

EU External Fisheries: How To Make them Transparent, Accountable And Sustainable

A new and more effective EU Fishing Authorisation Regulation

On December 10th 2015 the European Commission published a revised regulation of the sustainable management of external fishing fleets¹ that will govern both the authorisations provided to the European Union's large fishing fleet operating outside EU waters, and the authorisations of non-EU countries' vessels such as Norway, Iceland and Faroe Islands to fish in EU waters.

The coalition of organisations working to tackle IUU fishing considers that the reform of the Fishing Authorisation Regulation (or FAR) must ensure that the activities of the EU fleet and nationals operating outside EU waters are transparent, accountable and sustainable. This also applies to third country vessels operating in EU waters. Furthermore, we recommend that its new requirements must also be developed in line with the EU's strong commitment to eradicate illegal, unreported and unregulated (IUU) fishing. Such fishing deprives coastal communities of income, livelihood and food security, leads to unfair competition for legitimate fishers, and undermines efforts to safeguard global fish stocks.

Determining the number of EU vessels operating outside EU waters

The EU lends its flag² to a large fleet of fishing vessels that operate outside EU waters. Until recently, the only publicly available figure on the number of EU vessels operating outside the EU was from a 2008 external study that identified 718 vessels for year 2007³. These vessels were estimated to account for approximately 21% of the EU's total catch for human consumption and 92% of all tuna and related species caught.

However, results of a recent access to information request placed by Oceana to the EU showed that between 2010 and 2014 15,264 fishing vessels have operated under EU flags in external waters, and that all these vessels were authorised under the EU's FAR (see www.whofishesfar.org). The data provided by the European Commission also includes some authorisations from 2006 to 2020, amounting to 16,336 unique vessels – including 978 authorisations that were given to third (or non-EU) countries to operate in EU waters. This makes an average of 3,052 vessels per year – 2,334 more compared to the figure known before.

Given this enormous fishing capacity, and the general lack of information on the EU's external fleet, it is vital that the FAR is revised to ensure fair, sustainable and transparent fishing operations in line with the reformed Common Fisheries Policy (CFP) and the EU's IUU Regulation.



Unloading tuna from the Spanish purse seiner *Nuevo San Luis* in the harbour of Dakar, Senegal, January 2007 © OCEANA / LX

How the FAR works

The FAR authorises different types of access for EU fishing vessels to third countries' fishing grounds, and vice versa. The main types of authorisation are as follows:

Bilateral agreements

- **Sustainable Fisheries Partnership Agreements (SFPAs)** The EU concludes SFPAs with non-EU countries to allow EU vessels to fish for surplus stocks⁴ in that country's exclusive economic zone (EEZ). Under these agreements, the EU pays the country for access to its fishing resources.

The majority of these SFPAs are arranged with developing countries⁵. In 2014, more than €130 million was paid to 13 countries to secure access to fisheries for the EU fleet under SFPAs⁶. The only information on these agreements that is made public is the access fee paid by the EU, the member states that requested a licence to fish, and the available fishing opportunities.

- Access of third country vessels to EU waters, for instance, in overseas territories, is covered by access agreements with the EU. Currently, Venezuela-flagged vessels are fishing in French Guyana⁷, and Seychelles-flagged vessels are fishing in Mayotte⁸.

¹ Proposal for a regulation of the European Parliament and of the council on the sustainable management of external fishing fleets, repealing Council Regulation (EC) No 1006/2008

² A flag State is the State to which a vessel is registered. The flag State is required to "ensure compliance with international rules and standards" for vessels registered to it and to provide for "effective enforcement" no matter where violations occur. Article 217 of the United Nations Convention on the Law of the Sea.

³ Study on the European External Fleet Contract FISH/2006/02 Final Report, January 2008. Please note that this study looked only at vessels that operated more than 90% of the time outside EU waters. Study on the European External Fleet Contract FISH/2006/02 Final Report, January 2008.

⁴ 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; EU 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy.

