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## **Deliverable D1.4**

# **Policy Brief on the CFP external dimension towards 2022**

31/07/2021



## Executive Summary

The External Dimension of the Common Fisheries Policy (CFP) has increased its visibility in the last decades, both in relation to its coherence with the internal dimension (comprising bilateral access agreements within EEZ and the management of international waters subject to jurisdiction of Regional Fisheries Management Organizations) and its links with other EU policies such as cooperation for development, human rights, labour, health and trade issues.

As a relevant player in the development of global fisheries governance, the EU has an enhanced responsibility to promote sustainable and responsible fisheries management into the international scene, in its double role as a major fishing actor and the largest single market for marine products in the world.

The External fisheries policy ensures the EU commitment to jointly manage fish stocks outside EU waters where the EU fleet operates. It is in practice implemented by an active participation of the EU and other countries States and partners from around the globe through the United Nations system, including the Food and Agriculture Organisation the International Maritime Organisation or United Nations Conference on Trade and Development, Regional Fisheries Management Organizations and Regional Sea Conventions, as well as other international and regional bodies.

However, despite the solid theoretical foundations, internationally agreed principles and overarching goals upon which the External Dimension of the CFP is built, there are still many weaknesses and challenges that are hampering an effective implementation

This policy report summarizes the core elements of the EU's external fisheries policy, providing recommendations aimed to inform the revision process of the CFP towards 2022, while contributing to the achievement of the Sustainable Development Goals under Agenda 2030.

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## Abbreviations

BBNJ	Biodiversity Beyond National Jurisdiction
CBD	Convention on Biological Biodiversity
CCMLAR	Convention for the Conservation of Antarctic Marine Living Resources
CCTV	Closed Circuit Television
CECAF	Fishery Committee for the Eastern Central Atlantic
CETMAR	Centro Tecnológico del Mar Fundación CETMAR (Spain)
CFP	Common Fisheries Policy
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COREWAM	Conservation and Research of West African Aquatic Mammals (Senegal)
CPC	Vessels entitled to fly their flags and authorized to fish species managed by ICCAT in the Convention area, flag Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities
CS	Case Study
CSIC	Spanish National Research Council
DG EMPL	Directorate-General for Employment, Social Affairs and Inclusion (EU)
DG ENV	Directorate-General for Environment (EU)
DG INTPA	Directorate-General International Partnerships (EU)
DG MARE	Directorate-General Maritime Affairs and Fisheries (EU)
DG SANTE	Directorate-General for Health and Food Safety (EU)
DG TRADE	Directorate-General for Trade (EU)
DWF	Distant Water Fleet
EEAS	European External Action Service
EAF	Ecosystem Approach to Fisheries
EAFM	Ecosystem Approach to Fisheries Management
EU	European Union
EEZ	Exclusive Economic Zone
ERS	Electronic Recording Systems
FAD	Fish Aggregation Device
FAO	Food and Agriculture Organization of the United Nations
FTA	Free Trade Agreements
FTE	Full Time Equivalent
GFCM	General Fisheries Commission for the Mediterranean
GSP	Generalised Scheme of Preferences
HCR	Harvest Control Rule
ICCAT	International Commission for the Conservation of Atlantic Tuna
IMAR	Instituto do Mar (former INDP) (Cape Verde)
IMO	International Maritime Organization
INDP	National institute for Fisheries Development (Cape Verde)
IOTC	The Indian Ocean Tuna Commission
ISRA-CRODT	Oceanographic Research Centre of Dakar-Thiaroye (Senegal)
IUU	Illegal, unreported, and unregulated fishing
LDAC	EU Long Distance Fleet Advisory Council

MATIS	Icelandic Food and Biotech R & D Institute (Iceland)
MCS	Monitoring, Control and Surveillance
MPA	Marine Protected Area
MS	Member State
MSE	Maximum Strategy Evaluation
MSFD	Marine Strategy Framework Directive
MSY	Maximum Sustainable Yield
NAFO	Northwest Atlantic Fisheries Organization
PCD	Policy Coherence for Development
PSMA	Agreement on Port State Measures (to prevent, deter and eliminate IUU fishing)
REM	Remote Electronic Monitoring
RFMO	Regional Fisheries Management Organisation
SDG	Sustainable Development Goal
SFA	Seychelles Fisheries Authority
SFPA	Sustainable Fisheries Partnership Agreement
SIOFA	South Indian Ocean Fisheries Agreement
SMEFF	Sustainable Management of External Fishing Fleets
SPRFMO	South Pacific Regional Fisheries Management Organization
SSF	Small Scale Fisheries
STECF	Scientific, Technical and economic Committee for Fisheries (EU)
TFEU	Treaty on the Functioning of the European Union
UNCLOS	United Nations Convention on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNFSA	The United Nations Fish Stocks Agreement / Straddling and highly migratory stocks agreement in ABNJ
UVI	Unique Vessel Identifier
VMS	Vessel Monitoring System
WTO	World Trade Organization

# 1 Introduction: The evolution of the CFP External Dimension

Since its inception in 1983 as an autonomous policy separated from the Common Agricultural Policy, the EU Common Fisheries Policy (CFP) has been influenced by the international legal framework on ocean governance and management of shared resources (Churchill and Owen, 2010). The European Union (henceforth, the Union) is an important player in the development of global fisheries governance and the CFP is both at the origin and at the receiving end of many fishery management decisions taken at the international level (Penas Lado, 2020). As a result, the so-called “external dimension” was articulated to ensure EU commitment to jointly manage fish stocks outside EU waters where the EU fleet operates. The external dimension of the CFP comprises the EEZs of third countries through bilateral access agreements, the management of international waters on a multilateral basis for highly migratory and straddling stocks<sup>1</sup> (e.g. UNFSA 1995<sup>2</sup>) subject to jurisdiction of Regional Fisheries Management Organisations (RFMOs) and Regional Seas Conventions; and the international obligations on the high seas.

The external dimension (also known as international dimension) has increased its visibility and relevance within the last decades, in relation to its coherence with the internal dimension and its links with other EU policies such as cooperation for development, labour, human rights, health and trade issues<sup>3</sup>. The EU has an enhanced responsibility to promote sustainable and responsible fisheries management in international waters, in its double role as a major fishing player and the largest single market for fisheries products in the world. This is implemented in practice through active participation to promote good governance. The EU works closely with other countries and partners from around the globe through the United Nations system, including the Food and Agriculture Organisation (FAO), the International Maritime Organisation (IMO) or United Nations Conference on Trade and Development (UNCTAD), as well as in RFMOs and Regional Sea Conventions, as well as other international and regional bodies.

