

European vessels fishing under the radar

The need to regulate private and chartering agreements for access to external waters

Executive summary

As part of the reform of the Common Fisheries Policy (CFP), strict standards were established for activities under official agreements with coastal States for access to their fisheries resources – so-called Sustainable Fisheries Partnership Agreements (SFPAs). These agreements must be of mutual benefit to both parties and only established where it is shown that there is a surplus of the resource that can be sustainably caught. EU operators wishing to fish under such agreements must also comply with the eligibility criteria set out in the 2008 Fishing Authorisation Regulation, which include demonstrating a historical record of compliance with applicable rules. The 2008 Fishing Authorisation is the current legal framework governing the authorisation of EU fishing activities in non-EU waters and is in the process of being revised.

The strict standards established for SFPAs do not currently extend to vessels fishing under private agreements established directly between EU companies and coastal States, nor to chartering agreements under which EU-flagged vessels fish a share of the resources of a coastal State's EEZ in collaboration with local companies. Even though vessels fishing under these agreements fly the flags of EU member states – and their catches have the same EU market access as catches under SFPAs – there are no common procedures to ensure that activities under these agreements comply with EU laws and adhere to CFP standards.

A major gap that limits the effective oversight of vessels fishing under private agreements is the lack of requirements for details of these agreements to be reported to the EU flag State and the European Commission, or for key information to be made publicly available. The lack of public information on these agreements makes it extremely difficult to determine the number of EU vessels fishing under such agreements, where these vessels are fishing and for which species, in order to assess the impact on local fish stocks.

To obtain an overview of private agreements concluded between EU operators and third countries, access to information requests were submitted to all EU member states with vessels operating in non-EU waters. A review was also carried out of information on private agreements in the public domain. The analysis focused on agreements involving EU-flagged vessels concluded during the period 2010–2016.

Information obtained in response to the access to information requests and from public sources shows that certain parts of the EU tuna and pelagic fleet are engaged in private agreements. The review found that fishing vessels flagged to Spain and France are particularly active in non-EU waters under such agreements. While there is limited data on agreements for species other than tuna, the information available to this review indicates that the total number of EU vessels fishing under private agreements could be significant. In light of the potential extent of fishing activities under private agreements, the current lack of oversight is a matter of substantial concern and precludes the EU from meeting its obligations under the reformed CFP.

The revision of the external fishing fleet regulation presents a key opportunity to enhance standards for private and chartering agreements to ensure that they are sustainable, legal and in line with EU standards and laws. The future external fleet regulation should require private and chartering agreements to adhere to the same standards as SFPAs and require eligibility criteria to be applied to vessels requesting an authorisation to fish outside EU waters under such agreements. In particular, vessels should be required to prove that they have not been involved in illegal, unreported and unregulated (IUU) fishing, abusive reflagging or a serious infringement of EU fisheries law as a prerequisite for authorisation. As a matter of priority, key information should be made publicly available to improve transparency and accountability, and to facilitate oversight of fishing activities under these arrangements.



Introduction

The Environmental Justice Foundation (EJF), Oceana, The Pew Charitable Trusts and WWF are working together to secure the harmonised and effective implementation of the European Union's (EU) Regulation to end illegal, unreported and unregulated (IUU) fishing¹.

The EU has been active in fighting IUU fishing at a global level through its innovative and ambitious IUU Regulation, which came into force in 2010. It has also strengthened the standards applying to Union vessels operating both within and outside EU waters through the reform of the EU Common Fisheries Policy that entered into force in 2014² (CFP).

The legal framework governing the activities of the European external fishing fleet is a crucial part of the fight against IUU fishing and is currently being revised³. A robust new external fishing fleet regulation will bring it in line with the CFP and the EU's global policies to prevent, deter and eliminate IUU fishing, representing a major step forward in improving international fisheries governance⁴.

The revision also provides 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.

This briefing focuses on the need to enhance standards for private and chartering agreements concluded between EU operators for access to the waters of non-EU coastal States to ensure that they are sustainable, legal and in line with EU standards and laws.

