

Ensuring better control of the EU's external fishing fleet

The European Union has in the past decade introduced new, tighter laws to achieve legal and sustainable world fisheries at a time of mounting threats to marine biodiversity and food security.

The current Common Fisheries Policy (CFP)¹ aims to make sure that EU vessels fishing within and outside EU waters meet high standards for sustainability and transparency. The EU has also introduced legislation to ensure that imports of fish from outside its borders are subject to strict controls to make sure they are legally sourced. This Regulation² is one of the three pillars of the EU's fisheries control system, the other two pillars being the Control Regulation³, which is aimed at ensuring compliance with the CFP, and the regulation governing the external fishing fleet. This external fleet regulation is now being updated to ensure that the activities of the EU fleet are in line with the

objectives of the CFP and adhere to CFP principles when fishing outside EU waters.

The Environmental Justice Foundation (EJF), Oceana, The Pew Charitable Trusts and WWF are working together to secure the harmonised and effective implementation of the EU Regulation to end illegal, unreported and unregulated (IUU) fishing⁴. A robust new external fishing fleet regulation is a crucial part of the fight against IUU fishing. It offers a critical opportunity to ensure that the activities of the EU's external fishing fleet are in line with the CFP and the EU's global policies to prevent, deter and eliminate IUU fishing. The revision of the EU's external fishing fleet regulation is a critical opportunity to ensure that all of the Union's fishing vessels, whether operating within or outside Union waters, are subject to common standards and requirements. This will make competition fair, and secure more transparent, accountable and sustainable fisheries practice.



Sicilian trawlers in Dakar harbour, Senegal. © OCEANA/LX

¹ EU 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy.

² Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

³ Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring

compliance with the rules of the common fisheries policy.

⁴ Council Regulation (EC) No. 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

The external fleet Regulation governs EU fishing vessels operating outside EU waters

A strong proposal for a new system governing these vessels was released in December 2015 by the European Commission and is currently being considered by the European Fisheries Ministers in the Council and the European Parliament⁵. This regulation on the sustainable management of external fishing fleets will replace the current legal framework called the Fishing Authorisation Regulation that has been in place since 2008⁶.

In order to achieve and maintain fisheries sustainability, to ensure EU vessels are not over-fishing stocks on which developing countries rely, and to reinforce the continued leadership of the EU in matters of global fisheries governance, it is essential that this proposal is not watered down by amendments from the Fisheries Ministers or the European Parliament.

What is the EU external fishing fleet?

All EU vessels that operate in non-EU waters need to obtain an authorisation from their flag State - the EU member state in which they are registered - in order to do so. Since 2008, under the current external fleet regulation, more than 22,000⁷ EU vessels have been authorised to fish outside Union waters, either within the waters of non-EU countries or on the high seas⁸.

External fishing activities take place under different types of agreement – some public, for example where the EU pays countries to allow its vessels to harvest surplus stock⁹ (Sustainable Fisheries Partnership Agreements or SFPAs¹⁰), and some private, where an EU operator contracts directly with a non-EU country.

Some examples of the fishing activities of the EU fleet in non-EU waters are¹¹:

- The Mediterranean fishing fleet that spend only part of their time outside EU waters in areas that are managed by Regional Fisheries Management Organisations or on the high seas
- Certain fleets, such as those of Belgium, Denmark, Estonia and Sweden, operated close to European waters in the North East Atlantic
- Vessels including trawlers¹², long liners¹³ and tuna purse seiners¹⁴ from France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, the Netherlands, Poland, Portugal, Spain and UK were authorised to fish off the coasts of West and Central Africa (Cape Verde, Côte d'Ivoire, Gabon, Guinea, Guinea-Bissau, Mauritania, Morocco, São Tomé and Príncipe and Senegal)
- French, Italian, Portuguese, Spanish and UK purse seine and long line vessels operated in the Indian Ocean
- German, Polish and Spanish pelagic trawl and long line vessels were authorised to fish in Antarctic waters
- Pelagic trawl and long line vessels from Germany, Lithuania, the Netherlands, Poland, Portugal and Spain were authorised to fish in the South Pacific.