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<sup>1</sup> “The Common Fisheries Policy: The Quest for Sustainability” (pp.144-169)

<sup>2</sup> UN Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (in force as from 11 December 2001):

[https://www.un.org/depts/los/convention\\_agreements/convention\\_overview\\_fish\\_stocks.htm](https://www.un.org/depts/los/convention_agreements/convention_overview_fish_stocks.htm)

<sup>3</sup><https://ecdpm.org/wp-content/uploads/2013/10/DP-120-Analysis-Reform-Common-Fisheries-Policy-Coherence-Development.pdf>

The **objectives of the EU's External Fisheries policy:**

- Actively support and contribute to the development of scientific knowledge and advice;
- Improve policy coherence of Union initiatives, with particular regard to environmental, trade and development activities, and strengthen consistency of actions taken in the context of development cooperation and scientific, technical and economic cooperation;
- Contribute to sustainable fishing activities that are economically viable and promote employment within the Union;
- Ensure that Union fishing activities outside Union waters are based on the same principles and standards as those applicable under Union law in the area of the CFP, while promoting a level playing field for Union operators vis-à-vis third-country operators;
- Promote and support, in all international spheres, action necessary to eradicate illegal, unreported and unregulated (IUU) fishing;
- Promote the establishment and the strengthening of compliance committees of RFMOs, periodical independent performance reviews and appropriate remedial actions, including effective and dissuasive penalties, which are to be applied in a transparent and non-discriminatory manner.

Source: European Parliament, 2019. <https://www.europarl.europa.eu/factsheets/en/sheet/119/international-fisheries-relations>

The EU distant water fleet (DWF) operates within the legal framework of the external dimension of the CFP. It is composed of approximately 250 industrial vessels over 24 metres length overall from eleven Member States (MS) (Spain, France, Portugal, Italy, The Netherlands, Germany, Denmark, Lithuania, Latvia, Ireland and Poland) predominantly fishing outside EU waters. The main fleet segments are pelagic and demersal trawlers, purse seiners, pole and line and long liners. The target species are demersal, deep-sea, small and large pelagics, including tunas. Although the EU distant water fleet comprises a small part (less than 0.5%) of the total EU-27 fleet, it supplies nearly 15% of the landings in weight and value to the EU market. They are also relevant in the generation of employment at sea (7,400 FTE) and on land, both in the EU and in coastal communities of third countries (STECF AER, 2020), as they have boarding of local crew requirements and obligation to land a percentage of the catches for local processing on land and distribution to markets.

This policy report analysis the core elements (“building blocks”) of the external dimension of the CFP, providing both specific and general recommendations aimed to inform the revision process of the CFP towards 2022<sup>4</sup>.

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<sup>4</sup>This revision process is currently being carried out by the DG MARE and expected to be finalised after the end of the FarFish Project (30 November 2021). The recommendations presented here can feed this consultation.



## 2 The “building blocks” of the External Dimension of the CFP

### 2.1 Sustainable Fisheries Partnership Agreements (SFPAs) between the EU and third countries

#### 2.1.1 Overview: key features and elements

The access of Union vessels to third countries waters may take place under the provisions of agreements between the Union and a given country or by obtaining direct fishing authorisations from third countries if no agreement is in force. The evolution from “fishing access” agreements in the 90s and early 2000s to the new modality of “sustainable fisheries partnership agreements” (SFPA) since 2013, reflects the step ahead on the inclusion of sustainability in fisheries management. The new modality of SFPAs contains several new elements which aim to achieve healthier stocks and habitats while allowing sustainable commercial exploitation of fisheries. This also provides an important focus on fisheries governance, science and cooperation with specific actions to enhance capacity building and cooperation for development of local communities through the so-called sectoral support. The most remarkable clauses included in the agreements are:

- Exclusivity clause: forbidden to fish under direct authorisations or private licensing where there is an SFPA in place;
- Transparency clause: obligation for the third country to publish all national and applicable international legislation on conservation and management of fisheries;
- Non-discrimination clause: providing equal treatment to all foreign fleets within the EEZs of the third country, in accordance with article 31.6.b) of CFP Regulation 1380/2013 and recital 10 of SMEFF Regulation<sup>5</sup> ;
- Social clause concerning respect for democratic principles and human rights, which constitutes an essential element of such agreements.

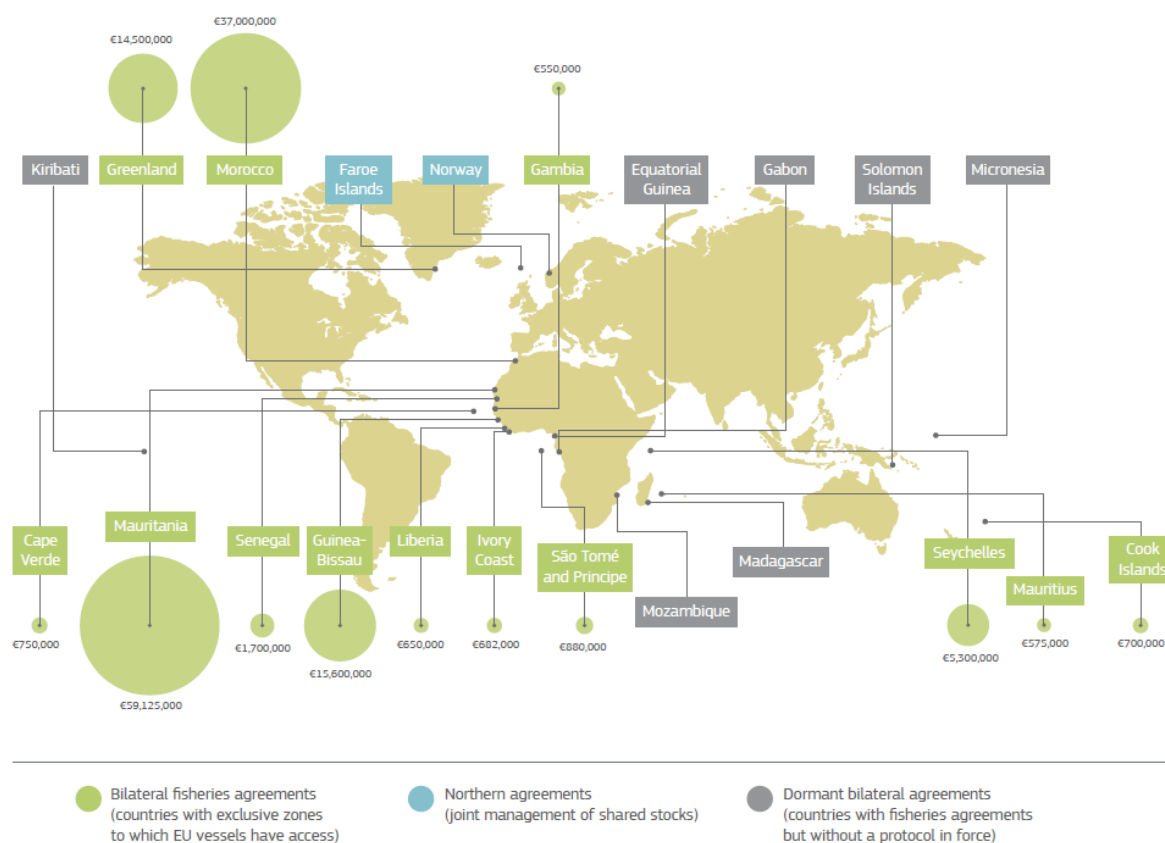
To support sound evidence base-decision making and ensure transparency, each protocol to a SPFA<sup>6</sup> is independently evaluated before reaching the agreement and once it has been implemented (art. 31 of the CFP).