Current standards for private and chartering agreements

EU vessels operate in the waters of non-EU coastal States under a number of types of arrangement:

- **Official EU access agreements** – termed (Sustainable) Fisheries Partnership Agreements or (S)FPAs⁵ – concluded between a non-EU coastal State and the EU, on behalf of its member states, which allow EU vessels⁶ to fish for surplus stocks in the coastal State's exclusive economic zone (EEZ)⁷.
- **Reciprocity agreements** – aimed at the joint management of shared stocks with Norway, Iceland and the Faroe Islands, under which EU vessels fish in Norwegian, Icelandic and Faroese waters and vice versa.
- **Private agreements** – also referred to as direct agreements – agreed between individual EU operators

(using their EU-flagged vessels) and the government of the non-EU coastal State for access to fisheries resources in the coastal State's EEZ. Due to the presence of an "exclusivity clause" in official EU access agreements (SFPAs), private agreements are only allowed where there is no (S)FPA in place.

- **Chartering agreements** – a type of private agreement under which EU-flagged vessels fish a share of the resources of a coastal State's EEZ in collaboration with local companies.
- **Regional Fisheries Management Organisation (RFMO) frameworks** – where a coastal State is a party to an RFMO, EU fishing activities may take place in the country's waters within the framework of that RFMO.

As part of the reform of the CFP, strict standards were established for SFPAs, for which the EU currently pays around EUR 145 million annually from public funds⁸. 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 stock⁹.

Furthermore, under the current legal framework, EU operators wishing to fish under SFPAs must comply with certain eligibility criteria in order to apply for a fishing authorisation from their EU flag State. This includes demonstrating a historical record of compliance with applicable rules (for example, no involvement in a serious infringement during the preceding 12-month period) and, in the case of renewal of an authorisation to fish under the SFPA, previous compliance with the conditions of that agreement¹⁰.

In contrast, private agreements established directly between a coastal State government and an EU operator are not subject to the same strict standards. Even though vessels fishing under these agreements fly the flags of EU member states – and their catches have the same EU market access as catches under SFPAs – there are no common procedures to ensure that activities under these agreements comply with EU laws and adhere to CFP standards. In addition, there is no mechanism within the current Regulation on the EU external fleet¹¹ to provide assurance to EU operators that their authorisations are valid (see **Box 1**).

A major gap that limits the effective oversight of vessels fishing under private agreements is the lack of requirements for details of these agreements to be reported to their EU flag State and the European Commission, or for key information to be made publicly available. Under the current Regulation, EU flag States whose vessels engage in external fishing activities through

private agreements are only required to “endeavour to obtain information” on any such arrangements and inform the European Commission of the names of the vessels concerned¹². There is no requirement to provide other relevant information, such as the target species, fishing area, period or gear, the details of data collection and/or reporting of catches. This makes it impossible for the EU flag State, the European Commission, non-EU countries with a fishing or management interest in the same stocks, or other stakeholders, to fully understand the activities carried out by these vessels and to ensure they are legal and sustainable.

Chartering agreements are commonly concluded where a coastal State lacks the means to exploit certain fishing rights or wishes to secure supplies to onshore processing facilities. In such cases, the coastal State may authorise its national operators to enter into agreements with EU companies for the leasing (chartering) of EU-flagged vessels. Such agreements generally concern the chartering of a vessel alone (a demise or bareboat charter), or both a vessel and its crew as a package (a time charter), with the vessel usually retaining its flag of origin¹³.

Chartering is a relatively common practice, subject to conditions and restrictions under certain RFMOs¹⁴, yet the chartering of EU-flagged vessels by operators outside of the EU is not covered by the current external fleet regulation – the 2008 Fishing Authorisation Regulation¹⁵. This lack of monitoring and control of EU vessels operating externally under chartering agreements has been identified as a significant loophole, potentially undermining the effectiveness of conservation and management measures, and having a negative impact on the sustainable exploitation of living marine resources¹⁶.