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⁵ Proposal for Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets (COM 2015/636)

⁶ Council Regulation (EC) No 1006/2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters

⁷ www.whofishesfar.org shows that between 2008 and 2015 a total of 19,772 individual EU vessels were authorised to fish in the ICCAT area. Of this 19,772, almost half (9,988) were Italian-flagged vessels. In March 2016, the Italian government adjusted the number of Italian vessels targeting swordfish in the ICCAT area, bringing it down from over 8,400 vessels in 2015 to 849 vessels. The current review of the external fleet Regulation provides member states with a crucial opportunity to ensure that vessels authorised to fish in RFMO areas are actually active or operating in these areas. Accurate information on where vessels are fishing and which species they are targeting is vital to ensuring transparency and accountability in global fisheries, and the sustainable management of fish stocks.

⁸ www.whofishesfar.org

⁹ Surplus of allowable catch means the portion of the allowable catch that a coastal State does not harvest, which results in an overall exploitation rate for individual stocks that remains below levels at which stocks are capable of restoring themselves and the maintenance of populations of harvested species above desired levels based on the best available scientific advice.

¹⁰ For more information: http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm

¹¹ www.whofishesfar.org

¹² A fishing trawler is designed to operate fishing trawls. Trawling is a method of fishing that involves actively dragging or pulling a trawl through the water behind one or more trawlers.

¹³ A longline boat uses a long line with baited hooks attached at intervals.

¹⁴ A purse seine is a large wall of netting deployed around an entire area or school of fish.

What needs to change

All EU vessels fishing in non-EU waters require a fishing authorisation, by the EU country whose flag the vessel flies. But currently, depending on where the fishing takes place, and under what type of agreement, vessel operators are subject to widely differing requirements to receive their authorisation, and differing levels of monitoring.

These loopholes make it possible for EU vessels to evade EU standards and laws, and to be authorised to fish (and benefit from public funds) in spite of a poor record of compliance with applicable rules. This creates unfair competition among operators, and prevents EU authorities from ensuring that vessels are fishing legally and sustainably.

The new Regulation – key provisions

The proposed new Regulation would remove these inconsistencies, and make sure that all vessels are subject to the same rigorous requirements in order to fish externally.

The proposal currently being considered would ensure that:

1. All fishing agreements meet the same high standards

As part of the reform of the CFP, strict standards were established for official EU access agreements with non-EU countries or SFPAs. SFPAs are concluded to allow EU vessels to fish in a non-EU country's exclusive economic zone¹⁵. According to the CFP, SFPAs must be of mutual benefit to the EU, the EU fleet and the non-EU country (including its local population and fishing industry) and must respect democratic principles and human rights. These agreements can only target the surplus of the allowable catch, as calculated based upon scientific information and taking into account all fishing effort on that stock. In 2015, the EU paid a total of EUR 145 million to allow EU vessels to fish in the waters of 13 non-EU countries¹⁶.

However, there are EU vessels that operate outside of these strict standards by setting up agreements with non-EU countries where there is no SFPA in place. Even though these vessels fly the flags of EU member states, under these so-called "private" or "chartering"¹⁷ agreements, there are no common standards or procedures established to ensure that the activities comply with EU laws and adhere to CFP standards. In addition, there is currently no mechanism within the regulation to provide assurance to EU operators that the arrangement or agreement to access the resources is valid.

Authorisations for vessels to fish under private or chartering agreements must be subject to the same standards as authorisations issued under SFPAs. This includes applying equal requirements or "eligibility criteria" (for example, that the vessel has not engaged in IUU fishing or abusive reflagging - see Section 2 below) to ALL vessels requesting an authorisation to fish regardless of the type of agreement and requiring that the fishing activities planned under the private or chartering agreement are legal and sustainable. To assist in the latter, and facilitate effective oversight of these activities, key details of the fishing activity should be made publicly available (see Section 4).

2. Abusive reflagging is curbed

Abusive reflagging may happen when an EU vessel exits the EU fishing fleet and reflags to a non-EU country, in order to continue fishing after exhausting the EU quota or to circumvent conservation and management measures or applicable laws. Later, the vessel regains access to the EU fishing fleet and its benefits by reflagging to the original or another EU member state. While reflagging is legal, cases have shown that it can be exploited by unscrupulous operators to circumvent CFP rules or existing conservation and management measures. It has been observed that vessels which have been operating under flags of countries known to be failing in their efforts to stop illegal fishing¹⁸ have been able to return to the EU fleet and obtain an authorisation with relative ease, without proper crosschecks on the legality or sustainability of their previous fishing activities under non-EU flags.

