

CONCEPT NOTE FOR DISCUSSION AT LDAC WGs 4-5 The EU role in International Fisheries Governance

Last update: 12 September 2018

1. BACKGROUND

It would be worthwhile to add an introduction or 1-2 paragraphs to explain the purpose of the document.

As requested in the previous LDAC WG5 meeting held in October 2017, this discussion paper has been drafted as one of the elements towards the drafting of an LDAC advice. It will build on the work of the LDAC on improving the implementation of the CFP external dimension and link up with issues related to the role of fisheries in international ocean governance and blue growth.

Healthy oceans are essential to human life as climate regulator and as a source of food and other resources. They are under multiple threats. This is why strengthening the international ocean governance framework is one of the priorities of the European Union (EU) and many others countries in the world, as witnessed in last June UN Ocean meeting in New York¹ and the Our Ocean event in Malta². Healthier oceans will better regulate climate and contribute to food security and livelihoods, all helping to delivering on the UN sustainable development goals, in particular the UN Sustainable Development Goal 14 titled “life below water”³.

The LDAC therefore welcomed the European Union’s publication of its November 2016 joint communication entitled: “an agenda for the future of our oceans”⁴. This communication confirmed the key contribution of sustainable fisheries to good ocean governance that will help deliver on the UN SDG 14 on Oceans⁵ and sustainable blue growth.

These issues are of direct relevance to the CFP external policies and to the role of the LDAC in identifying how best to help the European Union progress in this area. As part of this exercise, WWF made a presentation at the LDAC Working group 4, on 8 November 2017, of its report entitled “Is Europe ready to lead on international fisheries governance?”⁶.

The LDAC is considering its response to this question, looking at how EU external dimension policies are being implemented under the SFPAs and in the EU’s action in RFMOs. In addition to its international and EU environmental obligations, the EU is committed to ‘**Policy Coherence for Development**’ (Art 208 of TFEU), which is another important area to consider. Under this Policy, the EU has to take account of development objectives in all its policies likely to affect developing countries. Its aim is to minimise contradictions and build synergies across different EU policies.

¹ UN Ocean Conference meeting June 2017: <https://oceanconference.un.org/>

² Malta Our Ocean: <https://www.ourocean2017.org>

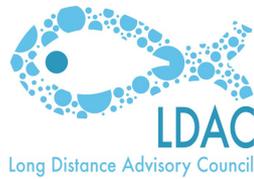
³ <https://sustainabledevelopment.un.org/?menu=1300>

⁴ https://ec.europa.eu/maritimeaffairs/sites/maritimeaffairs/files/join-2016-49_en.pdf

⁵ <http://www.un.org/sustainabledevelopment/oceans/>

⁶ The report examines implementation of the 2013 CFP ED in SFPAs and RFMOs against environmental, governance and sustainable development obligations:

<https://www.wwf.org.uk/updates/europe-ready-lead-international-fisheries-governance>



The WWF report showed the important efforts that have been accomplished by the EU in the last CFP reform and its implementation, to promote sustainable fisheries on the international stage.

Overall, the EU is better placed than most others to lead the way towards sustainable fisheries governance. This vision is clearly supported by the European Parliament on its resolution adopted on 12 April 2016 on common rules in respect of application of the external dimension of the CFP, including fisheries agreements⁷

In addition, the EU has also been an active global leader to stop illegal, unregulated and unreported (IUU) fishing, and the EU IUU Regulation remains one of the most progressive and strong anti-IUU laws globally.

However, progress is still required on a number of aspects under the SFPAs and in its action in RFMOs for the EU to fully deliver on its ambition and commitments. Furthermore, efforts and improvements will also be required from all coastal states if EU's international action is to be effective. The LDAC has been calling on the EU to work on progressing these two requirements.

2. ANALYSIS OF CORE ELEMENTS

2.1. Implementation of CFP External Dimension

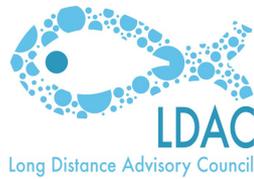
The WWF report notes that the new CFP has undeniably led to progress in a number of policy areas but some problems and weaknesses persist that the CFP external dimension alone is likely to struggle to remedy on its own. This is where greater coherence and coordination across, at least, EU fisheries policy, trade policy and development aid policy are urgently needed for the EU to both meet its own obligations under SFPAs and in RFMOs, and be in a position to lead on international fisheries governance. Improvements in this area would also contribute to sustainable blue growth and delivering on SDGs.

The EU should therefore develop comprehensive and coherent strategies per fishing areas where EU fleets are active. Such strategies need to encompass at least fisheries, trade and aid aspects, to ensure that the EU's intentions are clear across these various policies and a single message is delivered so as to support environmentally, socially and economically sustainable fisheries in the region concerned. This would be of benefit to all parties concerned. A regional approach would also strengthen the EU's performance in RFMOs by allowing coordinated action with RFMO members in the region throughout the year.

To ensure the greatest chance for these strategies to be successful in design and implementation, the process will have to be transparent and inclusive both in Europe and with SFPAs and RFMO partners.

⁷ EP 2015/2091(INI):

<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2016-0052&language=EN>



Improvements in these areas are desirable in themselves but they are also key to progress that will allow the distant water fishing fleets to better implement CFP obligations and boost their social and economic contribution in the partner countries. This is also the case for more effective outcomes in RFMOs and other arenas dealing with international fisheries management. All round, such interaction should strengthen ties with partner countries and enhance mutual understanding that would be of mutual benefit to both the European fleets and local fleets.

2.2. External relations with coastal states

EU leadership will lead to major policy improvements and practical achievements. However, to translate such leadership into the concrete and effective changes that are needed, greater involvement and effort from other relevant countries and stakeholders across the globe will be required. While closer relations with partner countries, as described above, should strengthen its bilateral and multilateral relations, the EU will likely have to reinforce its human resources and international diplomatic activities.

However, the EU has already an extensive network of relations across the world through its delegations in third countries and missions by its officials implementing a number of policies and also as the biggest donor of aid. The LDAC can help in this through some of the relationships it has already established with regional organisations such as COMHAFAT and IOC, as well as other forms of public-private partnerships and investments. It will explore how it can strengthen its contribution to encouraging positive change in the regions concerned.

European international fisheries legislation has benefited from the active participation of stakeholder bodies, such as the LDAC. Involvement of civil society organisations, including in the fishing sector, is still to develop in many third countries. The EU has long considered greater stakeholder participation in public life as a desirable development for democracy, the rule of law and the integration of citizens and in particular women in public life. DG MARE should therefore see to working with EuropeAid so that funds and initiatives can be identified to promote civil society and stakeholders organisations, including gender equity issues and participation of women, in the governance of fisheries.

3. SPECIFIC AREAS FOR IMPROVEMENT

3.1. In the European Union

A- Sustainable Fisheries Partnership Agreements (SFPAs)

Overall, there is an obligation, under Article 31, to ensure that SFPAs “*are of mutual benefit to the Union and to the third country concerned, including its local population and fishing industry*”. As noted earlier, a number of requirements remain to be met in relation to SFPAs. As a general issue, there are variations across CFP requirements from one protocol to other. While retaining the possibility of including some conditions specific to each protocol, all should contain as legal basis a range of common regulatory standards (on access conditions, sustainability, transparency, embarking of seafarers, etc.). Using the best available scientific advice is all important for questions of sustainability, fairness, transparency and accountability that will benefit all the parties involved.

There is no sustainability without transparency. Efforts are therefore imperative to advance in this area by, for example, including contents such as those laid out in article 1 of the current protocol between the EU and Mauritania and ensuring partner countries meet related obligations. Synergies could also be sought with initiatives such as the Fisheries Transparency Initiative (FiTI), as the FiTI standard aims to achieve more transparency of access agreements, including information on fleet activity and access and traceability to payments made in exchange for fishing.

In addition, to allow for local actors to be more aware, and involved in the negotiation process of SFPAs and possibly to increase national scrutiny on sectorial support payments by the third country it would be beneficial if the EU advocated for SFPAs to be debated in local Parliaments and to guarantee greater involvement of local civil society in the negotiation process and in the implementation.

There are also some persistent problems with obligations such as catch reporting by EU vessels and employment of local seamen on board vessels fishing under SFPAs. In addition to urgent action by all concerned to tackle these implementation gaps, as noted earlier and below, greater coherence across EU policies should enable the EU and its partners to strengthen implementation across the board. In addition, the EU should also make use of their existing SFPAs (or trade agreements) to encourage third countries to actively tackle IUU fishing. Third countries that benefit from SFPAs for many years often lack the political will or resources to effectively control their waters or fleets within their EEZ, as recently shown in the case of the Comoros. The EU should use its access or trade agreements to address this.

Compliance with all relevant rules by the EU long-distance fleets is essential to their future activities, also while fishing under direct authorisations or private agreements. Indeed, the EU industry and fleets have made a major contribution to the adoption on 12 December 2017 of the new regulation on the sustainable management of external fishing fleets that strengthens these aspects (SMEFF)⁸.

⁸ Regulation (EU) 2017/2403

Both the Commission and EU Member States have to meet their respective duties in this domain, too, if the EU is to be successful in leading on international fisheries and ocean governance. Its track record in the implementation of the EU IUU Regulation has shown what can be achieved with political will but also that inequalities persist in terms of a harmonised implementation and there is room for improvement.

EU's efforts are welcomed under the reformed CFP to ensure partner countries, and their fishing industry, receive optimum benefit from the sectorial support under the SFPAs. It may be worth investigating if combining them with supplementary support from other sources could boost the benefits from this support.

This could allow for increasing capacity building with new infrastructures that facilitate landing, processing, trade and transport of catches, benefiting not only large vessels but also catering for the needs of small-scale vessels, women traders and local cooperatives.

The process of identifying the priorities for funding should be transparent, inclusive and participatory; the reporting of what has been done with the sectorial support and other money should be made public, so that local and other stakeholders have easy access to this information.