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<sup>5</sup> Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008

<sup>6</sup> For a detailed explanation of the SPFA see FarFish Deliverable 3.3 Evaluation of governance structures of the cases Available at <https://doi.org/10.5281/zenodo.3073754>

SFPAs (Figure 1) are key instruments to facilitate the dialogue between the EU and third countries to support scientific networks and collaboration to improve fisheries conservation and management of stocks of shared interest. SFPAs are also projected towards the generation of employment and the development of infrastructure to promote local fishing economies, supporting public-private partnerships, investments of EU companies in third country fisheries value chains and fostering local businesses and entrepreneurship diversity.



**Figure 1: Map of all current and dormant agreements between the EU and third countries. There are currently 13 SFPAs in force. Source: DG MARE<sup>7</sup>**

Through the sectoral support mechanism, SFPAs have contributed to the development of institutional capacity in fisheries by financing training, research and management (Figure 2). A substantial amount of these funds has been dedicated specifically to improve human and technical capacities related to monitoring, surveillance and control (MSC), due to the recent development and implementation of IT tools such as remote electronic monitoring (VMS/ERS/CCTVs).

<sup>7</sup> <https://op.europa.eu/en/publication-detail/-/publication/1356ec43-99b7-11ea-aac4-01aa75ed71a1>



**Figure 2: Distribution of EU and shipowners financial contribution to the SFPAs.**

Source: DG MARE<sup>8</sup>

The EU is currently carrying out a retrospective evaluation<sup>9</sup> of the implementation of the SFPAs through a broad public and target consultation addressed to key stakeholders. The outcome of this consultation, scheduled for late 2021/early 2022, will be essential to inform future policy changes to improve its implementation, adding new components (if required) into the next CFP starting in 2023.

Building on the analysis of the SPFAs and the insights provided by stakeholders through the project interactions, issues related to current implementation and recommendations are proposed for the following core components: scientific advice and knowledge, use of sectoral support, economic and social dimensions, transparency and good governance and regional and cross-policy approaches.

<sup>8</sup> <https://op.europa.eu/en/publication-detail/-/publication/1356ec43-99b7-11ea-aac4-01aa75ed71a1>

<sup>9</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12728-Pesca-evaluacion-de-los-acuerdos-de-colaboracion-de-pesca-sostenible-ACPS-de-la-UE\\_es](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12728-Pesca-evaluacion-de-los-acuerdos-de-colaboracion-de-pesca-sostenible-ACPS-de-la-UE_es)

### 2.1.2 Scientific advice and knowledge

- Background / Legal basis

According to Art. 31 of the CFP, Union fishing vessels shall only catch surplus of the allowable catch as referred to in Article 62(2) and (3) of the UNCLOS. These surpluses are identified, in a clear and transparent manner, based on the best available scientific advice and of the relevant information exchanged between the Union and the third country about the total fishing effort on the affected stocks by all fleets. Concerning straddling or highly migratory fish stocks, the determination of the resources available for access should take due account of scientific assessments conducted at the regional level as well as conservation and management measures adopted by relevant RFMOs. This provision apparently ensures adequate balance and exploitation between local fishing communities and foreign industrial fleets.

- Aspects related to implementation

- The lack of adequate reporting and/or technical and operational issues on data flows between concerned Flag and Coastal States makes the calculation of the surplus difficult.
- Whereas the third countries must provide information on catch and effort activities of all other distant water fishing nations within their EEZ (transparency clause), lack of adequate reporting might lead into the risk of overexploitation of key commercial stocks, compromising access to the existing surplus in the future.
- Time and effort should be dedicated to gain a deeper understanding of stocks information, biology and fishing pressures exerted to determine the surplus based on the best available science and Maximum Sustainable Yield (MSY) to be properly evaluated (WWF, 2019). In this case, the strengthening of scientific advice in regional arrangements such as CECAF for West African small pelagic and demersal species is required (DG MARE, 2020).

- Specific recommendations to move forward

- There is an increasing need for further collaboration between scientists and fishing operators. The role of operators must evolve from mere providers of data to meaningful contributors (including reporting of targeted, by-catch and non-commercial species) through a more bidirectional communication.
- Inclusion of fishers in the design and implementation of scientific activities will advance scientific knowledge<sup>10</sup>.
- Transparency should be strengthened; the work done by SFPAs joint scientific committees (JSC) should be more visible and reports of their meetings made publicly available in both the EU (DG MARE) and third country government websites.

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<sup>10</sup> FarFish project has developed a self-sampling pilot programme on black hake species identification (*Merluccius polli* and *Merluccius senegalensis*) for both Spanish, Senegalese and Mauritanian fleets who contributed to exchange information, serving to evaluate the strengths and weaknesses of the programme (FarFish, 2018-2021).

- Strengthen cooperation between scientists, policy makers, NGOs at coastal country level and civil society within the framework of the SFPAs, promoting fisheries-science partnerships in order to fit with the SDG 17.
- Develop joint scientific research adapted to the reality of shared stocks contributing to improve stock assessment through robust methodologies and accessibility of data to *peer review* process.

### 2.1.3 Use of sectoral support

- Background

An average of 45-60% of the total financial contribution of the EU in the SFPAs is dedicated to support the fisheries sector, enabling institutional capacity building, the development of scientific research and MCS.

- Issues related to implementation

- It is essential to connect sectoral support to the real needs and interests (in terms of planning and funding priorities) of the partner countries. In terms of measuring results and impact of the SSF.
- There is an absence of an adequate and coherent socio-economic approach and proper impact assessment of investments made with the sectoral support in the ex-ante and ex-post evaluations<sup>11</sup> by the EU as it stands<sup>12</sup>. Implementation should focus on actions to engender and strengthen cross-sectoral support (FAO, 2020)<sup>13</sup>.