As is the case for other types of private agreement, there is limited information available on the chartering of EU-flagged vessels for fishing activities in third country waters. An example of such an arrangement was documented in a recent case of the European Court of Justice (ECJ), which concerned the interpretation of the exclusivity clause in the EU-Morocco (S)FPA¹⁷. The ECJ held that the chartering of two Swedish-flagged vessels by local companies to fish in



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Moroccan waters was contrary to the exclusivity clause in the (S)FPA, as any fishing activities carried out by EU-flagged vessels in Moroccan waters – even a bareboat charter fishing Moroccan quotas – had to be authorised by the EU flag State authorities within the framework of the (S)FPA.

Similar operations have been documented in Mozambique where, at least until 2012, Portuguese-flagged shrimp vessels operated under chartering agreements with national companies owning the fishing rights. Although the vessels were targeting species not covered by the EU-Mozambique (S)FPA, these activities appeared to be in contravention of the strict exclusivity clause of the agreement¹⁸.

The Recommendation on vessel chartering agreed by the International Commission for the Conservation of Atlantic Tunas (ICCAT) provides a useful model for how such arrangements can be regulated in practice. The Recommendation provides, in particular, that catches of chartered vessels are to be counted against the national quota of the chartering State and that vessels are only to be chartered under one such arrangement at a time. Information such as details of the vessel, vessel owner, species covered by the charter, and duration of the arrangement must also be reported by the chartering State to ICCAT.

BOX 1: Example of lack of transparency and risks associated with private agreements

In 2012, Spanish and French purse seine vessels had to be withdrawn from Liberian waters when it became clear that licences extended to them by a representative of the Liberian government were not valid. Orthongel, OPAGAC and ANABAC called back their vessels (around 30 in total) and settled with Liberia for late payment of fees, following their use of what turned out to be forged licences for amounts of up to USD 50,000–300,000 per vessel¹⁹.

This case reveals the lack of transparency associated with private agreements, the risks for EU operators, and the potential overfishing of local resources that may result from a lack of oversight. In response, the industry called for a system of “standardised contracts, for example, EU-wide”, that would be the same country to country²⁰.

Following this case, Spain established a system whereby licences issued to vessels under private agreements are to be subjected to control and validation through diplomatic channels. In addition, payments are to be made directly to the public treasury of the countries licensing the fishing activities²¹.

Scope of the issue – results of a review of EU vessels fishing under private agreements

As outlined in the previous section, there is limited information in the public domain on private agreements (including chartering agreements) concluded between EU operators and non-EU coastal States. This makes it extremely difficult to determine the number of EU vessels fishing under such agreements, where these vessels are fishing, and for which species, in order to assess the impact on local fish stocks.

To obtain an overview of private agreements concluded between EU operators and third countries, access to information requests were submitted to all EU member states with vessels operating in non-EU waters. The requests were submitted between May 2015 and September 2016, with a view to obtaining information specifically on the activities of EU operators under private and chartering agreements. An overview of the responses received to these requests is provided in **Table 1**.

The information obtained through the access to information requests was supplemented by information available in the public domain. Although limited, information on EU vessels fishing under private agreements is provided in *ex ante* evaluations of official EU access agreements (SFPA) – mainly agreements for tuna species. These *ex ante* evaluations serve to establish the fisheries management context against which any future EU agreement with the non-EU coastal State would be implemented. Several other studies have also published information on private agreements, obtained mainly through direct contact with competent authorities in the relevant non-EU coastal States. While these data are generally provided in aggregated form (e.g. number of vessels per EU flag State), they at least provide an indication of the extent of EU fishing activities under such agreements.

The analysis focused on data for the period 2010 to 2016. For this period, no public information was found on private agreements concerning European longliners or trawlers targeting pelagic or demersal species. However, some information on private agreements targeting such species was found in a 2008 study on the external fleet²², for example:

- a Spanish trawler targeting hake in Namibian waters in 2007 under a chartering agreement²³;
- Spanish, Italian and Portuguese vessels fishing in Angolan waters following revocation of the (S)FPA in 2004²⁴;

- eight Spanish shrimp vessels fishing in Gabonese waters in 2005²⁵; and
- two Maltese trawlers fishing in New Zealand under chartering agreements²⁶.

Annex 1 presents the information provided by member states in response to the access to information requests detailed above. **Annex 2** presents the results of the review of publicly available information on private agreements. This review is not intended to be exhaustive, but aims to highlight the extent of these activities.

The data presented in **Annexes 1 and 2** mainly concern private agreements concluded by certain parts of the EU tuna and pelagic fleet. As such, the total number of EU vessels fishing under private agreements – i.e. including vessels fishing for species other than tuna - could be significant. In light of the potential extent of fishing activities under such agreements, the complete lack of oversight under the current legal framework is a matter of substantial concern and precludes the EU from meeting its obligations under the reformed CFP.

The information in **Annex 2** suggests that Spain and France are the member states that engage most often in private agreements. However, the gap in information on agreements concerning other (non-tuna) species prevents us from drawing any further conclusions.

Table 1: Member state responses to formal requests for information on private agreements (submitted between May 2015 and September 2016 to member states with a fleet operating in non-EU waters)

Access to information request on private agreements	Member state
Reply that there are private agreements	Estonia, Lithuania, Spain (see Annex 1)
Reply that there are no private agreements	Belgium, Bulgaria, Cyprus, Denmark, Germany, Ireland, Latvia, Poland, Slovakia, UK
Reply that they are unwilling to provide information on private agreements	Netherlands (reason of privacy)
No reply received	Croatia, Finland, France, Greece, Italy, Malta, Portugal, Romania
No reply received but public information available on private agreements	France (see Annex 2)

Bringing private agreements out of the shadows

A call for increased transparency and standards for private agreements was made in a December 2015 resolution of the Long Distance Advisory Council (LDAC), a consultative body formed of the European fishing and processing industry, organisations of fisheries workers, and development and environment NGOs²⁷. Resolutions of the European Parliament in 2012 and 2016 also called for information on private agreements to be included in a public database, including the identity of the vessels and associated fishing activities²⁸.

The legal framework that sets standards for obtaining authorisations for EU vessels to fish in external waters is currently being revised. The Commission's proposal for a regulation on the sustainable management of external fishing fleets (EC 2015/0636) was published in December 2015 and will replace the current Fishing Authorisation Regulation (Council Regulation (EC) No 1006/2008²⁹).

The revision of the external fishing fleet regulation presents a key opportunity to enhance standards for private and chartering agreements to ensure that they are sustainable, legal and in line with EU standards and laws. As a matter of priority, key information should be made publicly available to improve transparency and accountability, and to facilitate oversight of fishing activities under these arrangements.

We therefore recommend that the future external fleet regulation:

- Requires private and chartering agreements to adhere to the same standards as SFPAs. This includes ensuring that activities planned under the agreements are legal, sustainable and transparent and comply with EU fisheries, environmental and labour laws.
- Requires eligibility criteria to be applied to vessels requesting an authorisation to fish outside EU waters under private and chartering agreements. In particular, vessels should be required to prove that they have not been involved in IUU fishing, abusive reflagging or a serious infringement of EU fisheries law as a prerequisite for authorisation. IMO numbers should also be provided to facilitate the tracking of vessel activity and monitoring of compliance with applicable laws.
- Makes key information on private and chartering agreements publicly available via a register of external fishing authorisations. This should include, as a minimum, information on the vessel (name, flag), the type of authorisation, and the authorised time and zone of fishing activity. The creation of such a register, including these elements, is included in the proposal published by the European Commission in December 2015. In addition to the elements outlined in the proposal, we recommend that the public register also includes:
 - o details of catches and target fisheries to further improve fisheries management both within and outside the EU;
 - o vessel IMO numbers³⁰ to facilitate the tracking of vessel activity and monitoring of compliance with applicable laws; and
 - o information on the beneficial ownership of EU vessels fishing externally to strengthen accountability and assist in the detection of linkages to IUU fishing³¹.