Greater coherence and synergies between the use of sectorial support and other aspects of the SFPAs could be of benefit both to local artisanal fishers and to EU vessel owners. For example, providing training facilities for local fishers, for example, would mean better prospects of employment on EU vessels fishing under the SFPAs while enabling EU vessel owners to better meet their obligations on employing local people.

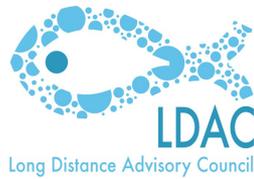
In this regard, the SFPA evaluation methodology and format should be reviewed to include topics that are key for the sustainable development of the fisheries in the partner countries (including gender issues, environmental, socio-economic impact assessment of the investments made in sectorial support, labour aspects, etc.).

B- Action of the EU in Regional Fisheries Management Organisations

The EU is positively active in RFMOs. Its proposals generally address several crucial areas to ensure good fisheries governance. However, proposals are not always based on scientific data and there are areas where the EU could sometimes go further to improve RFMO overall performance.

Indeed, the new CFP requires the EU to “*foster cooperation among RFMOs and consistency between their respective regulatory frameworks*” It must also “*support the development of scientific knowledge and advice to ensure that their recommendations are based on such scientific advice*” (Article 30). These are key elements in establishing EU leadership in strengthening regional fisheries management bodies that are essential building blocks in any global ocean governance framework. It will also be necessary for this leadership that this work is fully reflected in the other key international institutions or organisations such as FAO and UNGA.

The EU has informal or formal working groups with several key fishing nations such as Japan, US, South Korea and/or Ghana. These working groups could be planned and used more strategically



to rally support for RFMO proposals. In addition, these working groups – if held in the third country - if made more inclusive and transparent could serve as a way to mobilise local actors by holding side events to push local governments to be more ambitious on issues related to international ocean governance.

Another important and particularly relevant provision in Article 29 requires the “*Union ... (to actively support the development of appropriate and transparent mechanisms for the allocation of fishing opportunities)*”. A recent discussion on this topic in Group 1 supported the principle that responsible fishing should be given priority in resource allocation. This topic is shortly to be addressed specifically in the case of the IOTC. While discussions on allocation are complex, greater interaction and regular exchanges, such as those described in this paper, with partner countries and regional and international parties are bound to facilitate the process and help identify common grounds.

C- Free Trade Agreements (FTA)

A REVIEW AND ADDITION OF CONTENT IS REQUIRED BY RELEVANT MEMBERS/EXPERTS

The market for fish in the European Union is the largest in the world, absorbing a quarter of the world imports. The EU approach to signing trade agreements has the objective of increasingly opening up the EU market to fish products from countries which do not necessarily have the same social and environmental production standards than the standards EU producers have to meet. This is incoherent with the declared aim of the EU to promote sustainable fisheries worldwide, and distorts the level playing field for EU producers.

The LDAC considers that the EU should promote fair, transparent and sustainable trade in fish products through its bilateral and multilateral trade agreements. To this end, it is essential to analyse the economic and social impact of FTAs on EU fish products and on fisheries sustainability. We also insist that bilateral and multilateral trade agreements negotiated by the Commission include reinforced chapters on sustainable development. Specific fishery concerns should also be addressed in trade agreements: (i) explicitly reinforcing the requirements of the IUU Regulation and obliging the third country to initiate a procedure to prevent IUU fish from entering its market, in order to keep them from arriving in the EU indirectly; (ii) requiring the third country to ratify and implement key international fishery instruments, and to adhere to the standards of the relevant regional fisheries management organisations (RFMOs);

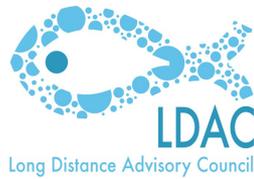
3.2. At international level / high seas

This area of work can be expected to require a lot of internal and external preparations and discussions. However, it is essential to translate all the commitments and pledges made by parties from all over the world in the conferences mentioned earlier into practical and timely action if we are to move closer to an international fisheries and ocean governance framework. The EU is best placed to lead on rallying support from influential maritime countries to keep the momentum going. The LDAC should also play a role here as, from its very nature, it demonstrates what can be achieved through collective action and dialogue between authorities and stakeholders.



ADD PARAGRAPHS ON RECENT OUTCOMES AND PROGRESS ON THE NEGOTIATIONS OF THE 1ST PREPARATORY MEETING FOR AN IGC HELD IN NEW YORK IN SEPTEMBER FOR AN UN TREATY FOR BIODIVERSITY BEYOND NATIONAL JURISDICTIONS (BBNJ)

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SOME QUESTIONS TO BE CONSIDERED FOR INCLUSION IN THE LDAC ADVICE

- Can the LDAC help the EU in identifying new incentives to encourage buy-in from partner countries?
- If so, what steps should the LDAC take to contribute suggestions and collect more from other players?
- Who are those other players in both developing and developed countries who could play an influential role?
- What is the potential for involvement in individual or corporate strategies to get buy-in?
- What should the EU role will be in the BBNJ process for the high seas?

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