- Specific recommendations to move forward

- Sectorial support should be executed based on a rigorous and efficient financial management plan.
- A certain degree of flexibility will also be needed in terms that overriding priorities or force majeure events (e.g. “red tides”, natural disasters affecting infrastructures or effects of COVID-19 pandemic) can ensure adaptability and resilience of ecosystems and fishing communities.

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<sup>11</sup> Ex-ante evaluation; i.e. retrospective exercise to assess if the conditions of the implementing Protocol allowed it to reach the objectives greatest possible impact, and what should be improved in future Protocols; and ex-post evaluation; i.e. impact assessment of degree of utilisation and effectiveness of the Protocol including identified benefits and shortcomings.

<sup>12</sup> See Publications Office of the EU: <https://op.europa.eu/en/publication-detail/-/publication/8e479fc2-e32e-11e9-9c4e-01aa75ed71a1>

<sup>13</sup> <http://www.fao.org/3/ca9229es/online/ca9229es.html>

- Coastal States and EU must ensure sectoral support is contributing to the national development strategy, based on realistic objectives and efficient planning<sup>14</sup>.

### ***2.1.4 Economic and social dimension of SFPAs: Data, labour and gender considerations***

- Background

The SFPAs must respect flag State measures complying with flag State duties under Article 94 of the UNCLOS, particularly on manning, training and certification, and living and working conditions. However, there are still reporting issues with data on employment of local seamen on board vessels fishing under SFPAs. Action by all concerned to tackle these implementation gaps and greater coherence across EU policies should enable the EU and its partners to strengthen implementation across the board.

- Issues related to implementation

- Both the EU policy makers and operators are dedicating increasing efforts to improve the availability of socioeconomic data to understand impacts, trade flows, and cost-benefit analysis of EU investments in third countries (e.g. employment, income and revenue generated on site, exports...).
- SFPAs are encouraging a progressive job inspection to ensure decent work standards in accordance with international maritime safety at sea and at land provisions from International Labour Organization (ILO), International Maritime Organisation (IMO), and FAO, amongst others.
- The incorporation of a more inclusive gender equality and equity approach into fisheries policies through tailored designed programmes funded by sectoral support is expected to have positive results in the coming years. This should be aligned with existing EU and internationally-funded instruments (World Bank, FAO, Aid and Banks of Investment...) that have a broader scope and focus on governance, maritime security, external action, or cooperation for development also with the SDG 5 (Gender Equality).

- Specific recommendations to move forwards

- A more systematic approach to collection, processing, analysis and reporting of socio-economic data could help to ensure robust long time series of data to get more accurate impact assessments in the EU ex ante and ex post evaluations.

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<sup>14</sup> Deficient or unrealistic planning and lack of meaningful engagement of concerned parties usually ends up in abandoned infrastructures or not properly maintained once the funds are paid and the protocol expires - the so-called 'White Elephants' (Davidson, 2021).

- The provision of the social clause in SFPAs should ensure compliance to provisions on international UN conventions and provisions of safety at sea as well as decent labour conditions and defence of human and labour rights.
- Effective implementation and inclusion of gender considerations into SFPAs to support SDG 5, would help to promote women empowerment, especially where women play key essential roles in Small Scale Fisheries (SSF), local fishing economy, household livelihoods and nutrition.

### ***2.1.5 Transparency and good governance***

- Background

SFPAs contain a non-discrimination clause in most protocols of the SFPAs, obliging coastal States to enact, apply and enforce the same rules for all fleets operating within their EEZ (including private agreements and direct authorizations). To date, Mauritania is the first and only partner where an article on transparency has been included' in the fishing agreement.

- Issues related to implementation

- This clause is not effectively implemented in most cases. This lack of reporting and enforcement, together with lack of capacity to tackle all IUU fishing, leads to an unlevel playing field, undermines scientific knowledge on the state of the stocks and challenges the sustainable approach to fisheries management by compromising the determination of “surplus” (explained above).
- In terms of stakeholder engagement in definition of SFPA priorities and implementation of programmes, the decisions adopted on use of funding and identification of priorities relies mostly on the coastal States authority with generally low levels of engagement from civil society.

- Specific recommendations to move forward

- It is desirable to encourage further inclusion and increased involvement of local fishing communities, civil society organisations and other interest group representatives in the shaping and planning of priorities linked to funds derived from SFPAs. Third country coastal State authorities should consult stakeholders both through the negotiation and implementation processes by setting up the adequate communication and information fora, particularly at coastal State level. A good example of a multi stakeholder platform composed of industry, NGO and policy makers is the Fisheries Transparency Initiative with the release of reports in countries such as Mauritania and Seychelles (FITI, 2021).
- Incentives could be also used to encourage the participation of the local fishing sector in the design and development of fishing policies, adapted to the local reality. Fishers have a role to play in evaluating the impact of the measures and articulating feedback mechanisms to report on the benefits of complying with the rules and achieving the desired management targets.

### 2.1.6 Regional approach and synergies between SFPA and other sectorial policies

- Background and aspects related to implementation

The SFPAs are negotiated individually between the European Commission<sup>15</sup> and the third country. The existing network of SFPAs, however, tend to be designed with a regional strategy in mind, particularly due to the migratory nature of stocks such as tuna and tuna-like species.

This requires that the SFPA defines common strategic elements, such as scientific cooperation between EU and coastal States, MCS, and other technical measures, which are aligned and not too divergent in order to have a sustainable management of stock distribution beyond EEZs and national waters of third countries. This also could be strengthened through existing scientific bodies such as CECAF where Coastal States participate and cooperate at regional level outside the scope of SFPAs.

Furthermore, there are several shortcomings both for Coastal States and the EU when it comes to alignment of provisions embedded in the SFPAs. For Coastal States, sometimes it is difficult to reconcile its own national priorities and objectives in terms of fishing and international cooperation. For the EU, although the European Commission has a single strategy as such, the division of its work in Directorates General requires internal coordination and dialogue to ensure policy coherence between maritime affairs and fisheries (DG MARE) and other relevant DGs, such as environment (ENV), international partnerships (INTPA), trade (TRADE), labour (EMPL) or health (SANTE).

