



## **Fishy Business: Fish POs in the EU**

**How the failure to properly recognise and regulate the EU's fish producer organisations is failing the Common Fisheries Policy and smaller-scale fishermen and what should be done to resolve it**

### **Why do we have a Common Fisheries Policy (CFP)?**

*“The CFP shall ensure that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies.”*

**CFP first objective**

### **How are Member States to share fishing opportunities?**

*“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.”*

**CFP Article 17**

### **Why do we grant POs enhanced rights?**

*“Fishery producer organisations and aquaculture producer organisations (“producer organisations”) are the key to achieving the objectives of the CFP and of the CMO.”*

**CMO preamble paragraph 7**

### **How should the PO system work with small-scale coastal fishers?**

*“Measures should be taken to encourage the appropriate and representative participation of small-scale producers.”*

**CMO preamble paragraph 8**

### **How should Member States support small-scale coastal fishing?**

*“With a view to promoting small-scale coastal fishing, Member States having a significant small-scale coastal fishing segment should attach, to their operational programmes, action plans for the development, competitiveness and sustainability of small-scale coastal fishing”*

**EMFF preamble paragraph 25**

## Contents

Contents	3
1. Purpose of review: Low Impact Fishers of Europe (LIFE)	4
2. Executive Summary	5
3. Guide to terminology & acronyms	14
4. Introduction: the CFP, CMO, fish POs and the law	16
5. Member State reports	21
6. Denmark	22
7. Germany	23
8. Ireland	24
9. Netherlands	25
10. United Kingdom	26

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# 1. Purpose of review: Low Impact Fishers of Europe (LIFE)

There is increasing interest amongst the small scale coastal fishers (SSCF) of Europe in the possible benefits to them of creating SSCF specific producer organisations. This would be good news for all parties interested in achieving the CFP's objectives as the regulations acknowledge that POs are "the key" to achieving those objectives and Europe's small scale coastal fishers represent a large majority of all Europe's fishers.

LIFE commissioned this report to determine whether the regulations and structure that Europe's SSCF would be signing up to is fit for purpose, open, fair and equitable.

The report makes clear the need for the Commission and the Member States to take action to ensure that the conditions for recognition of producer organisations and inter-branch organisations laid down in Articles 14 and 16 of the Common Organisation of the Markets Regulation respectively are complied with.

Their continued failure to do so is a direct threat to the key objectives of the Common Fisheries Policy and the Common Organisation of the Markets.

For example, the country reports show that Member States and the Commission are unaware of the collective market positions of internationally trading large industrial businesses and their control and influence on recognised POs across Member States, whilst there is virtually no appropriate and representative participation of small-scale producers.

Given these facts, how can the Commission possibly know if the fundamental prerequisites of the CFP, such as relative stability and the requirement that fishing activities "are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies" are in place?

This report uses the "appropriate and representative participation of small-scale producers" as a key indicator to test effective CFP, CMO and EMFF compliance in Member States.

LIFE takes no pleasure from the conclusion that the report's findings are an indictment of the Commission's and Member States' regulation of POs.

We urge the Commission to carry out an urgent review of its Member States' POs' compliance and to consider our recommendations, which are intended to constructively propose ways to address the current regulatory system's failure.

**Jerry Percy, Chief Executive, Low Impact Fishers of Europe**  
Chair, Coastal Producer Organisation, UK

## 2. Executive Summary

### Background

The purpose of the Common Fisheries Policy (CFP) and its subsidiary regulations is to ensure that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies.

The regulations describe recognised fish producer organisations (POs) as “the key” to achieving the objectives of the CFP, and allow recognised POs extra rights and improved access to financial support in return for their help achieving the CFP’s objectives.

The regulations also prescribe ongoing eligibility criteria for the status and activities of recognised POs and a compliance checking system to ensure that POs continue to meet the eligibility criteria and are, in fact, helping to deliver the CFP’s objectives.

One of the CFP’s key objectives that the PO system should be helping to deliver, is to promote small-scale coastal fishing.

Member States that have a significant small-scale coastal fishing fleet (over 1,000 SSCF vessels) are required to attach to their European Maritime & Fisheries Fund (EMFF), funded and Commission approved operational programmes, action plans for the development, competitiveness and sustainability of small-scale coastal fishing.

The development, competitiveness and sustainability of small-scale coastal fishing across the EU is central to the mission of Low Impact Fishers of Europe.

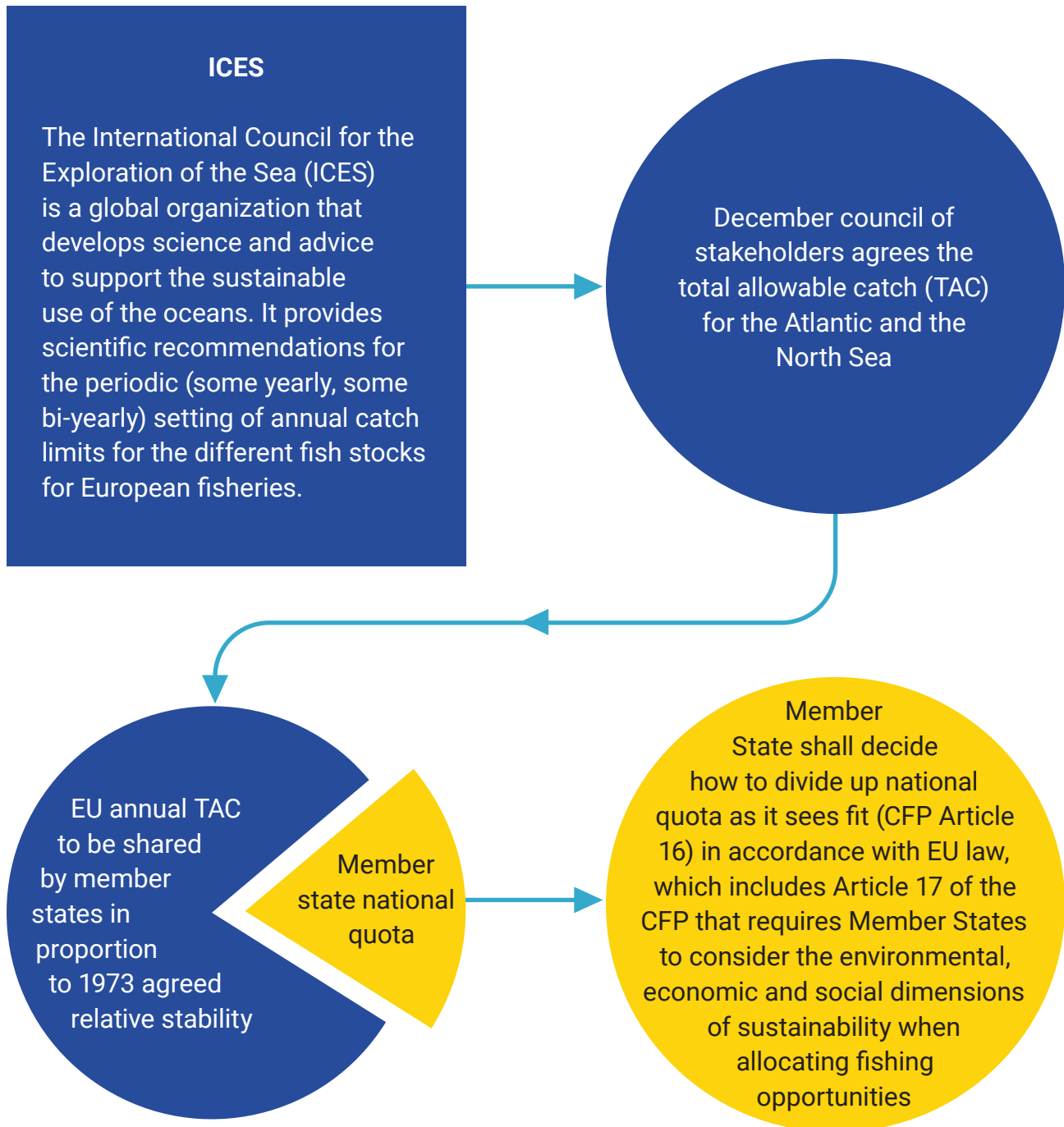
Through its network of member organisations in the Member States, LIFE is aware that there is an almost complete disconnect between Member States’ SSCF fleets where they have managed to survive, and the mainstream PO system. LIFE’s members consistently report mainstream POs as largely the exclusive preserve of big boats and industrial fishing companies.

### The Central PO system question & reports

LIFE is concerned to know why the PO system is, or is not, helping the Commission and Member States to deliver on its objectives and commissioned this research to report on the PO systems in Denmark, Germany, Ireland, the Netherlands and the United Kingdom.

This review presents an illustrative selection of findings from the research, and has chosen examples illustrative of particular systemic failings in the Commission’s and Member States’ recognition and regulation of fish POs.

## How Member States' national quotas are set



## Denmark

In August 2017 the Danish national audit office (the Rigsrevisionen) published the results of its investigation into how “too much quota has ended up in too few hands” in the Danish fishing industry. Here is an extract from its damning conclusion.