All vessels wishing to re-enter the EU fleet and apply for an authorisation to fish after being flagged to a non-EU country must demonstrate a record of compliance with applicable laws and conservation and management measures. This will deter abusive reflagging, when an EU vessel reflags to a country in order to circumvent national, international or EU rules aimed at the conservation and management of fish stocks.

¹⁵ EEZ: A zone under national jurisdiction (up to 200-nautical miles wide) declared in line with the provisions of 1982 United Nations Convention of the Law of the Sea, within which the coastal State has the right to explore and exploit, and the responsibility to conserve and manage, the living and non-living resources (FAO Fisheries Glossary)

¹⁶ For more information: http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm

¹⁷ EU companies make chartering agreements for their EU vessels to access the resources of certain coastal States in collaboration with local companies

¹⁸ The EU Regulation to end IUU fishing (EC 1005/2008) requires that 'third countries' which

export fish to the EU or lend their flags to vessels that export to the EU meet strict standards for fisheries management. The European Commission can pre-identify or yellow card 'non-cooperating third countries' that are not supporting the fight against IUU fishing. The yellow card is linked to an action plan detailing necessary improvements in fisheries management and monitoring, control and surveillance procedures. If these standards are not met, the countries may be 'carded', which means that they could ultimately face exclusion of their fish from the EU market or red card.

¹⁹ Commission Regulation (EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register

3. IMO numbers are mandatory for all external fishing authorisations

The EU monitors the behaviour of its fishing fleet and tracks fishing vessels by using the unique vessel identifier of the EU called the Community Fleet Register (CFR) number¹⁹. This number is permanently assigned to an EU vessel and cannot be reassigned to another. CFR numbers are not used outside the EU; however, if an EU vessel leaves the EU fleet and then returns to an EU flag, the vessel's CFR number should be preserved.

While it is illegal to issue a new CFR number to a vessel that has previously been awarded one²⁰, previous cases have shown that the CFR number system is open to abuse (see case study on CFR/ IMO). The fact that CFR numbers only track a vessel's behaviour within the EU is a significant loophole, as the number cannot be used to track the vessel while flagged to a non-EU flag.

Increasingly, fisheries management bodies are adopting the globally recognised unique vessel identifier issued by the International Maritime Organization²¹ (IMO) to increase transparency and to facilitate global information sharing on the track record of vessels. The IMO number is a permanent number that stays with a vessel from construction through to disposal, regardless of the vessel's flag or where it operates.

However, the current regulation on the external fleet does not require an IMO number to be listed on the application for an authorisation to fish outside EU waters²². This makes it very difficult for a member state authority to verify the historic behaviour of a vessel applying for a fishing authorisation, particularly during any period the vessel was registered to a non-EU flag, and thus to determine whether the conditions for issuing a fishing authorisation to a vessel are fulfilled. This undermines the ability of the EU to ensure its vessels are operating legally and sustainability in external waters.

ALL fishing vessels applying for an authorisation to fish outside EU waters should have an IMO number, regardless of their size, in order to increase transparency and allow for the effective tracking of vessel activities.

4. A public database of ALL external fishing authorisations is established

The current regulation has no provision for the publication of information regarding external fishing authorisations. This means that details of which vessels are fishing where and for what, and under which agreements, are not open to transparent scrutiny.

The new regulation should establish a public registry of all fishing authorisations (both public and private) to improve transparency and fisheries management in the EU and in non-EU country waters, and enhance fair competition. Basic information should be disclosed (fishing opportunities, period and area, as well as target species) and the IMO numbers of those vessels should be included.



Fisherman holding fish in his hands, Mozambique. © WWF

The Environmental Justice Foundation (EJF), Oceana, The Pew Charitable Trusts and WWF are working together to secure the harmonised and effective implementation of the EU Regulation to end illegal, unreported and unregulated (IUU) fishing.

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²⁰ Article 10 Commission Regulation (EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register.

²¹ <http://www.imo.org/en/OurWork/MSAS/Pages/IMO-identification-number-scheme.aspx>

²² Since January 2016, IMO numbers have been a requirement for EU vessels above 15 metres in length that fish outside EU waters. However, to fish in non-EU waters all activity should be monitored, regardless of the size of the vessel. Therefore, any fishing vessels applying for a

fishing authorisation should have an IMO number in order to increase transparency and allow the effective tracking of the vessel's behaviour. Commission Implementing Regulation (EU) 2015/1962 of 28 October 2015 amending Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.