- Specific recommendations to move forward
  - SFPA objectives could be better aligned with provisions embedded in trade policies and agreements on market-oriented measures, including objectives and requirements of sustainable development chapters of FTAs, elements of GSP+, or control of imports and traceability of fishing and aquaculture products. Trade rules should oblige non-EU nations who trade with the EU to provide access to key data and information to support objective verification of requirements for the EU and the partner countries of SFPAs.
  - In line with EU biodiversity strategy and MSFD, the ecosystem approach to fisheries (EAF) and fisheries management (EAFM) could be more effectively implemented and considered within SFPAs through a concerted methodology and data collection, analysis and transmission frameworks at multi stakeholders levels including local, national, regional and international.
  - Capacity building and training are key to improve professional skills, competences and transfer of knowledge. As a result, dedicated training programmes to coastal States policy makers, managers and technicians would be key to understand policy interactions and adapt to their decision making and implementation procedures in support of the predefined objectives.

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<sup>15</sup> Based on a mandate received from the Council and subject to subsequent validation by the European Parliament. Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy



## 2.2 The role of Regional Fisheries Management Organisations (RFMOs)

### 2.2.1 Introduction – definition and legal framework

The regional fisheries management organisations (RFMOs) are the international organisations regulating regional fishing activities in the high seas. RFMOs are open both to countries in the region ('coastal States') and countries that have interests in those fisheries ('distant water fishing nations'). While some have a purely advisory role, most have effective management powers to set catch and fishing effort limits, technical measures, and control obligations (DG MARE, 2021). Today, RFMOs cover the majority of the world's seas (Figure 3). They can broadly be divided into RFMOs focussing only on the management of highly migratory fish stocks, notably tuna, ('tuna-RFMOs') and RFMOs that manage other fish stocks (i.e. pelagic or demersal) in a more specific area. More recently they have also developed advice on ecosystem considerations and conservation of habitats. The EU, represented by the European Commission through a mandate adopted by the Council, plays an active role in 5 tuna-RFMOs and 11 non-tuna RFMOs (2021). This makes the EU one of the most prominent actors in RFMOs worldwide.

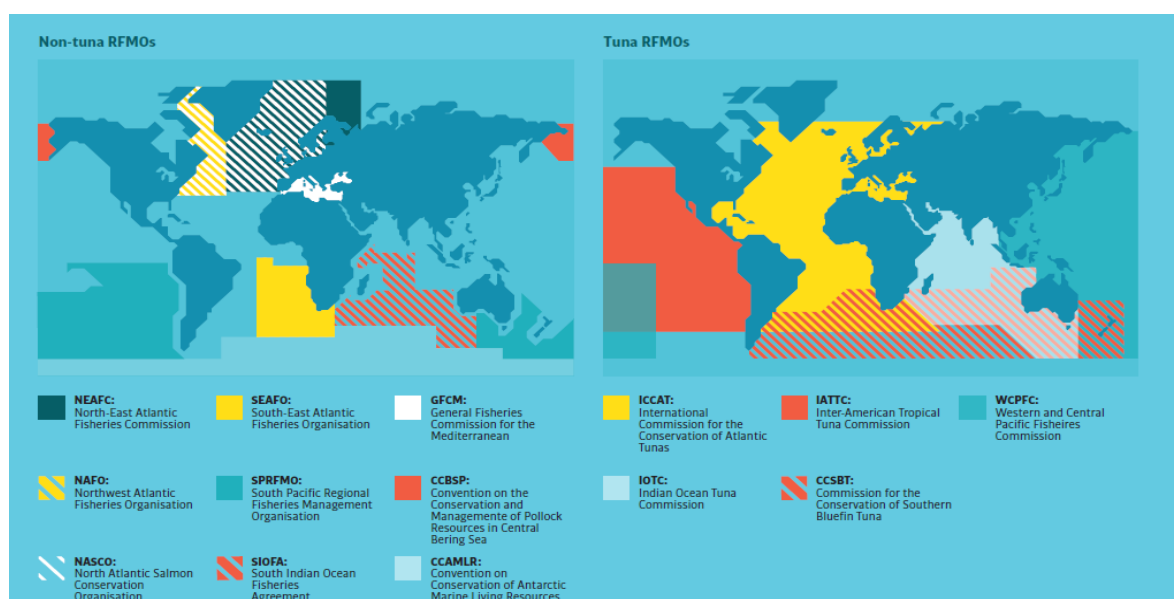


Figure 3: Map of the seas covered by tuna and non-tuna RFMOs.

Source: European Commission.

## ***2.2.2 The importance of fisheries (independent and dependent) data for decision making***

- Background

Most RFMOs have their own Scientific Councils or Committees coordinating or undertaking stock assessments for key commercial species and providing recurrent advice to inform management and policy decisions. Capacity building and resources need to be strengthened due to increasing workload. More investment and financial support to scientific research within RFMOs should be granted by CPCs to ensure adoption of more robust decisions on fisheries management for key stocks and an ecosystem approach to fisheries management. RFMOs are also important to improve knowledge in terms of total removals from the sea, not only target species but also by-catches and discards (if allowed).

- Specific recommendations to move forward
  - The idea of a “regional VMS and e-logbook” might be explored where all this data can be input and processed in a coordinated way avoiding bottlenecks and problems with data flows reported by the different CPCs. Following existing recommendations by ICCAT<sup>16</sup> and IOTC<sup>17</sup>, this super-logbook should grant the reception of the data by the relevant Coastal State while recording on a single file/document the activity of the vessel inside the area covered by the RFMO, regardless of the specific EEZ, thus simplifying the data flow between CPCs and RFMOs .
  - RFMOs should also encourage the development of robust indicators to measure the socio-economic impacts of RFMO members and their contribution to the SDGs.

## ***2.2.3 Regional inter-RFMO cooperation and dialogue on horizontal issues***

- Background

The 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 aiming at sustainable harvesting/use of marine living resources.

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<sup>16</sup> <https://www.iccat.int/Documents/Recs/compendiopdf-e/2018-10-e.pdf>

<sup>17</sup> [https://www.iotc.org/sites/default/files/documents/compliance/cmm/iotc\\_cmm\\_15-03\\_en.pdf](https://www.iotc.org/sites/default/files/documents/compliance/cmm/iotc_cmm_15-03_en.pdf)

- Specific recommendations
  - Establish an inter-RFMO regional coordination mechanism<sup>18</sup>, based on dynamic exchange of information in the spirit of the “Kobe process<sup>19</sup>” for tuna RFMOs, to ensure consistency of applicability of measures related to cross-cutting issues within the caveat of their regulatory framework. There is already a history of collaboration for RFMOs<sup>20</sup>; this cooperation could be effectively institutionalised through either informal “*ad hoc*” arrangements (e.g. the existing FAD Inter-RFMO working group) or via formal structures (permanent secretariat and work plan).
  - EU should be stronger in the field of its work in the RFMOs to provide useful recommendations to be reflected in other international institutions or organisations such as the UN Food and Agriculture Organisation and the UN General Assembly (e.g. FAO COFI or UNGA Annual Resolutions on Sustainable Fisheries).
  - The EU has formal or informal working groups with several key fishing nations (e.g. Japan, US, South Korea and/or Ghana). These working groups could be planned and used strategically to support RFMO recommendations and decisions.
  - These working groups – if held in the third country and if made more inclusive and transparent – could serve to mobilise local actors by holding side events to encourage local governments to be more ambitious on issues related to international ocean governance.