*“It is Rigsrevisionen’s overall assessment that, for a number of years, the ministry has estimated the ITQ concentration based on incomplete data, different methods of calculation and incorrect registrations of transfer and ownership of quotas. At the same time, international swapping of quotas has provided an option to swap quotas that should have been included in the calculation of quota concentration. As a result, neither the ministry nor the public has an accurate picture of the concentration of quota ownership... The ministry has asked the police to investigate the cases where Rigsrevisionen has found reason to suspect that a criminal offence has been committed.”*

This condemnation of Denmark’s regulatory system has international ramifications for the CFP, since it is not clear with whom the Danish fishing industry was conducting international swaps to hide quota concentrations.

## Germany

Seefrostvertrieb is one of 13 fish POs recognised in Germany and includes all players in the German “high seas” segment. There are eight identified shareholders, but they all belong to two international parent companies: Parlevliet and Van der Plas Group from the Netherlands and Samherji HF from Iceland.

The shareholder agreement of Seefrostvertrieb states that, “The company’s purpose is to represent the shareholder interests towards third parties in the framework of organising high seas fisheries as well as the marketing of the sea frozen fish and fish products produced and landed by the shareholders.” This provision excludes the objectives laid down in the CMO. It seems that Seefrostvertrieb acts as guardian of the German high seas quota for the interests of sea fishing giants rather than as guardian of sustainable fishing.

## Ireland

There are four recognised fish POs in Ireland. Successive Irish governments have obstructed every attempt to shine a light on the POs and their fishing activities but as far as can be determined from the little information that is available to the public, we now know that they represent fewer than 10% of the Irish fleet (the big boats, obviously) and land roughly 90%, by volume and 70% by value of Ireland’s marine produce<sup>1</sup>. It can reasonably be argued that Ireland’s Department for Agriculture Food and the Marine (DAFM) is not just allowing these POs – and the large fishing companies that comprise their membership – to abuse a dominant market position, DAFM is facilitating it.

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1 See Edward Fahy, in particular <http://eatenfishsoonforgotten.com/introducing-irelands-fish-producer-organisations/>

Central to Ireland's fishing policy is, "a formal Quota Management Advisory Committee (QMAC) involving fishing industry representatives from the catching and processing sectors, that meets each month, and as far as possible, the Minister follows their recommendations for monthly regimes for particular stocks."

The Irish government's quota management policy awards the four POs representing the 10% of the Irish fleet landing roughly 90% by volume and 70% by value of Ireland's marine produce an in-built majority on the QMAC.

## **Netherlands**

### *PO: Redersvereniging voor de Zeevisserij (RVZ)*

RVZ is the PO that represents the entire pelagic fleet of the Netherlands, and so by definition has a dominant position on the Netherlands' pelagic market– although no data is made publicly available to allow for this to be verified.

Given this domination of the Netherlands' pelagic market and the scale and international nature of the business of at least two of the PO's member companies - the Cornelis Vrolijk and Parlevliet & Van der Plas groups of companies - as also shown in the reports on Germany and the UK for example, it is possible that the PO and / or its constituent members may hold dominant positions beyond the pelagic market in the Netherlands.

There is no information available to tell whether the government of the Netherlands or the Commission has carried out regular checks to ensure regulatory compliance or that no abuse of a dominant position in the national or international markets is taking place.

### *The Pelagic Freezer-trawler Association*

The 4 listed RVZ companies are also listed amongst the 9 members of the PFA<sup>2</sup>. In fact, the 9 companies described on the PFA's website as, "responsible, family-run companies, mostly going back to the late 19th century, who benefit from several generations of fishing experience" are owned by only four companies since 7 of the 9 are companies in the Cornelis Vrolijk and Parlevliet & Van der Plas groups of companies. These two companies hold fishing opportunities, some in partnership with Samherji HF of Iceland, in quite a few Member States of the EU and additional international fishing operations too.

Again, lack of a transparent system at Member State and Commission level means the potential extent of dominant positions – and the potential for abuse thereof – are impossible to determine.

## **United Kingdom – England**

The research provides a general overview of the state of play in the whole UK, with a specific focus on England, since the newly recognised SSCF PO – the Coastal PO – was recognised by the Marine Management Organisation (MMO) in England.

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2 See <http://www.pelagicfish.eu/members>



Corporate legislation and an intensely competitive – and unregulated – quota trading market in the UK have combined to generate a lot of relevant information in the UK at a variety of different fishery and corporate regulators.

However, a young and poorly resourced fisheries regulator – the MMO was created in 2010 and until this year had no experience of the PO recognition process – does not share the corporate memory, expertise or resources available to the wealthy, established POs, some of their big corporate members and their lobbying organisations – UKAFPO and the NFFO, neither of which is a recognised Association of POs.

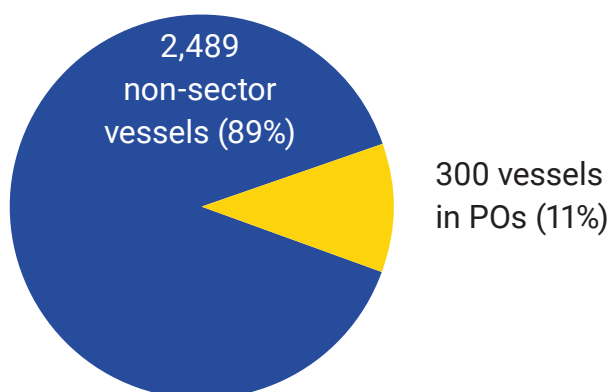
Insufficient expertise in the specific details of PO and corporate legislation is evident in the MMO’s approach to POs. Fish producer members (the ultimate controlling parties of POs) and membership are sometimes confused with vessels (a vessel cannot be a PO member) or with separate holdings of quota, both of which are often incorrectly recorded in the MMO’s own published records.

The MMO’s records make no attempt at all to identify ultimate controlling, related or connected parties in POs’ corporate members’ or groups of members.

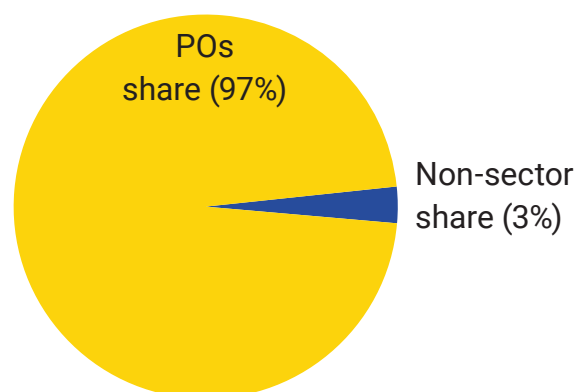
This means that as PO regulator of a sector with a dynamic and unregulated trade in quota, the MMO has been blind to the true nature of the ownership and access to English fishing opportunities.

## English fleet by sector and share of national quota

### Fleet by vessel sector



### Fleet by share of quota



Source for vessels data is the DEFRA November 2017 vessels lists

<https://www.gov.uk/government/collections/uk-vessel-lists>

Source for shares of national quota is the DEFRA final UK “Apportioning UK quota to fisheries administrations” table

<https://www.gov.uk/government/publications/fisheries-quota-allocation-2017>

97% of England's fixed quota allocation units are in the English POs, which, excluding the SSCF PO that holds no quota, represent only 11% of the English fleet.

Within those POs are examples of POs that;

- Openly belong exclusively to single, corporate ultimate controlling parties.
- Overseas corporate ultimate controlling parties owned less openly through networks of wholly owned UK subsidiary companies.
- Include members – some with very large quota holdings – with extremely questionable eligibility status since they do not seem to match the CMO's definition of a "fish producer".

#### *Evidence of "the appropriate and representative participation of" SSCF in POs?*

There is evidence of the opposite to appropriate and representative participation of SSCF in recognised POs, as although there are 4,284 under 10 vessels in the UK's SSCF fleet, which is 85% of the UK's entire fleet, only 1% of the UK's SSCF fleet sector (designated as vessels under 10 metres in length) is shown as in membership of the UK's 23 traditional POs<sup>3</sup>.

The newly recognised SSCF specific Coastal PO (255 members and 261 vessels, 11% of England's under 10 vessels, in membership - PO's membership not yet included in official figures) hopes to help the MMO address this and to expand membership across the UK.

#### **Internationally trading industrial fishing companies**

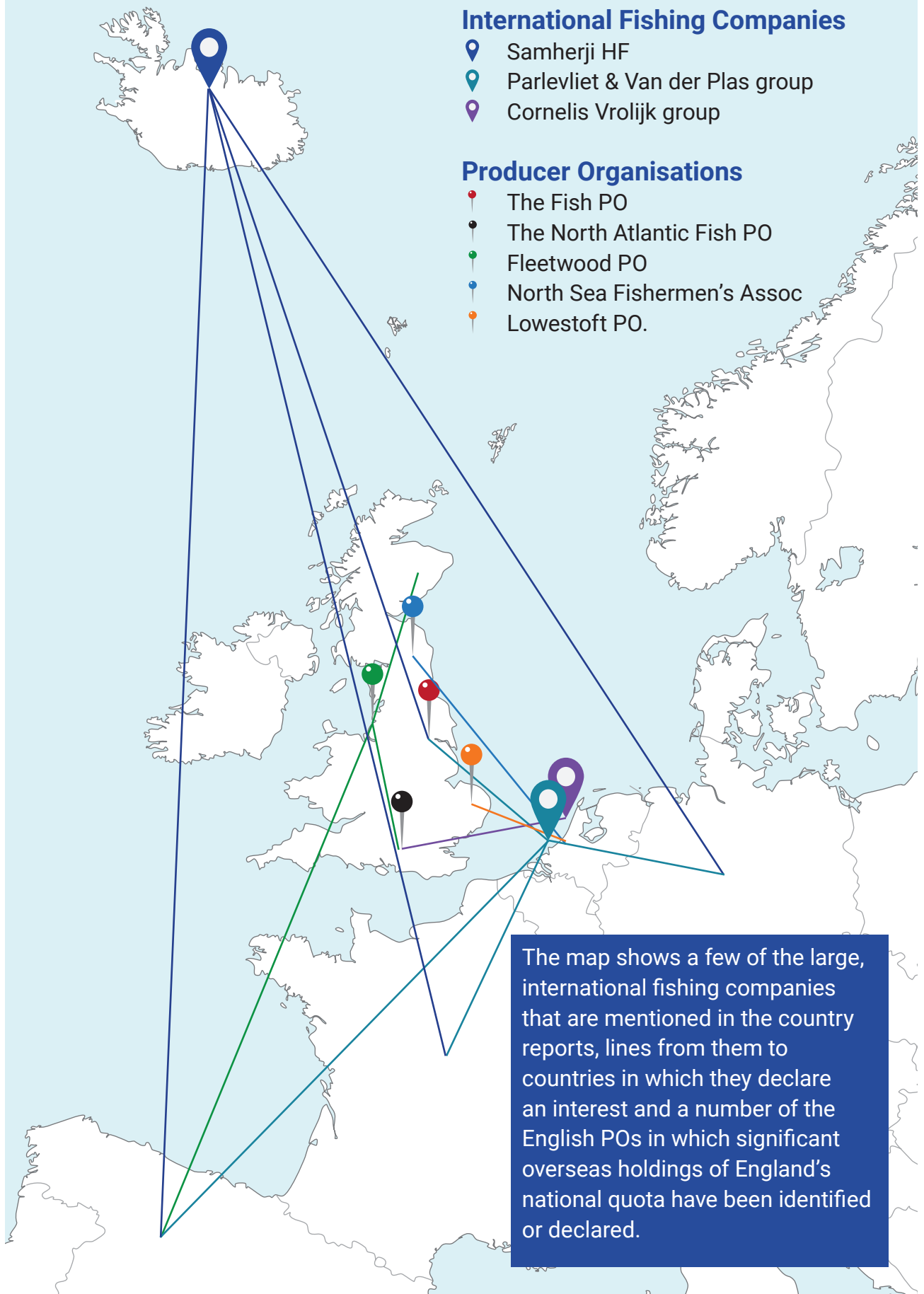
Cross referencing the reports on Member States revealed that there is a network of large, internationally trading industrial fishing companies wielding significant influence in and across Member State borders.

There is no evidence to suggest that Member States or the Commission are carrying out the checks necessary to determine to what extent these companies may hold dominant positions on national and international markets and, if so, whether or not abuse of any dominant position is taking place.

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3 See the summary pages of the UK's published vessels lists for details of vessels in membership of POs <https://www.gov.uk/government/collections/uk-vessel-lists>

# Some international fishing companies & some English POs



## Conclusions

Cross-referencing POs' publicly available records is necessary to peel back the layers of the onion as far as we have been able with the resources available. However, the CMO grants Member States the authority to ask for all this evidence and more to be provided to them by recognised POs – they need only ask POs under Article 18 & CMO Article 14.1.(g) to, “provide relevant details of their membership, governance and sources of funding” – and require that the information that the POs provide is accurate and complete or the POs will suffer accordingly.

Our reports evidence cases where both companies' holdings within POs and POs themselves control as much as 100% of fishing opportunities. There is evidence of this at high level – across Member States, potentially across more than one Member State – and there is evidence of this down to the detail of a single stock in a single sea area.

Our regulators just need to look for it.

The PO system as currently implemented and regulated is not helping the Commission and Member States to deliver on the CFP's objectives. This is because;

1. Member States CMO Article 18 “regular checks” are not fit for purpose. Insufficient priority and resources have been invested at Commission and Member State level to drive effective implementation of the 2013 revised CFP, CMO and EMFF provisions about the recognition and regulation of existing and prospective fish POs.
2. There are currently too few fish producer members across the EU's POs for the POs to be “the key” to achieving the objectives of the CFP and the CMO. Instead, regulators seem to have allowed some fish POs to have become some sort of Trojan horse mechanism, capable of being used by some industrial fishing interests to protect their access to the EU's fishing opportunities and in some cases that may be frustrating the restrictions and objectives of the CFP.
3. The capacity and scale of internationally and nationally trading industrial fishing businesses, controlling fishing opportunities across POs and across Member States' borders is an unrecognised threat to the objectives of the common fisheries policy.
4. The research found an almost complete absence of the appropriate and representative participation of small-scale producers in
  - a. The recognised fish POs; and
  - b. Some political lobbying organisations claiming to represent “the fishing industry”.

## Recommendations

1. The Commission and the European Court of Auditors should conduct thorough reviews and impact assessments of Member States' recognised POs, considering the criteria for recognised PO status eligibility from the date of POs' incorporation through to their continued recognised status under the current CFP and CMO. In particular;
  - a. What exactly are Member States asking their POs to provide by way of Article 18 & 10 regular checks?
  - b. Are they liaising between Member States appropriately, as the CMO requires them to do?
  - c. Is the Commission ensuring appropriate checks as Article 20 requires it to do?
  - d. Do Member States have appropriately expert staff in place to carry out the required checks and are they sufficiently well resourced?
  - e. Are any of the Article 18, 19 & 20 checks published?
  - f. If not, why not?
2. The Commission should require organisations wishing to lobby at Member State or Commission level on behalf of POs to meet the criteria for, and be subject to, the checks associated with recognised status as Associations of POs.
3. The Commission should establish, publish and maintain daily, an EU wide, Aarhus Convention compliant, comprehensive database of fishing activity, landings, swaps and trades.

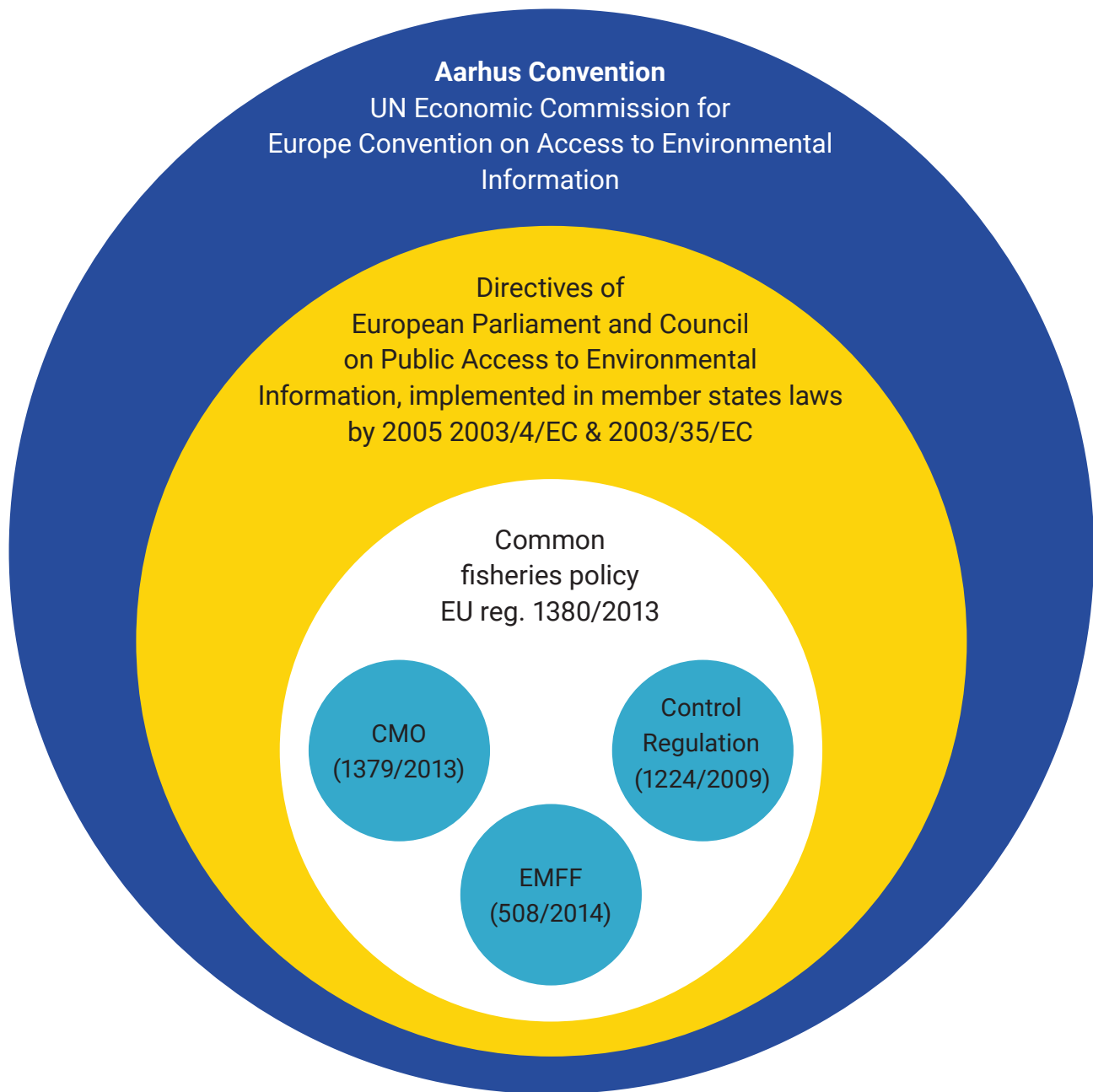
### 3. Guide to terminology & acronyms

<p>Aarhus Convention</p>	<p>The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, usually known as the Aarhus Convention, was signed on 25 June 1998 in the Danish city of Aarhus. The Aarhus Convention grants the public rights regarding access to information, public participation and access to justice, in governmental decision-making processes on matters concerning the local, national and transboundary environment. It focuses on interactions between the public and public authorities. In 2003 two Directives concerning the first and second “pillars” of the Aarhus Convention were adopted; they were to be implemented in the national law of the EU Member States by 14 February and 25 June 2005 respectively: Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC &amp; Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC.  <a href="http://ec.europa.eu/environment/aarhus/legislation.htm">http://ec.europa.eu/environment/aarhus/legislation.htm</a></p>
<p>CFP</p>	<p>Common Fisheries Policy REGULATION (EU) No 1380/2013  <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:354:0022:0061:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:354:0022:0061:EN:PDF</a></p>
<p>CMO</p>	<p>The Common Organisation of the Markets Council Regulation (EC) No 1379/2013</p>
<p>Control Regulation</p>	<p>COUNCIL REGULATION (EC) No 1224/2009 A regulation intended to ensure that the rules of the Common Fisheries Policy are followed in practice, the policy also includes a control system with the necessary tools to enforce them.  <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:343:0001:0050:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:343:0001:0050:EN:PDF</a></p>

EMFF	European Maritime & Fisheries Fund REGULATION (EU) No 508-2014
Fishing opportunities, TAC, quota	Different ways that the (usually) annual “total allowable catch” of fish allocated is referred to in the legislation and the industry. Member States and ultimately fish producers are allowed to catch a fixed upper limit of each of 76 different stocks of fish.
MSY	Maximum Sustainable Yield - the maximum level at which a natural resource can be routinely exploited without long-term depletion.
PO or Producer Organisation	Producer Organisations (“Member States may recognise as producer organisations all groups set up on the initiative of fishery or aquaculture producers which apply for such recognition, provided that they...” Article 14.1. CMO) as defined and recognised in accordance with Article 6 of the CMO.
Producer	CMO Article 5 (c) “any natural or legal person using means of production to obtain fishery or aquaculture products with a view to placing them on the market” (f) “‘placing on the market’ means the first making available of a fishery or aquaculture product on the Union market”
SSCF	Small-scale coastal fisher
Non-sector	Fleet divided into PO vessels with private quota (“the sector”) and the rest are “non-sector” (sub-divided as under 10s and over 10s called “non-sector”)

## 4. Introduction: the CFP, CMO, fish POs and the law

The CFP and CMO regulations exist within a wider framework of international, environmental, Commission wide and member State legislation.



These laws and other associated legislation construct a sophisticated and inter-dependent web of law designed to ensure PO compliance with both the spirit and the letter of the Regulations.

There follows a selection of regulations relevant to PO compliance and an explanatory note, quoted in its entirety from Client Earth's "Transparency in the CFP" report, about the area of environmental regulations and transparency.



## The CFP Article 3 Principles of good governance

“The CFP shall be guided by the following principles of good governance: ...(k) transparency of data handling in accordance with existing legal requirements, with due respect for private life, the protection of personal data and confidentiality rules; availability of data to the appropriate scientific bodies, other bodies with a scientific or management interest, and other defined end-users.”

NB 1 “Existing legal requirements”, as is explained in the following passage from Client Earth’s report on transparency and the CFP, include the Aarhus Convention and its transposing EU directives and regulations, which grant the right to public access to environmental information held by public authorities, Member States and EU institutions.

NB 2 In every Member Country case – apart from Denmark, where the report from the national audit office rendered research redundant – the regulatory authorities have tried, and to some extent succeeded, to obstruct transparency citing concerns such as “data protection” and “commercial confidentiality”.

## Client Earth – Transparency in the common fisheries policy<sup>4</sup>

*Conclusion and recommendation – Aarhus Convention and the EU’s implementing legislation*

*“The Access to Information Regulation and partly the CFP itself require public access to fisheries data held by EU institutions. The Aarhus Convention and its transposing EU directives and regulations grant the right to public access to environmental information held by public authorities, Member States and EU institutions. This international obligation has been integrated in the EU legal order and therefore applies also to the CFP. It is subject to exceptions in line with the Aarhus rules but these should be interpreted restrictively and there is no obligation on public authorities to apply the exceptions; they are simply given a discretionary power to do so.*

*Much, if not all, fisheries-related information can be considered ‘environmental information’ under the Aarhus Convention. Consequently, the CFP, CMO and EMFF Regulations must be interpreted in such a way as to guarantee compliance with the Aarhus Convention. Exceptions must be in line with those allowed by the Aarhus Convention, and should also be interpreted restrictively. The information should be available both upon request and, to the extent that it falls within the relevant categories, through the public accessibility requirements in the Aarhus Convention and its transposing legislation.”*

## Control Regulation

“In order to establish a comprehensive control regime, the whole chain of production and marketing should be covered by such a regime. It should include a coherent traceability system complementing the provisions contained in Regulation (EC) No 178/2002 of the

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4 <https://www.documents.clientearth.org/library/download-info/transparency-in-the-common-fisheries-policy/>

European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (1) OJ L 31, 1.2.2002, p. 1. (1), and an enhanced control of producer organisations.”

## **The CMO**

### *Article 7 Objectives of producer organisations*

1. Fishery producer organisations shall pursue the following objectives:
  - a. promoting the viable and sustainable fishing activities of their members in full compliance with the conservation policy, as laid down, in particular, in Regulation (EU) No 1380/2013 and in environmental law, while respecting social policy and, where the Member State concerned so provides, participating in the management of marine biological resources;
  - b. avoiding and reducing as far as possible unwanted catches of commercial stocks and, where necessary, making the best use of such catches, without creating a market for those that are below the minimum conservation reference size, in accordance with Article 15 of Regulation (EU) No 1380/2013;
  - c. contributing to the traceability of fishery products and access to clear and comprehensive information for consumers;
  - d. contributing to the elimination of illegal, unreported and unregulated fishing

### *Article 14 Recognition of producer organisations*

1. Member States may recognise as producer organisations all groups set up on the initiative of fishery or aquaculture producers which apply for such recognition, provided that they:
  - a. comply with the principles set out in Article 17 and with the rules adopted for their application;
  - b. are sufficiently economically active in the territory of the Member State concerned or a part thereof, in particular as regards the number of members or the volume of marketable production;
  - c. have legal personality under the national law of the Member State concerned, are established there and have their official headquarters in its territory
  - d. are capable of pursuing the objectives laid down in Article 7;
  - e. comply with the competition rules referred to in Chapter V;
  - f. do not abuse a dominant position on a given market; and

- g. provide relevant details of their membership, governance and sources of funding.
2. Producer organisations recognised before 29 December 2013 shall be considered to be producer organisations for the purposes of this Regulation, and to be bound by its provisions

#### *Article 18 Checks and withdrawal of recognition by Member States*

1. Member States shall carry out checks at regular intervals to verify that producer organisations and inter-branch organisations comply with the conditions for recognition laid down in Articles 14 and 16 respectively. A finding of non-compliance may result in the withdrawal of recognition.
2. The Member State hosting the official headquarters of a producer organisation or an inter-branch organisation which has members from different Member States, or of an association of producer organisations recognised in different Member States, shall set up the administrative cooperation needed to carry out checks on the activities of the organisation or the association concerned in collaboration with the other Member States concerned.

#### *Article 19 Allocation of fishing opportunities*

When performing its tasks, a producer organisation whose members are nationals of different Member States or an association of producer organisations recognised in different Member States shall comply with the provisions governing the allocation of fishing opportunities among Member States in accordance with Article 16 of Regulation (EU) No 1380/2013.

#### *Article 20 Checks by the Commission*

1. In order to ensure that the conditions for recognition of producer organisations or inter-branch organisations laid down in Articles 14 and 16 respectively are complied with, the Commission may carry out checks and shall, where appropriate, request that Member States withdraw the recognition of producer organisations or inter-branch organisations.
2. Member States shall communicate to the Commission by electronic means any decision to grant or withdraw the recognition. The Commission shall make all such information publicly available.

## **The EMFF**

### *Preamble*

(18) The achievement of the objectives of the CFP would also be undermined if Union financial support under the EMFF were paid to Member States who did not comply with their obligations under the CFP rules related to the public interest of conservation of marine biological resources, such as data collection and the implementation of control obligations. Moreover, if those obligations are not complied with, there is a risk that inadmissible applications or ineligible operations will not be detected by Member States.

(19) As a precautionary measure, in order to prevent ineligible payments as well as to provide an incentive for Member States to comply with the CFP rules, provision should be made for the interruption of the payment deadline and the suspension of payments, measures that are limited in time and in their scope of application. Financial corrections that have definite and irrevocable consequences should only apply to expenditure that is affected by the cases of non-compliance

## 5. Member State reports

### Methodology

The relevant regulatory principles from the Aarhus Convention, down through the CFP, the CMO and other, relevant EU laws to Member State level suggest that the status of POs, their members and their access to fishing opportunities / fishing activities ought to be clear and transparent as a fundamental prerequisite for effective implementation of the CFP.

It follows that the results of the checks required by the regulations should show clearly and in public to what extent a Member State's POs are complying with the CFP.

There follow reports on the research that LIFE commissioned on the relevant PO regulatory regimes in Denmark, Ireland, Germany, the Netherlands and the United Kingdom.

The report highlights specific examples that gathered together provide clear evidence of systemic regulatory failings.

In the modern world of mobile capital and globalisation, CFP and CMO compliance requires an inviolate international chain of custody.

If threatened species and vulnerable communities are to be protected under shared management of stocks, then all links in the chain must hold to protect the whole.

## 6. Denmark

Following an investigation the Danish national audit office (the Rigsrevisionen) has published its report on quota concentration in the Danish fishing industry, as submitted to Denmark's Public Accounts Committee. Here is the conclusion.

*"It is Rigsrevisionen's overall assessment that, for a number of years, the ministry has estimated the ITQ concentration based on incomplete data, different methods of calculation and incorrect registrations of transfer and ownership of quotas. At the same time, international swapping of quotas has provided an option to swap quotas that should have been included in the calculation of quota concentration. As a result, neither the ministry nor the public has an accurate picture of the concentration of quota ownership. On the basis of the study, the ministry has informed Rigsrevisionen that the ministry will commission a retrospective analysis by an external party to determine in more detail the scale of the problems identified by Rigsrevisionen. The analysis will address the appropriateness of the current system of regulation, including the desirability of the current extensive trade with quotas. The analysis will also look into the appropriateness of having one overall limit on quota ownership for all ITQ species rather than having limits for each individual ITQ species, the rules concerning controlling interest in and real ownership of commercial fishing companies and the problems associated with using initial or final quotas for the estimation of quota concentration, as pointed out by Rigsrevisionen. The ministry has asked the police to investigate the cases where Rigsrevisionen has found reason to suspect that a criminal offence has been committed."*

The questionable reporting and regulating of international swaps as highlighted by the Danish National Audit Office's report is sufficient evidence to reasonably question whether or not Member States and / or the Commission are carrying out, or are capable of carrying out, the required regulatory checks.

Presumably these international swaps were with recognised POs in other Member States rather than between the Member States themselves. Does the Commission know? Do the relevant Member States know? How could we know?

If the required Regular checks identified in CMO Articles 18, 19 & 20 were being effectively carried out they would know. If the transparency requirements flowing from the Aarhus Convention were in place, we would all know.

## 7. Germany

### *Seefrostvertrieb GmbH*

Seefrostvertrieb GmbH is one of 13 fish POs recognised in Germany and includes all players in the German “high seas” segment. There are eight shareholders in total, but they all belong to two international parent companies: Parlevliet and Van der Plas Group of the Netherlands and Samherji HF of Iceland.

These parent companies are powerful economic and political players, not least because they constructed processing plants and thus generated jobs in otherwise structurally rather weak regions in Germany (especially Eurobaltic in Sarnitz on the island of Rügen, constructed by Parlevliet). In other parts of Europe, Parlevliet and Samherji even run joint undertakings.

Many of the Parlevliet and Samherji subsidiaries who are members of Seefrostvertrieb are fishing companies running big freezer trawlers – the largest vessels of the German fleet. One of Seefrostvertriebs’s CEOs (Uwe Richter) is, at the same time, CEO of two Parlevliet fishing subsidiaries and of the Eurobaltic processing company. Similarly, the other CEO of Seefrostvertrieb (Haraldur Gretarsson) acts as CEO of the German Samherji companies.

There is reason to doubt the conformity of Seefrostvertrieb’s mission to the common understanding of POs under the CMO regulation. CMO Article 14 states that a PO applying for recognition must be capable of pursuing the objectives of Article 7 of the CMO Regulation. According to a guidance document of the Commission for the implementation of the CMO “this condition is linked to the key role that professional organisations recognised under the CMO play in delivering the CFP and CMO objectives” inter alia to “promoting the viable and sustainable fishing activities of their members in full compliance with the conservation policy, as laid down, in particular, in Regulation (EU) No 1380/2013 and in environmental law” and to “avoiding and reducing as far as possible unwanted catches of commercial stocks”.

Our researcher felt it unlikely that Parlevliet, whose fishing vessels have been found guilty of fisheries offences in more than one Member State, would be chosen by the regulatory authorities as an exemplar, capable of realistically promoting sustainable fishing within a PO governed by EU rules. Further doubts arise when we take a look at the shareholder agreement of Seefrostvertrieb:

*“The company’s purpose is to represent the shareholder interests towards third parties in the framework of organising high seas fisheries as well as the marketing of the sea frozen fish and fish products produced and landed by the shareholders.”*

The wording of this provision excludes the objectives laid down in art. 7 par. 1 of the CMO regulation.

N.B.: it could be revealing to analyse the compliance of PO Seefrostvertrieb with competition rules under the TFEU (art. 101-102 TFEU). However, this question is going beyond this research and should, because of the complexity of competition rules (and exceptions thereto) be answered by an EU competition law expert.

## 8. Ireland

There are four recognised fish POs in Ireland. Successive Irish governments have obstructed every attempt to shine a light on the POs and their fishing activities but as far as can be determined from the little information that is available to the public, we now know that they represent fewer than 10% of the Irish fleet (the big boats, obviously) and land roughly 90%, by volume and 70% by value of Ireland's marine produce<sup>6</sup>. It can reasonably be argued that Ireland's Department for Agriculture Food and the Marine (DAFM) is not just allowing these POs – and the large fishing companies that comprise their membership – to abuse a dominant market position, DAFM is facilitating it.

DAFM openly publishes Ireland's Quota Management Policy (dated 2016) on its website<sup>7</sup>.

There are 2 main problems with the policy.

### 1. Environmental objectives?

There is no mention (at all) of any requirement by DAFM or the POs to address the environmental objectives of the CFP or of the CMO. There is no mention (at all) of any requirement to carry out regular checks of PO compliance.

### 2. Economic & social objectives?

"In Ireland, quota is a public resource and is managed to ensure that property rights are not granted to individual operators. This is seen as a critical policy in order to ensure that quotas are not concentrated into the hands of large fishing companies whose owners have the financial resources to buy up such rights."

Firstly, if 4 POs represent fewer than 10% of the Irish fleet (the big boats, obviously) and land roughly 90%, by volume and 70% by value of Ireland's marine produce, that isn't working.

Secondly, central to Ireland's fishing policy is, "a formal Quota Management Advisory Committee (QMAC) involving fishing industry representatives from the catching and processing sectors, that meets each month, and as far as possible, the Minister follows their recommendations for monthly regimes for particular stocks. Additional meetings are organised as required to discuss specific issues in particular fisheries that may arise. The fishing industry is represented at the QMAC as follows: 1 member from each of the four Fish Producer Organisations, 1 member from the National Inshore Fishermen's Forum, 1 member of the Fish producers and Exporters Association, 1 member of the Fishing Co-Operative Association".

The four POs have an in built majority on the QMAC, which hands control of Ireland's national quotas to the large fishing companies for free.

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6 See Edward Fahy, in particular

<http://eatenfishsoonforgotten.com/introducing-irelands-fish-producer-organisations/>

7 <https://www.agriculture.gov.ie/seafood/seafoodpolicy/forms/>



## 9. Netherlands

### *Redersvereniging voor de Zeevisserij (RVZ)*

RVZ is the producer organisation representing the entire Dutch pelagic freezer trawler fleet. Article 14.1 of the COM (EU regulation 1379/2013) states that a PO must not abuse a dominant position on a given market.

Since the PO represents the entire pelagic fleet of the Netherlands, it must have a dominant position on the Netherlands' pelagic market at least – although no data is made publicly available to allow for this to be verified.

Given this domination of the Netherlands' pelagic market and the scale and international nature of the business of at least two of the PO's member companies, as shown in the reports on Germany and the UK for example, it is possible that the PO and / or its constituent members may hold dominant positions beyond the pelagic market in the Netherlands.

There is no information available to tell whether the government of the Netherlands or the Commission has carried out regular checks to ensure regulatory compliance or that no abuse of a dominant position in the national or international markets is taking place.

The PO lists 4 member companies: Jaczon Rederij en Haringhandel, Cornelis Vrolijk's Visserijmaatschappij BV, Parlevliet & Van de Plas en W. van der Zwan & Zn<sup>11</sup>. However, the Cornelis Vrolijk group wholly owns Jaczon Rederij en Haringhandel which gives the group a 50% voting stake in the PO.

### *The Pelagic Freezer-trawler Association*

The 4 listed RVZ companies are also listed amongst the 9 members of the PFA<sup>7</sup>. In fact, the 9 companies described on the PFA's website as, "responsible, family-run companies, mostly going back to the late 19th century, who benefit from several generations of fishing experience, and operate a combined fleet of 23 vessels" are owned by only four companies since 7 of the 9 are companies in the Cornelis Vrolijk and Parlevliet & Van der Plas groups of companies.

These two companies hold fishing opportunities, some in partnership with Samherji HF of Iceland, in a few Member States of the EU.

Again, lack of a transparent system at Member State and Commission level means the potential extent of dominant positions – and the potential for abuse thereof – are impossible to determine.

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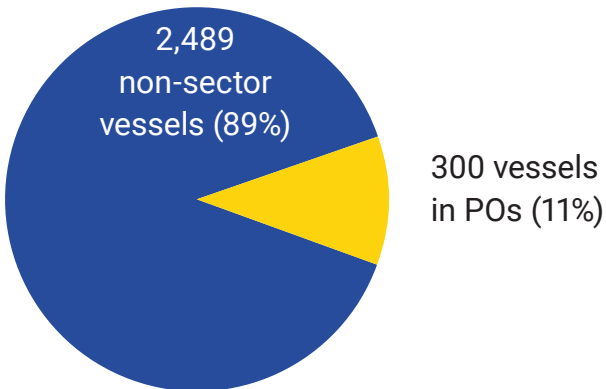
7 See <http://www.pelagicfish.eu/members>

## 10. United Kingdom

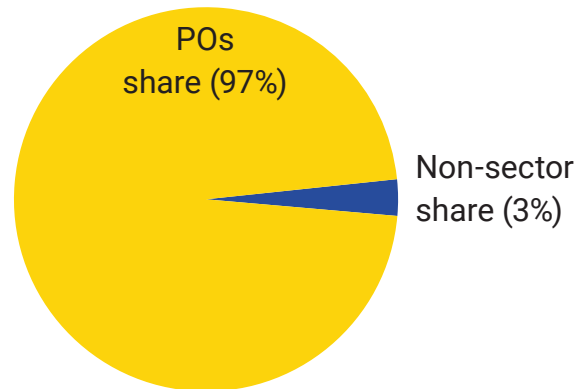
The UK has 23 established, recognised fish POs who between them represent fish producers whose 833 vessels amount to 15% of the UK fleet. These POs hold a massive majority of the UK's 2017 national tonnage.

### English fleet by sector and share of national quota

#### Fleet by vessel sector



#### Fleet by share of quota



Source for vessels data is the DEFRA November 2017 vessels lists  
<https://www.gov.uk/government/collections/uk-vessel-lists>

Source for shares of national quota is the DEFRA final UK "Apportioning UK quota to fisheries administrations" table  
<https://www.gov.uk/government/publications/fisheries-quota-allocation-2017>

In 2012 Marine Scotland published a review<sup>8</sup> of its fish producer organisations amongst the conclusions of which is stated, "we do conclude, based on the evidence of our review, that there is at present and taken as a whole across Scotland, insufficient resource and management initiative directed towards the strategic purposes envisaged for POs."

More specifically, the review found that existing POs almost exclusively regarded their job as managing their members' quota. This is the case across the UK's 23 recognised fish POs as the POs represent industrial fishing businesses, fishing for quota stocks that they land in bulk to fish markets. This is the case across the UK's 23 recognised mainstream fish POs as these POs tend to represent the more industrial fishing businesses, who tend to fish for quota stocks that they land in bulk to fish markets. These "industrial fishing" PO members do not need POs' help marketing their produce.

The UK has recently recognised a new PO – the Coastal PO – established on the initiative of some of the UK's SSCF whose 4,658 vessels amount to 85% of the UK fleet. These vessels, combined with the UK's remaining "non-sector" (not members of a PO) vessels were allocated a 3% total share of the UK's 2017 national quota. The Coastal PO currently has 255 SSCF fish producer members, with approximately 260 vessels in membership.

8 <http://www.gov.scot/Topics/marine/Sea-Fisheries/17681/ECMarketing/producerinterbranch/sfporeview>

Analysis of the Coastal PO's members' landings shows that non-quota species account for 80% of the value of the members' landings. As the PO is new and working with its members to develop its production and marketing plans, it will become clear if this profile of fishing activity is through choice or lack of access to the national quota.

In order to meet the Article 14.1.(c) Recognition of POs requirement that applicant POs must, "have legal personality under the national law of the Member State concerned" all POs are either registered as Limited Companies, regulated by Companies House, or as Co-operative Societies, regulated by the Financial Conduct Authority.

Research and analysis on these POs is aided by the legislative reporting regimes that these corporate regulators operate under, which requires both fairly comprehensive submission of annual corporate papers and their availability to the public.

For example:

- UK company regulation now requires companies to report all "persons with significant control" and to publish details of directors and shareholdings, which enables identification of companies' ultimate controlling parties. In addition, for larger companies and groups of companies, the legislation requires that companies publish more comprehensive accounts that identify subsidiary companies and a company's ultimate controlling party.
- UK Society regulation requires that co-operative societies complete an annual return form detailing the Society's directors and all other directorships that they hold, as well as profiling the Society's overall annual performance in terms of finances and numbers of members. The annual return form must be submitted with the society's annual accounts, which in most cases must have been subject to a formal audit.

The companies' documents show some very basic evidence of failures to meet the eligibility criteria for recognised status. For example, there is a recognised PO that has been entirely open and transparent in its company documentation about the fact that it is a wholly owned subsidiary of a fishing company with a single director who holds the only voting share. It is difficult to see how such a PO can be an organisation of fish producers or meet the requirement that it must have a democratic functioning.

This and other examples, some included here, suggest that the UK fisheries administrations may either have never previously carried out the regular checks required of them, or if they have then they either have not cross referenced their own published information – e.g. DEFRA's online register of fixed quota allocation units or its own monthly lists of registered fishing vessels – with the POs' & fish producers' corporate documentation, or they are insufficiently skilled in interpreting the available corporate information.

Here are two illustrative examples from POs regulated by each of the two corporate regulators.

## POs registered as companies with Companies House

### North Atlantic Fish Producer Organisation Limited (NAFPO)

#### *Companies House records*

Incorporated as a company on November 12th, 2009 and seemingly recognised and operating as a PO by January 2010, the PO's incorporation documents list its members as the North Atlantic Fishing Company Limited and Valiant Trawlers Limited and its agent as Stewart Norman Harper.

Clause 7 of the Company's Articles of Association (its registered rules) deals with Members' appointed representatives and reads, "Any joint owners of a vessel who are deemed to constitute one Member shall be represented at meetings of the Company by one of their number duly nominated and appointed for the purpose."

Clause 9 Quorum for directors' meetings reads "...the quorum for the transaction of business at a meeting of the directors is any one eligible director."

NAFPO's annual accounts to 31/12/2010 record the facts that Stewart Norman Harper is the company's only Director and Company Secretary, and under the Notes to the accounts Note 8 reads, "Ultimate Parent Company and Control The ultimate controlling party is S N Harper."

Both Valiant Trawlers Limited's and the North Atlantic Fishing Company Limited's accounts to December 2009 also show S N Harper as a Director and the Company Secretary, and furthermore both Companies' accounts record under the notes to their accounts that,

*"The Company's immediate parent undertaking is North Atlantic (Holdings) Limited... the company's ultimate parent undertaking is Cornelis Vrolijk Holding BV, a company incorporated in the Netherlands and which is considered to hold the ultimate controlling interest..."*

The North Atlantic (Holdings) Limited accounts to 31st December 2016 record that S N Harper remains one of the Group's three directors and both North Atlantic Fishing Company Limited and Valiant Trawlers Limited are listed as 100% wholly owned subsidiaries of the group with Valiant Trawlers Limited's principal activity listed as "dormant".

<b>Shares in subsidiary undertakings comprise:</b>			
	<b>Country of registration</b>	<b>Proportion of issued ordinary shares held</b>	<b>Principal activity</b>
North Atlantic Fishing Company Limited	England & Wales	100%	Trawling
Valiant Trawlers Limited	England & Wales	100%	Dormant
Rusbrit Limited	England & Wales	100%	Merchanting services
North Atlantic Seafoods Limited	England & Wales	100%	Dormant
North Atlantic (Crewing) Limited	England & Wales	100%	Crewing agency

### DEFRA online register of fixed quota allocation units

According to DEFRA's Final 2017 allocations of fixed quota allocations, NAFPO holds the following significant portions of UK TAC.

<b>UK TAC final allocations: stocks where NAFPO holds more than 10%</b>							
<i>Source: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/639195/2017_UK_final.xls">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/639195/2017_UK_final.xls</a></i>							
	Min Pel	Maj Pel	Maj Pel	Maj Pel	Maj Pel	Maj Pel	Maj Pel
	Herring 4c7d	WS Mackerel	NS Herring	WS Mackerel o/w 4a	NS Horse Mackerel	WS Horse Mackerel	WS Mackerel o/w 2a Norway
NAFPO TAC?	4,839	25,244	8,238	14,628	231	1,928	1,971
UK TAC?	5,172	224,471	63,558	143,448	2,231	8,468	19,331
NAFPO % of UK TAC?	94	11	13	10	10	23	10

**Notes**

1. This table only shows stocks where NAFPO holds more than 10% DEFRA final allocation of UK TAC
2. NAFPO holds 94% UK TAC for Herring 4c7d (EU guide: dominant position starts at 40%)
3. NAFPO is 100% owned by Cornelis Vrolijk Holding BV in the Netherlands
4. Cornelis Vrolijk Holding BV may hold more of these and other EU stocks in other Member States
5. This table does not show all Cornelis Vrolijk Holding BV UK TAC holdings

<b>NAFPO FQA units held, downloaded from DEFRA online register, 29/11/2017</b>							
Licence type	Licence number	Vessel name	Holding type	Holder name	Producer organisation	Fisheries administration	Total FQA units held
Not shown	11957	Cornelis Vrolijk FZN	Not shown	North Atlantic Fishing Company Limited	North Atlantic	MMO	457,166
Not shown	12852	Northern Joy	Not shown	North Atlantic Fishing Company Limited	North Atlantic	MMO	17,107

### DEFRA registered fishing vessels list

The November 2017 DEFRA registered fishing vessels list identifies 2 vessels as in membership of NAFPO; the Northern Joy and the Cornelis Vrolijk Fzn.

