

Draft LDAC Recommendations on Strengthening the European Union Role

In the field of International Fisheries Governance

Planned for adoption on 3 December 2018

R-05-18/WG5

Rationale and summary of recommendations

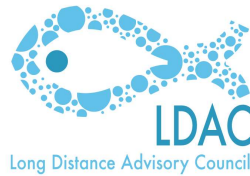
The EU Regulation 1380/2013 setting the Common Fisheries Policy Regulation showed the importance that the European Union (EU) attaches to its international fisheries and its political will to lead on delivering international fisheries governance as key part of ocean governance.

Almost half-way through the CFP and its external dimension's lifespan a WWF report published in 2018 found that the EU is better placed than most other contracting parties, Member States or organisations to lead on international fisheries governance. However, the report also acknowledged that progress is still required in a number of areas under the SFPAs and the EU action in RFMOs for the EU to deliver fully on its ambition and commitments.

In view of this, the LDAC makes the following recommendations for action by the EU to deliver on its ambition:

Overall recommendations:

- Urgent efforts to ensure coherence, coordination and transparency across relevant EU policies and agencies are needed to maximise the beneficial outcomes under SFPAs and action in RFMOs, not only in terms of fisheries governance, but also towards Blue Growth and Europe's contribution to the UN Sustainable Development Goals (SDGs).
- Given the global nature of the challenges facing the oceans, rallying support from key coastal states' authorities and other international



stakeholders across the globe is a *sine qua non* condition to successful delivery on the above-mentioned.

- This huge task will require the EU to make the most of its assets and representation throughout the world. For its part, the LDAC is fully committed to doing all it can to build-on and maximise its activities and links with regional stakeholders, organisations and civil society to complement and promote EU action.

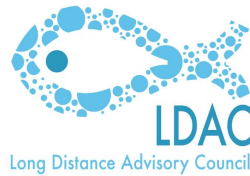
Specific Recommendations:

- **SFPAS:** Ensure
 - All relevant EU regulatory obligations are equally included in every SFPA protocol.
 - Sustainability, fairness, transparency and accountability principles are consistently applied in SFPAs.
 - SFPAs are of mutual benefit to both parties the EU and the partner countries.
 - Greater coherence and synergies between uses of EU sectoral support and other monies and initiatives are needed.
 - The EU review methodology is revised to allow for actions that are key to the sustainable development of fisheries in partner countries.
- **RFMOs:** Ensure
 - All EU proposals to RFMOs are based on robust and reliable scientific data.
 - Efforts are made to foster cooperation among RFMOs and to ensure consistency between their respective regulatory frameworks.
 - EU leadership and work in RFMOs are fully reflected in other key international institutions and organisations such as the FAO and the UN General Assembly (UNGA).



- Work is done into how EU formal and informal working groups with key fishing nations could be used to rally support for RFMO proposals and mobilise local actors to actively support ocean governance.

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1. BACKGROUND

This LDAC recommendation builds on the work of the LDAC on improving the implementation of the CFP external dimension and links 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 other countries in the world, as witnessed in last year's UN Ocean meeting in New York¹ and the Our Ocean events in Malta and, most recently, in Indonesia². Healthier oceans will better regulate the 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 (SDG) 14 titled "life below water"³.

The LDAC therefore welcomed the European Union's publication of its November 2016 joint communication titled: "*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

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

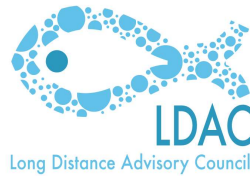
² Our Ocean Malta: <https://www.ourocean2017.org>

Our Ocean Indonesia: <https://ourocean2018.org/>

³ UN Sustainable Development Goals:
<https://sustainabledevelopment.un.org/?menu=1300>

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

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



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 considered its response to this question, looking at how EU CFP external dimension policies are being implemented under the Sustainable Fisheries Partnership Agreements (SFPAs) and in the EU’s action in Regional Fisheries Management Organisations (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.

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.

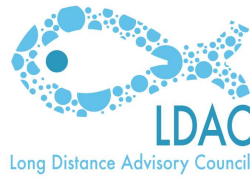
Overall, the report concluded, the EU is better placed than most others to lead the way towards sustainable fisheries governance. This vision is clearly supported by the European Parliament on its resolution adopted on 12 April 2016 on common rules in respect of application of the external dimension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

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>

⁷ EP 2015/2091(INI):

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



In addition, the EU has also been an active global leader to fight 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 EU action in RFMOs 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.

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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 continue 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 the UN 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.

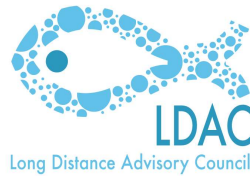
To ensure the greatest chance for these strategies to be successful in design and implementation, the process will have to be transparent and inclusive both in Europe and with SFPAs and RFMO partners.

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.

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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 Europe Aid 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)

As noted earlier, a number of requirements remain to be met in relation to 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 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 in all 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 sectoral 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 both the negotiation process and the implementation.



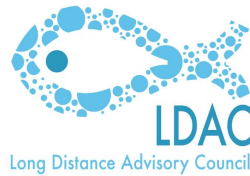
Although the SFPAs are adhered to in great extent by the EU fishing fleets, the WWF report also notes that in some cases there are still problems with obligations such as catch reporting by EU vessels and employment of local seamen on board vessels fishing under SFPAs. In addition to urgent action by 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 have been benefiting from SFPAs for many years often lack the political will and/or resources to effectively control their waters or fleets within their EEZs, 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 (SMEFF) that strengthens these aspects⁸.

Both the European 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 it has also shown that inequalities persist in terms of harmonised implementation and the need for improvement.

⁸ Regulation (EU) 2017/2403
<http://www.europarl.europa.eu/legislative-train/theme-fisheries/file-sustainable-management-of-external-fishing-fleets>



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

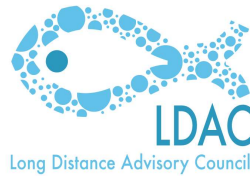
The process of identifying the priorities for funding should be transparent, inclusive and participatory. Similarly, the reporting of what has been done with the sectoral support and other monies should be made public, so that local and other stakeholders have easy access to this information.

Greater coherence and synergies between the use of sectoral 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 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 under the sectoral support, labour aspects, etc.).

B- Action of the EU in Regional Fisheries Management Organisations

The WWF report also finds that 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 the UN Food and Agriculture Organisation (FAO) and the UN General Assembly.

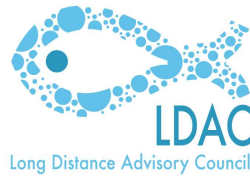
The EU has formal or informal working groups with several key fishing nations such as Japan, US, South Korea and/or Ghana. These working groups could be planned and used more strategically to rally support for RFMO proposals. In addition, these working groups – if held in the third country and if made more inclusive and transparent - could serve as a way to mobilise local actors by holding side events to encourage 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 was addressed specifically in the case of the IOTC Annual Meeting in 2017. 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.

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 ensure that all the commitments and pledges made by parties from all over the world in



the conferences and other events mentioned earlier are translated 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.

3.3 Role of the LDAC

The LDAC has consistently been calling for the EU to strengthen coherence across its policies so as to achieve a more coordinated and coherent approach to international fisheries governance. Just as dialogue is necessary at political level to formulate and agree international treaties, so it is at stakeholder level across countries to develop common understanding and facilitating implementation. Too often, ambitious and necessary commitments and pledges fail to become reality or remain ineffective because of inadequate or lack of implementation due to lack of follow up and/or resources. This is where international stakeholders, such as the LDAC, have a key role to play through dialogue on how best to encourage and facilitate effective implementation. The LDAC has shown the value of its work on policy formulation, adoption and implementation. Its members are committed to using this expertise to work with international partners to deliver on sustainable international fisheries governance as a key component to ocean governance and delivery of SDG 14 and associated SDG. The LDAC has already shared with the Commission ideas as to how the EU can support the LDAC in promoting international dialogue as a tool to better implementation and progress towards delivering much-needed sustainable international fisheries governance.

-END-