What can the EU do directly to promote regional cooperation between RFMOs and reinforce the link with its own policies with partner countries?

- The EU could take an active role in promoting showcasing RFMOs as “testing laboratory” to promote a regional approach to MCS, through the coordination and setup of regional observer programmes at sea (such as the one for Bluefin tuna in ICCAT or transshipments in IOTC) and port control and inspections schemes (e.g., NAFO resolution supporting implementation of FAO PSMA).
- Article 29 of CFP Regulation requires the “*Union ... to actively support the development of appropriate and transparent mechanisms for the allocation of fishing opportunities*”. The overlying principle should be that responsible fishing should be given priority in resource allocation. While discussions on allocation are complex, greater interaction and regular exchanges with partner countries and regional and international parties are bound to facilitate

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<sup>18</sup> It was recommended in the recent FarFish Conference on the External Dimension of the CFP. <https://www.farfish.eu/the-external-dimension-of-the-common-fisheries-policy-present-challenges-and-future-opportunities/>

<sup>19</sup> <https://www.tuna-org.org/Documents/TRFMO3/BackgroundInfo.pdf>

<sup>20</sup> Particularly those relating to tuna, in relation to some horizontal topics such as management of fishing capacity, monitoring, control and surveillance, fight against IUU fishing, ecosystem approach to fisheries management or scientific research on FADs (LDAC, 2019).

the process and help identify common grounds. In terms of coherence, dialogue and work within RFMOs towards harmonization of access agreement conditions between coastal and flag States in the management and resource allocation of straddling stocks could be a way forward. In this sense, it might follow the example of ICCAT and GFCM in creating a public annual reporting system for all access agreements.

- The EU could promote improvements regarding transparency and data reporting by coastal States where the EU DWF is operating. Coastal States are generally required to report on foreign-flagged vessels fishing in waters under their Jurisdiction for species managed by that RFMO, and from flag States whose vessels fish in waters under the jurisdiction of another member for species managed by that RFMO. However, in reality there are many challenges in this front which are dealt with at the Control and Compliance Committees. The EU could help through alignment and coherence with provisions such as the transparency clause of the SFPAs and the SMEFF regulation, whereas the third country must provide information on vessels activity in their waters.

#### ***2.2.4 Opportunities to improve functioning and efficiency of RFMO: Performance Reviews***

- Background

The European Union made the following statement at the UN ICSP-14 (2019) <sup>21</sup>on “Structure and conduct of performance reviews: experiences, best practices, challenges and opportunities”: “the RFMOs are key instruments to ensure the States can meet their obligations under international law regarding cooperation for the conservation and sustainable management of shared stocks. In this regard, RFMO/As are an essential part of the international legal architecture to ensure the long-term conservation and sustainable management of highly migratory and straddling fish stocks as well as associated and dependent species”.

Performance reviews have become a well-established practice since 2006 onwards, in accordance with the plea made at that year’s Review Conference of the 1995 UN Fish Stocks Agreement. To date, all 6 tuna and 11 non-tuna RFMOs have carried out at least one performance review, with many already completed their second performance review (e.g. NAFO, ICCAT, SEAFO, CSBT...).

- Issues related to implementation:
  - RFMOs are generally performing well, but could improve in several areas related to decision-making, namely adoption and implementation of conservation, management and control measures within their regulatory areas. Emphasis should be put on

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<sup>21</sup>[https://www.un.org/Depts/los/convention\\_agreements/ICSP14/Presentations/n/2.%20Kingston\\_Performance%20Review%20--%20UN%20Fish%20Stocks%20Agreement%2014th%20informal%20consultations.pdf](https://www.un.org/Depts/los/convention_agreements/ICSP14/Presentations/n/2.%20Kingston_Performance%20Review%20--%20UN%20Fish%20Stocks%20Agreement%2014th%20informal%20consultations.pdf)

implementation of recommendations made in the performance reviews. Periodic reporting and debate within each RFMO could help to understand and measure progress through pre-agreed indicators.

- Specific recommendations to move forward:
  - A benchmark exercise could be useful to exchange good practices and align with UNCLOS/UNFSA provisions. In terms of transparency, an inter-RFMO benchmark exercise to compare similarities and difference of structure, content and methodology of performance reviews could help to exchange good practices and identify and tackle issues of shared interest (e.g. scientific methods and models, measurement and control of fishing capacity, research and management of FADs, MCS and fight against IUU fishing).
  - Improve RFMO performance in fulfilling the sustainable development goals (SDGs), EU MS and the European Commission could promote the adoption of dispute-resolution mechanisms to facilitate decision-making. Good examples can be found in the Northwest Atlantic Fisheries Organisation (NAFO) and the South Pacific Regional Fisheries Management Organisation (SPRFMO)<sup>22</sup>.

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<sup>22</sup> [https://www.nefconsulting.com/wp-content/uploads/2020/01/outofsightreport\\_summary.pdf](https://www.nefconsulting.com/wp-content/uploads/2020/01/outofsightreport_summary.pdf)

## 2.3 Fight against Illegal, Unreported and Unregulated Fishing (IUU) in the high seas and in the third country waters

- Background:

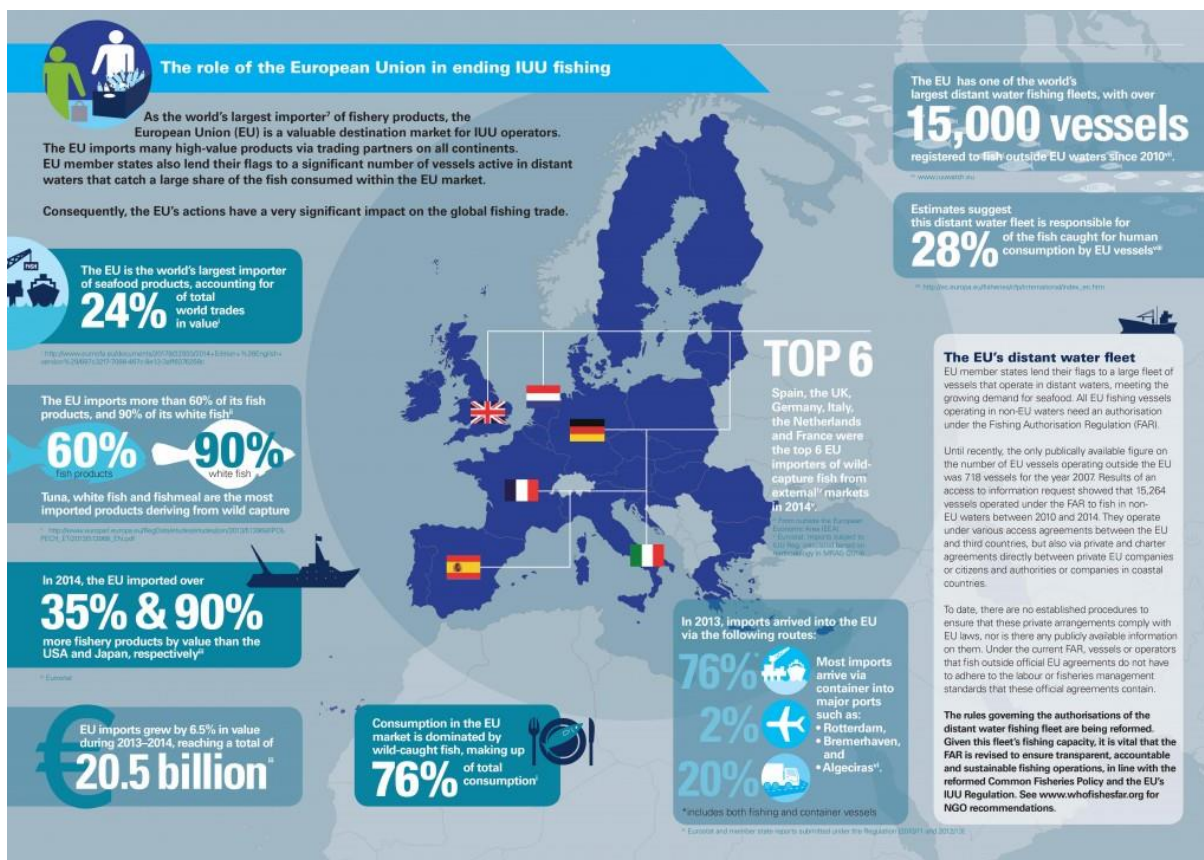
The EU is well positioned, through its Community system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing<sup>23</sup> both in third countries (through the EU carding system process) and in the high sea (with active measures in force at RFMOs subject to scrutiny of the Control and Compliance Committees) (Figure 4 and Figure 5).



**Figure 4: IUU facts and figures in the EU**

Source: iuuwatch.eu.

<sup>23</sup> Council IUU Regulation (EC) No 1005/2008 and main implementing Commission Regulation (EC) No 1010/2020.



**Figure 5: The role of the EU in ending IUU**  
Source: iuuwatch.eu.

- Specific recommendations to move forward:

The EU can take leadership in the following fronts:

- Reinforce the role and capacities of the European Fisheries Control Agency (EFCA) in terms of strengthening cooperation with third countries and compliance with international obligations and measures established by RFMOs (especially those to combat IUU fishing, in accordance with article 30 of the CFP Regulation).
- An online mechanism within the new IT system “CATCH” should be developed to allow the proactive sharing of intelligence and results of control inspections and verifications made by EU MS on consignments coming into the EU market. This would avoid double entry frauds of rejected catch certificates ensuring a steady flow of relevant information between MS. It would be adequate to ensure the assessments carried out by the EC with Member States on implementation issues take the form of a routine audit programme of Member State control procedures. The EU should continue collaboration with EFCA to encourage harmonized application of a risk management approach across the Member States.
- Effectively implement and use to its full potential of the Regulation on Sustainable Management of the EU external fishing fleet (SMEFF), to increase accountability and

transparency on the environmental impacts of EU's external fishing, with publicly available information periodically updated (weekly or monthly) list of licensed vessels with active fishing authorizations via the creation of an electronic database. A similar process should be applied whenever possible to fishing and catch data from non-EU external fishing fleets.

- Defend the role of RFMOs in reinforcing mechanisms to fight against IUU fishing, such as collaborative work on information exchange regarding IUU vessels lists available<sup>24</sup>, submission of information to the FAO Global Record of Fishing Vessels or the compulsory allocation of IMO numbers for distant water fishing vessels to avoid practice of abusive reflagging and follow the changes in names of vessels and ownership.
- Continue efforts to expand the requirement for flag and port States to verify and take appropriate actions when nationals are found to be otherwise benefiting from or supporting the activities of IUU vessels through for example, the provision of services. These measures are also in line with Article 39 of the EU IUU Regulation. Many countries have adopted and ratified the FAO Port States Measures Agreement and RFMOs and regional arrangements such as CCAMLR, SPRFMO, SIOFA and GFCM have recently adopted measures against boats operating in their areas upon proposal by the EU.
- Table and support proposals in RFMOs aimed at improved transparency standards, particularly regarding the beneficial ownership of vessels.
- Incorporate Remote Electronic Monitoring (REM) systems to all distant water industrial fleets to include both recording of their position by VMS and data collection by fishing logbooks where species are identified according to guidelines provided by RFMOs to the required taxonomic level. The electronic observer should be used as a complementary tool of the physical observer by Flag States and RFMOs to increase coverage of fishing activities. This will help to close gaps, promoting a culture of compliance with existing management measures in force whilst helping to reduce IUU fishing and associated human rights offences.
- Find a harmonized definition of serious infringements and seek to adopt equivalent sanctioning regimes harmonised across EU and non-EU Member States at global level to deter IUU fishing.
- Promote the mandatory use of an IMO number and unique vessel identifier (UVI) for eligible vessels to avoid the practice of "flag hopping" and monitor the fishing practice of each vessel.
- Encourage other big distant water fishing nations to sign MoU and strategic plans of action for tackling IUU fishing and ensuring coordination between control, inspection, patrol, and police authorities all over the world as the poachers move worldwide.
- Address the problem of overcapacity which might lead to IUU fishing. Resources are limited, and only the EU, Japan, US and some Western countries have limited their overall capacity in the last years.
- The case of China's distant water fishing industry is quite illustrative: Despite its significance, assessment of its size and operations is hampered by a lack of

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<sup>24</sup> <https://www.iuu-vessels.org/>



transparency and by the limited availability of information in English. Even estimates of the size of China's DWF fleet vary considerably: from under 2,000 vessels to around 3,400 vessels (ODI, 2020). Information on the geographic location, types of fishing and catches of the Chinese DWF fleet is also limited. In comparison, the European Union's DWF fleet went down from 289 to 250 vessels in the period 2014-2018 (STECF AER, 2020), and the United States had 225 large DWF vessels in 2015. Estimates of China's DWF fleet generally focus on Chinese flagged vessels, and there is limited data available on the number of Chinese-owned or joint venture vessels flagged in other countries. The Chinese government does appear to recognise concerns about the size of its DWF fleet and in 2016 announced plans to restrict the size of its DWF fleet to 3,000 vessels by 2020, and to limit catches to 2.3 million tonnes per year<sup>25</sup>. However, according to a recent report, China's DWF fleet could be 5–8 times larger than previous estimates, with nearly 17,000 vessels between 2017 and 2018 (ODI, 2020)<sup>26</sup>.