⁵ For more information see http://ec.europa.eu/fisheries/cfp/international/index_en.htm

⁶ Idem

⁷ Proposal for Council decision on access by fishing vessels flying the flag of the Bolivarian Republic of Venezuela to the exclusive economic zone off the coast of the French department of Guyana COM(2010) 807 final

⁸ Proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte, under the jurisdiction of the European Union. /* COM/2014/0139 final

Reciprocal agreements

Northern Agreements cover the joint management of shared stocks between the EU and Norway, Iceland and the Faeroe Islands respectively⁹. Under FAR authorisations, EU vessels can fish in Norwegian, Icelandic and Faroese waters, and vice versa.

Authorisations for EU vessels to operate within a regional fisheries management organisation (or RFMO) agreement area or on the high seas¹⁰

Private Agreements and Chartering Agreements

EU companies also undertake private agreements with certain non-EU countries that grant them private access to fish resources in the waters of these coastal states. This is only allowed in the waters of third countries where there are no SFPAs in place¹¹. In addition, EU companies make chartering agreements for their EU vessels to access the resources of certain coastal states in collaboration with local companies.

Main gaps in the current FAR

Little transparency and control

Under the current FAR, EU member states whose vessels engage in fishing activities in third country waters through private or chartering agreements must only inform the European Commission of the names of these vessels. There is no requirement to provide other relevant information such as the target species, fishing area, period or gear. This makes it impossible for the Commission, and other stakeholders to fully understand the activities carried out by these vessels.

Furthermore, there is no EU-wide database of information on private agreements between EU companies and third countries. Even though the vessels benefitting from these agreements fly EU flags or are operated by EU nationals, the EU has not established procedures to ensure that these arrangements comply with EU fisheries laws, respect labour laws, or to guarantee the EU operator that the authorisation they have bought is valid.



French purse seiner *Pere Briant* setting the nets and preparing to go to sea. Harbour of Dakar, Senegal, January 2007 © OCEANA / LX

Lack of control over EU vessels ‘reflagging’

A further weakness of the current FAR is the lack of control over vessels alternating their flag between EU member states and poorly controlled ‘flags of convenience’ countries, or switching to countries that have been given a warning or ‘yellow card’ by the European Commission for failure to improve their fisheries management. Ships flying flags of convenience often fail to meet international fisheries’ legal obligations, and such reflagging practices can be used by EU vessels to undertake IUU fishing.

Currently, EU vessels that have done this are allowed to re-enter the EU-flagged fleet and access SFPAs and subsidies, yet they are under no obligation to provide evidence that their previous activities were in line with EU and international fisheries laws.

To obtain a FAR authorisation, vessels are currently not required to have a unique vessel identifier issued by the International Maritime Organization making it difficult to track their history as they change flags.

Priorities or change to ensure a successfully reformed FAR

If incorporated into the reformed FAR, the following recommendations would serve to improve the control of EU vessels operating across the world, and greatly contribute to the fight against IUU fishing.

- The EU should ensure that the rules for granting fishing authorisations becomes more transparent and require disclosure of basic information in real time, for instance, the nature of the fishing activities (fishing opportunities, period and area, as well as target species) and the unique vessel identifiers of vessels operating in third country waters, and vice versa.
- EU member states and the European Commission should only provide fishing authorisations to vessels under FAR when it has been proven that the activities of the vessel or its owner, agent, and skipper is legal, have not been linked to illegal fishing, and adhere to EU laws.
- The EU should stop abusive reflagging by requiring proof of compliance and adherence to EU laws before granting the EU flag to a vessel that has been flagged to a non-EU country. Special attention should be paid to vessels that are coming from flag States that do not have authorisation to export seafood to the EU (as per the EU IUU Regulation).
- The EU should mandate that EU vessels have a unique vessel identifier (issued by the International Maritime Organization, IMO), in order to increase transparency and to facilitate enquiries into the historic behaviour of a vessel.
- Private and chartering agreements should only be allowed when it has been proven that activities of the vessel or its owner, agent, and skipper meet the criteria of official EU fishing agreements (SFPAs) and comply with EU laws.

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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⁹ For more information see http://ec.europa.eu/fisheries/cfp/international/index_en.htm

¹⁰ *Idem*

¹¹ EU 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy.