC meetings are not public.

Article 6: Agenda

- (1) At the request of the Chairperson the Secretariat shall draw up the agenda of the meetings. The Secretariat may request supporting documentation from any of its Members.
- (2) The agenda shall be sent to all members at least ten (10) working days prior to the date of the meeting. Following the circulation of the agenda, Members shall be allowed five (5) working days to notify the Secretariat with a proposed new item to be included under "Other Business".
- (3) The supporting documentation relating to the MC shall be sent to all Members at least ten (10) working days prior to the date of the meeting, with the exception of any supporting document to be provided by Members relating to any new item for inclusion for the agenda which they may propose or in exceptional circumstances so deemed by the Chairperson, shall be circulated at least five (5) working days prior to the date of the meeting.
- (4) Decisions taken by the MC may be published.

Article 7: Written Procedures

- (1) With the approval of the Chairperson, an item of substance which requires an outcome prior to the next meeting of the MC may be submitted to the Committee for adoption by written procedure. Members shall give their opinion in writing within ten (10) working days.
- (2) If no comments are received, the Secretariat will assume that the Members are in favour of the motion. Such a decision is also valid if the Secretariat receives a position in favour of the motion by at least a simple majority of all Members of the Committee.
- (3) The Secretariat under the direction of the Chairperson shall communicate to the Members the outcome of decision taken through written procedures.
- (4) The Secretariat shall inform the MC Members on the outcome of decision taken through written procedure in the subsequent MC, for information purposes.

Article 8: Minutes

- (1) The Secretariat shall produce a record of each meeting of the MC. Draft minutes shall be issued to the Members within fifteen (15) working days of the meeting.
- (2) Members should provide any comments or suggestions to the Secretariat on the draft minutes as circulated within ten (10) working days from date of circulation.
- (3) The draft minutes of a meeting together with any proposed amendments, shall be placed on the Agenda for the next meeting for formal approval of the Committee.

Article 9: Decisions and Conclusions

- (1) All Members other than those in an EU observer member role shall have a vote. The Chairperson shall have a casting vote.
- (2) The MC shall endeavour as far as practicable to achieve consensus.
- (3) If no consensus can be reached, a vote cast is to be taken in order to reach a decision. In such instances, a decision is adopted by a simple majority of those Members present who hold a voting right, provided that at least 50% of all the Members of the Committee with voting rights are present for the vote.

Article 10: Changes to the Rules of Procedure

- (1) Subject to the principles set in the Common Provisions Regulation, the EMFF Regulation and the Operational Programme, the Committee may, at any time, amend these rules of procedure in line with Article 9 of these Rules of Procedures, after seeking the opinion of the Managing Authority.

Article 11: Code of Conduct

- (1) The MC members and observers shall guide their activities in compliance with the principles of the Code of Conduct (Annex 1) that is an integral part of these Rules.

Article 12: Final Provisions

- (1) These provisions enter into effect upon their approval by the Monitoring Committee.

Annex 1

Monitoring Committee Code of Conduct

The MC members shall comply with the following rules of conduct:

1. Shall act in the interest of the EMFF OP implementation, according to the established purposes and objectives;
2. Shall take decisions in the public interest and shall not act towards obtaining financial benefits or other benefits for themselves or for other persons;
3. Shall notify the Chairperson of any conflict of interest situation they might find themselves in relation to a certain topic under debate, before the meeting. In this case, the member or the observer shall not participate in the meeting;
4. At the end of the meeting, they shall inform the public authority, institution or body they represent, about the main topics discussed and about the decisions taken;
5. Shall keep confidentiality of information of which disclosure could affect the legitimate interest of any institution, organisation or person, or the information that if used in a privileged manner could create non-legitimate advantages. The confidential documents shall be marked;
6. Shall respect the decisions adopted by the MC under the conditions of its Rules for Organisation and Operation.