This is accurate according to the December 2016 accounts for North Atlantic (Holdings) Limited, which state that, "Towards the end of the year the Group acquired two fishing vessels; on the 21st December 2016 the Group purchased a vessel renamed the Northern Joy, for €1,500,000. On the 30th December 2016, the Group purchased the vessel the Cornelis Vrolijk Fzn at a cost of €10,000,000" the latter vessel having previously been leased.

### Regulatory issues

These papers raise a number of CFP, CMO, Control Regulation relevant issues:

1. Since NAFPO and its constituent "members" is, have always been and remain constituent parts of the Cornelis Vrolijk group from the Netherlands, could a single "ultimate controlling party" meet the 2009 regulation's requirement to be a legal entity "set up on the own initiative of a group of producers" (plural) and form its own producer organisation eligible for recognised status?
2. If the NAFPO bid should not have met – or continue to have met – the criteria in the

regulations, how have the regulators complied with Council Regulation (EC) 104/200 requirement for “Regular Checks”?

- a. Member State; “Article 6.1. Member States shall... (b) carry out checks at regular intervals to ascertain that POs comply with the terms and conditions for recognition of a PO: recognition of a PO may be withdrawn if the conditions set out in Article 5 are no longer fulfilled or if recognition is based on wrong information: if the organisation benefits from recognition by fraudulent means, recognition shall immediately be withdrawn retroactively” and;
  - b. The Commission; “Article 6.5. In order to ensure that Article 5 and paragraph (1) (b) of this Article are complied with, the Commission shall carry out checks and in the light of such checks may, where appropriate, request that Member States withdraw recognition.”
3. Since NAFPO and its constituent “members” is, have always been and remain constituent parts of the Cornelis Vrolijk group from the Netherlands, does it meet the continuing retrospective requirements of the current CFP, which states that, “Producer organisations recognised before 29 December 2013 shall be considered to be producer organisations for the purposes of this Regulation, and to be bound by its provisions.”?
  4. Given the international nature of the Cornelis Vrolijk group’s trade, what “regular checks” have the relevant Member States in and from which the company may be trading put into place (1379/2013 Article 18.2. and 19.) and what checks by the Commission (Article 20) are in place or have been carried out to ensure that the company and the relevant PO (or POs if Cornelis Vrolijk BV is in membership in other Member States) are not meeting the requirement that they should not be abusing a dominant position across Member States on any given market?

## The Fish Producer Organisation Limited

### *Companies House records*

The company was incorporated in April 1973. It files the minimal financial statements necessary to meet the statutory requirements, but it does meet them and with impressive administrative efficiency too. As it is a company limited by guarantee, there are no shares, which might evidence any controlling parties and only details of company officers are provided. However, Companies House regulations require that the Directors are identified and that their other directorships are connected to the company’s online and freely available record too.

To gain a better understanding of the company’s status and consider how it may or may not meet the eligibility criteria for a recognised fish producers’ organisation, it proved necessary to conduct wider research into the UK registered companies identified as holding quota in the PO.

<b>The Fish PO registered holdings of UK FQAs, 29/11/2017</b>			
<b>Vessel name</b>	<b>Holder name</b>	<b>Fisheries administration</b>	<b>Total FQA units held</b>
Farnella	Jacinta Limited	MMO	74,233
	Lionman Limited	MMO	70,379
Kirkella	Kirkella Limited	MMO	46,643
Norma Mary	Onward Fishing Company Limited	MMO	43,155
	Mainprize Offshore Limited	MMO	1,644
William Mary	Bickerstaff Fishing Company Limited	MMO	1,533
Sarah Lena	Bickerstaff Fishing Company Limited	MMO	1,531
	Steve Stoker	MMO	1,024
Mare Gratia	Deep Dock Limited	MMO	801
Sajenn	Mr D. C. Scott	MMO	672
Janeen	Paul Gilson	MMO	395
Rachael S	Jubilee Fishing Company Limited, Nigel Stead Fishing Limited	MMO	125
Mare Gratia	Deep Dock Limited	Dept. of Agriculture & Rural Development	90
			242,225

The table above shows the separate holdings of FQAs from DEFRA's online register. Each of the entries under "Holder Name" must, by definition, be a fish producer member of the PO. The holdings are registered to 10 separate limited companies and 3 people. The table is sorted with the largest holdings at the top and the smallest holdings at the bottom. The largest 4 holdings, at the top of the table, are 4 UK limited companies. Between them they hold 234,410 FQAs, or 97% of the PO's total FQAs held.

Returning to Companies House and searching those companies' records reveals that all 4 companies are registered to the same address as The Fish PO itself. Tracking back through details of the companies' filing histories reveals that they also share Directors and that, having eventually followed ownership through registered shareholdings in a network of companies all registered at the same address, with similar boards of directors, the ultimate controlling party and owner of those companies is another UK registered limited company called UK Fisheries Limited.

The most recent accounts for UK Fisheries Limited show that it is a group of companies, with a number of wholly owned subsidiaries in the UK, Spain, Portugal and France.

The unlisted investments includes a 73% shareholding in GIE Plasticofres a company held by Euronor SAS. The relevant assets and liabilities have not been included in the consolidation as inclusion is not considered material for the purpose of giving a true and fair view.

Details of the investments in subsidiaries and associates in which the company holds any class of share capital are as follows:

Name of company	Country of incorporation	Proportion of voting rights and shares held	Nature of business
Boyd Line Limited	England and Wales	100%	Holding company
J Marr (Fishing) Limited	England and Wales	100%	Holding company
Kirkella Limited	England and Wales	100% *	Vessel owners and operators

Page 24

continued...

11. **FIXED ASSET INVESTMENTS - continued**

Jacinta Limited	England and Wales	100%	*	Vessel owners and operators
Marr Management Limited	England and Wales	100%	*	Management services
Lionman Limited	England and Wales	100%	*	Dormant
Armana Limited	England and Wales	100%	*	Dormant
Swanella Limited	England and Wales	100%	*	Dormant
Pesqura Ancora S.L.	Spain	100%		Vessel owners and operators
Absolutely Genuine - Unipessoal, Lda	Portugal	100%		Vessel owners and operators
Euronor S.A.S.	France	100%		Vessel owners and operators
Euronor Distribution	France	100%	*	Support services
Groupe Compagnie des Peches Saint Malo S.A.S.	France	50%		Holding company
Compagnie des Peches Saint Malo S.A	France	39.27%	**	Vessel owners and operators
Compagnie des Peches Distribution S.A.S	France	39.27%	**	seafood processing
Compagnie des Peches Production S.A.S.	France	39.27%	**	seafood processing
Unipeche	France	33%	**	seafood processing
Compagnie des Peches Sante	France	39.27%	**	Operations

\* Held by subsidiary undertakings

\*\* Held by associate

The four companies holding 97% of the national quota in the PO are listed amongst those subsidiaries.

In addition, the accounts (and separately filed paper identifying the proportion of shareholdings) reveal that UK Fisheries Limited is in fact a partnership, jointly owned by Samherji group of Iceland and Parlevliet & Van der Plas group of the Netherlands.



### *Regulatory issues*

Given the international nature of Samherji group of Iceland, Parlevliet & Van der Plas group of the Netherlands and their international trade, what “regular checks” have the relevant Member States in and from which the companies’ may be trading are in place (1379/2013 Article 18.2. and 19.) and what checks by the Commission (Article 20) are in place or have been carried out to ensure that the company and the relevant POs (Samherji group of Iceland and Parlevliet & Van der Plas group of the Netherlands are in membership of POs in other Member States) are meeting the CMO requirements, in particular ensuring that they are not abusing a dominant position in or across Member States on any given market?

### **POs registered as Co-operative Societies with the Financial Conduct Authority**

Registered Societies are required to comply with the Co-operative & Community Benefit Societies Act 2014, which specifies the submission of an annual return with accompanying accounts.

The annual return requires the Society to identify details of the Board Directors and of any other Directorships they may hold. It also requires Societies to supply details of membership numbers and provide statistics illustrating a financial overview.

### **Fleetwood Fish Producers Organisation**

Latest annual return and accounts filed is for the year end 31/12/2016. The returns state a total of 21 current members, 7 of whom are identified as Directors of the PO.

3 of the Directors are each identified holding 3 Directorships in Limited Companies.

2 Directors are not identified as holding any directorships, but are in fact both directors of a company called Isadale Limited, which is listed as a quota-holding member of the PO.

These directorships become particularly relevant when we cross-reference the PO’s holdings of FQAs from the online register with Companies’ House records.

### *DEFRA online register of fixed quota allocation units*

Downloading the PO’s published quota holdings and sorting the holdings with largest quota holder first provides perhaps half the story.

The massive majority of the PO’s FQAs held – as near as makes little difference to 100% of the FQAs in fact – are held by a variety of UK registered limited companies.