- Other related governance issues might be indirectly related to IUU fishing activities such as illegal migrations and modern slavery, maritime piracy or criminal activities such as drug trafficking.

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<sup>25</sup>See Outline of the 13<sup>th</sup> Five Year Plan for the National Economic and Social Development of the People's Republic of China: <http://www.lawinfochina.com/display.aspx?id=3fe76ec605b256e9bdfb&lib=law> . Full text in Chinese could be found here: [http://www.gov.cn/xinwen/2016-03/17/content\\_5054992.htm](http://www.gov.cn/xinwen/2016-03/17/content_5054992.htm)

<sup>26</sup> [https://cdn.odi.org/media/documents/chinesedistantwaterfishing\\_web.pdf](https://cdn.odi.org/media/documents/chinesedistantwaterfishing_web.pdf)

### 3 General recommendations

The CFP external dimension in force has led to considerable progress in a number of policy areas of international fisheries governance towards achieving the three pillars of sustainability: environmental, economic and social. However, despite the solid theoretical foundations upon which it is built, relying on internationally agreed principles and overarching goals, there are still many weaknesses in relation to the achievement and effective implementation due to both external (non-attributable) and internal (where EU is responsible of) factors.

The EU should use the Policy Coherence for Development (PCD), enshrined in Art. 208 of TFEU, for reporting in detail how the CFP's external dimension supports the implementation of the UN 2030 Agenda on the SDGs; the EU external dimension of the CFP, and in particular the conservation and management of fishing resources, should be aligned with international commitments on climate change, biodiversity and the UN 2030 Agenda on SDGs. There will be a number of important challenges in the next decade in terms to evaluate the impact of international fisheries as a result of the adoption and implementation of a UN Treaty on Biodiversity Beyond National Jurisdiction (BBNJ), the Conservation on Biodiversity (CBD) including the Aichi Biodiversity Targets (10% of MPAs in 2020 and 30% in 2030)<sup>27</sup>, or trade measures such as WTO resolutions on harmful fisheries subsidies or commercial measures by CITES to commercial stocks that are listed under the "Red List" of sensitive species. It is still to be seen how these measures will change the fishing patterns, distribution of effort and challenges remain in the side of control and compliance in terms of implementation by all EU and non-EU fleets.

The coordination between the External Dimension of the CFP and the EU Green Deal and Blue Economy will be key to ensure a balanced approach to maritime spatial planning and minimisation of harmful impacts to the environment and conflicting interests of human activities at sea, (including pharmaceuticals, biotechnology, shipping, cabling, oil and gas extraction, deep-sea mining, etc.)

From the arguments discussed along this document, we can draw the following general conclusions:

- The lack of adequate reporting among other issues affecting data flows between Flag and Coastal States, hampers the implementation of sustainable fisheries management and may promote overexploitation of commercial species.
- The connection of sectoral support to the real needs and interests should be accompanied by an exhaustive planning and funding priorities fitting with the national development strategy of the partner countries. It also needs a certain degree of flexibility with the ability to best adapt to unforeseen events.

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<sup>27</sup> <https://www.cbd.int/sp/targets/>

- The measurement of the impacts of investment should be properly addressed into ex-ante and ex-post evaluations, particularly from the inclusion of socioeconomic aspects of the fisheries. The inclusion of the gender approach aligned with existing funded instruments (World Bank, FAO, Aid and Banks of Investment) is essential to scale in equality and social justice, at local and national level.
- Despite most part of SFPAs protocols contain a non-discrimination clause, enforcing Coastal States to enact and apply the same rules for all fleets operating within the EEZ (including private agreements and direct authorizations), the clause is not effectively implemented in many cases. This leads into a lack of level playing field, which joined to a lack of reporting and scarce enforcement is compromising the good governance.
- Communication processes are important for managing expectations, understanding the reasons for underutilisation of fishing opportunities allotted, due logistic and operational issues, bureaucratic and legislative barriers, or technical measures leading to problems of cohabitation between industrial and artisanal fleets.
- Encouraging the inclusion and involvement of local fishing communities, civil society organisations and other interest group representatives in the shaping and planning of priorities linked to funds derived from SFPAs is desirable. This might be done through setting up a dedicated group of experts and developing a protocol and terms of reference with the aim to help resolving the mismatches between some of the tangible benefits generated by the SFPAs and the perception (sometimes negative) existing amongst civil society and local communities.
- The EU should encourage regional strategies for SFPAs and at RFMO level through internal consultation with EU Member States. Sometimes it is difficult to reconcile the Coastal States priorities and strategies with EU and international cooperation targets. It could be strengthened through existing scientific bodies (e.g. CECAF) where Coastal States are already cooperating at regional level outside the scope of SFPAs, in order to prove compliance and enhance linkages between the SFPAs and RFMO policies. There are already examples of “stories of success” such as the MSE and HCR for Atlantic Greenland Halibut in NAFO of Atlantic Eastern Bluefin Tuna in ICCAT.
- Trade policies and agreements on market-oriented measures, including sustainable development objectives, imports control and traceability, could be better aligned with SFPAs objectives.
- The ecosystem approach to fisheries management (EAFM) could be more effectively implemented within SFPAs, from the inclusion of an adequate methodology and transmission frameworks at multi-stakeholders level.
- The EU should continue to actively promote the constitution of new RFMOs or other regional arrangements in those areas of the high seas where they do not exist, in particular for managing sustainably shared stocks like the small pelagic and demersal stocks in West Africa; or the Southwest Atlantic; amongst others.
- The EU needs to be more assertive and use its market force to ensure the viability of its external fleet (EUROPECHE and LDAC, 2021). Indeed, the EU market should strive to ensure that seafood imports from third countries comply with similar standards as EU ones, enhancing food security and sustainability of fisheries while supporting the fight against IUU fishing, through more effective control of imports and zero tolerance against products coming from IUU fishing.

Last, but not least, the new reality arising from the post-COVID-19 pandemic will be a huge challenge. Adaptive policies linked to build resilience will be required in the international ocean governance arena in accordance with the recommendations on this field in the IOG summary report launched by DG MARE in February 2021 as a result of the public and targeted consultation held in 2020.



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