**Fleetwood FPO FQA holdings from online register 29/11/2017**

<b>Licence type</b>	<b>Vessel name</b>	<b>Holding type</b>	<b>Holder name</b>	<b>Total FQA units held</b>
	Brisan		Basonas Limited	2,506
	Brisca		Brisca Fisheries Limited	3,333
D		Units held on behalf of fishing vessel agents and owners	Courtbell Limited	2,271
	Sanamedio		Denmuir Limited	7,183
	Udra		Euroscott Limited	3,552
D	Ayr Dawn	Units held on behalf of fishing vessel agents and owners	Ferncrown	6,078
	Ayr Dawn		Ferncrown Limited	2,193
D		Units held by PO for the common benefit of the membership, being under full control of the PO	Fleetwood FPO	4,673
	Suffolk Chieftain		Gulfcrown Limited	1,913
D		Units held on behalf of fishing vessel agents and owners	Hooktone Limited	5,602
D		Units held on behalf of fishing vessel agents and owners	International Maritime Services	19,278
	Isadale		Isadale Limited	2,891
	Monte Mazanteu		Jonita Limited	2,109
D		Units held on behalf of fishing vessel agents and owners	Kensway	3,035
	Albion		Mr Derek Reader. Mr Rob McWhinney	171
	Sheila Mary		Mr Gary Pidduck	88
	Our James		Mr S Poland, Mr W Poland	246
	Piedras		NIA Limited	4,183
	Eder Sands		Ondar Fishing Company Limited	4,472
	Port of Ayr		Overend Limited	2,157
	Mar Blanco		Seacombe Limited	9,975
D	O Genita	Units held on behalf of fishing vessel agents and owners	Sealskill	899
	O Genita		Sealskill Limited	11,616
D		Units held on behalf of fishing vessel agents and owners	Systematic Daisies	3,011
	Mar De Bens		United Exports Limited	7
	Cabo Ortegal		Uxia Fishing Limited	4,841
				108,283

**Notes**

- Names of companies not always complete; International Maritime Services, Ferncrown, Kensway, Systematic Daisies & Sealskill should all end Limited
- Ferncrown listed both as Limited and not Limited. Sealskill listed as both Limited and not Limited
- Kensway should have been Kensway Limited but the company changed its name to Rainbow A Limited in November 2013. (Kensway Limited no longer exists).

## Companies House records

Cross-referencing the online register of FQAs with the quota holding companies' shareholdings filed at Companies House may provide the other half of the story.

The directors hold directorships – declared and not declared – in quota holding companies in membership of the PO that hold and or control at least 38% (there may be interests in companies that this research failed to identify) of the PO's fishing opportunities.

The latest shareholdings filed at Companies House documents reveals that the companies that hold FQAs within the PO predominately have ultimate controlling parties in Spain. These parties are sometimes individuals and sometimes Spanish companies.

There is no record evident in the UK of what holdings of fishing opportunities these companies and individuals may hold in Spain, which means that we cannot report on the potential for these parties to have or potentially be abusing a dominant position.

<b>Analysis of Fleetwood PO's FQA holding companies in membership</b>			
<b>Company</b>	<b>Registered address</b>	<b>% of PO's FQAs held</b>	<b>Fisheries administration of ultimate controlling party</b>
Fleetwood FPO	19 Poulton Street, Fleetwood, FY7 6LP	4	Questionable
Sealskill Limited	19 Poulton Street, Fleetwood, Lancashire, FY7 6LP	12	Spain
Systematic Daisies Limited	48 Broad Street, Peterhead, Aberdeenshire, AB42 1BX	3	50% Spain 50% Scotland
Ferncrown Limited	48-50 Broad Street, Peterhead, Aberdeenshire, AB42 1BX	8	Spain
Denmuir Limited	48-50 Broad Street, Peterhead, Aberdeenshire, AB42 1BX	7	Spain
Euroscott Limited	48-50 Broad Street, Peterhead, Aberdeenshire, AB42 1BX	3	Spain
Gulfcrown Limited	48-50 Broad Street, Peterhead, Aberdeenshire, AB42 1BX	2	Spain
Isadale Limited	C/o Keenan Chartered Accountants, Lytham St. Annes, FY8 1NJ	3	England
Uxia Fishing Limited	Peche House, St Anne's Road, Hakin, Milford Haven, Pembrokeshire, SA73 3AF	4	Spain
Seacombe Limited	St Brides House, 10 Salisbury Square, London, EC4Y 8EH	9	Spain
International Maritime Services Limited (Previous names Hooktone International & Hooktone International Limited)	Viewlands, Coldharbour, Dorking, Surrey, RH5 6HJ	18	Spain
Hooktone Limited (or Hooktone Fisheries Limited)	Viewlands, Coldharbour, Dorking, Surrey, RH5 6HJ	5	Spain
NIA Limited	Viewlands, Coldharbour, Dorking, Surrey, RH5 6HJ	4	Spain
Brisca Fisheries Limited	Viewlands, Coldharbour, Dorking, Surrey, RH5 6HJ	3	Spain
Kensway (aka Rainbow A Limited)	Viewlands, Coldharbour, Dorking, Surrey, RH5 6HJ	3	Spain
Basonas Limited (owns Ondar Fishing Limited too)	Viewlands, Coldharbour, Dorking, Surrey, RH5 6HJ	6	Spain
Courtbell Limited	Viewlands, Coldharbour, Dorking, Surrey, RH5 6HJ	2	Spain
Jonita Limited	Viewlands, Coldharbour, Dorking, Surrey, RH5 6HJ	2	Spain
Overend Limited	Viewlands, Coldharbour, Dorking, Surrey, RH5 6HJ	2	Spain
United Exports Limited	Viewlands, Coldharbour, Dorking, Surrey, RH5 6HJ	0	Spain
<b>Total % of PO's FQAs held by Limited company members of the PO</b>		<b>100</b>	
<b>Notes</b>			
1. 91.5% of the PO's FQAs held have an ultimate controlling party in Spain			
2. Some Spanish ultimate controlling parties are corporate, some are individuals, some control more than one of the separately listed shareholdings			
3. It is not clear (does my regulator know? UK? EU?) what other fishing opportunities in the UK or other Member States these ultimate controlling parties may hold			

### *Regulatory issues?*

Cross referencing this PO's publicly available records from DEFRA, MMO, the FCA and Companies House is necessary to peel back the layers of the onion as far as we have been able with the resources available. However, the CMO grants Member States the authority to ask for all this evidence and more to be provided to them by recognised POs – they need only ask POs under Article 18 & CMO Article 14.1.(g) to, “provide relevant details of their membership, governance and sources of funding” – and require that the information that the POs provide is accurate and complete or the POs will suffer accordingly.

Given the international nature of holdings within this PO, what “regular checks” have the relevant Member States in and from which the companies' may be trading are in place (1379/2013 Article 18.2. and 19.) and what checks by the Commission (Article 20) are in place or have been carried out to ensure that the companies and the relevant POs that they may be in membership of in other Member States, are meeting the CMO requirements, in particular ensuring that they are not abusing a dominant position in or across Member States on any given market?

### **South Western Fish Producers Organisation (SWFPO)**

SWFPO is one of the UK's longest established and recognised fish producer organisations. Its holdings of fishing opportunities are significantly larger than those of the Fleetwood PO, although nowhere near in the league of the two company POs chosen as examples, which predominately fish for the deep water pelagic species. However, SWFPO's quota holdings are also significantly more concentrated in the hands of fewer fish producers than are those of the Fleetwood PO.

In fact, a search of the PO's current quota holdings reveals that the two largest quota holders between them have a majority controlling interest in the PO's fishing interest. The largest quota holder is Waterdance Limited with 35,152 FQAs, which is 35% of all the PO's FQAs. This is a significant tonnage of fish and it is held on an under 10 metre vessel called the Nina May and leased to other vessels to fish from the holding.

The second largest quota holding – and the main reason for choosing to use SWFPO as an additional example in this report – is held by N C Trawlers, or NC Trawlers Limited as it should more accurately be listed.

NC Trawlers Limited holds 25,873 FQA units in the PO, registered against a vessel called PROVIDER II and registered on a “dummy licence”.

In fact, the Provider II appears on the DEFRA vessels lists as in membership of the Cornish PO.

NC Trawlers Limited owns no vessel but holds the FQAs within the PO from which the access to fishing opportunities is presumably leased.

Almost incidentally, the online register of FQAs lists 35 separate holdings of FQAs and 34 vessels in membership. (One of the holdings belongs to the PO, which owns no vessel and is allowable.)

Of the 35 separate holdings, only 5 holdings have a “licence type” identified, and these are all “dummy” licences, which appears to mean a holding not directly connected to a vessel, or perhaps a fish producer. (No explanation is offered.)

Of the 35 separate holdings, only 5 holdings have the “holding type” identified.

### *Regulatory issues*

1. A fish producer is identified in Article 5 of the CMO as, “any natural or legal person using means of production to obtain fishery or aquaculture products with a view to placing them on the market” and placing on the market is defined as, “the first making available of a fishery or aquaculture product on the Union market”.
  - a. Does a legal person that only leases fishing opportunities held on a dummy licence meet the definition of a fish producer?
  - b. If not, is it eligible for PO membership?
2. Do Article 18 regular checks include checking the accuracy and completeness of the data required by Member States from POs?
3. Do the Commission’s Article 20 checks adequately ensure that the objectives of the CFP and the CMO are not undermined by the potential for Member States’ provision of fish producers’ records to be inaccurate within Member States and across the Commission?

### **Concluding Statement**

On the basis of this commissioned report, LIFE urges the Commission to carry out an urgent review of its Member States POs compliance and to consider the recommendations, which are intended to constructively propose ways to address the current regulatory systems failure and to ensure that any group of small scale fishers seeking to develop their own PO can do so in the knowledge that the system they are becoming part of is properly regulated and effectively managed.