ANNEX 1 Information on private agreements provided by member states in response to an access to information request

Member state	Year(s)	Non-EU country	Number of vessels	Target fishery	Details
Estonia	2011	Canada	1 (Taurus)	Shrimp (<i>Pandalus borealis</i> and <i>Pandalus montagui</i>)	Fishing under Canadian licences in SFA1, SFA2 and SFA3 (inside the Nunavut Settlement Area), corresponding to NAFO areas 0A and 0B. ^a
Lithuania	2015	Angola	1	Pelagic species	According to the response of the Lithuanian ministry, Lithuanian vessels started fishing under private agreements in 2010, with authorisations issued for one year. ^b
Lithuania	2010–2013	Guinea (Conakry)	1	Pelagic species	
Lithuania	2011–2012	Senegal	4	Pelagic species	
Spain	Permission currently being sought regarding use of the information provided.				

^a For a copy of government reply see WhoFishesFar.org

^b *Idem*.

ANNEX 2 Public information on EU fishing activities under private agreements with non-EU coastal States

Non-EU country & (S)FPA status	Year(s)	Member state	Number/type of vessels	Target fishery	Details	Source
Vessels flagged to an EU member state						
Guinea No (S)FPA in place	Not provided	France	Purse seine vessels	Tuna	Agreement signed by ORTHONGEL for access to tuna resources	COFREPECHE <i>et al.</i> (2013) ^j
Kenya No (S)FPA in place	2013	France	8 purse seine vessels	Tuna	Annual fee of EUR 22,730 per vessel	POSEIDON <i>et al.</i> (2014) ⁱⁱ
	2013	Spain	14 purse seine vessels	Tuna	Annual fee of EUR 22,730 per vessel	POSEIDON <i>et al.</i> (2014) ⁱⁱ
Liberia (S)FPA: 2015–2020	2011	France	Not known	Tuna	Catches by French vessels in the EEZ of Liberia under private agreements, noted in the 2012 ex post evaluation of the protocol to the EU-Cote d'Ivoire (S)FPA. Prior to conclusion of EU-Liberia (S)FPA in 2015.	COFREPECHE <i>et al.</i> (2012) ⁱⁱⁱ
Madagascar (S)FPA: 2007–2012 2013–2018	Not specified	France, Spain	Not specified	Highly migratory species	Eight agreements with individual companies and associations, including those from France/Réunion and Spain (also Seychelles and Japan). Agreements typically run for three years.	POSEIDON <i>et al.</i> (2014) ^{iv}
Mauritius (S)FPA: 2012–2017	2010	France, Spain	23 purse seine vessels	Tuna		Oceanic Développement and MegaPesca Lda (2011) ^v
	2013	Not specified	Not specified	Highly migratory species	EU vessels fishing under private authorisations while no EU (S)FPA protocol in force.	POSEIDON <i>et al.</i> (2014) ^{iv}
	2014	France	1 purse seine vessel	Tuna	In 2014, before the start of the new (S)FPA protocol, French and Spanish purse seiners were operating under private agreements.	COFREPECHE <i>et al.</i> (2015) ^{vi}
	2014	Spain	9 purse seine vessels			
Nauru No (S)FPA in place	2010	Spain	Purse seine vessels	Tuna	Private agreement agreed for Spanish-flagged purse seine vessels in 2010 but not renewed in 2011.	POSEIDON <i>et al.</i> (2013) ^{vii}

Non-EU country & (S)FPA status	Year(s)	Member state	Number/type of vessels	Target fishery	Details	Source
Senegal (S)FPA: 2014–2019* *Previous protocol 2002–2006	2013	France	1 pole & line vessel	Tuna	Agreement concluded between European ship owners based in Dakar and the Senegalese government for access to fisheries to supply Senegalese tuna industries (canneries and other processors). Following non-renewal of protocol under EU-Senegal (S)FPA in 2006.	COFREPECHE et al. (2013) ^{viii}
	2013	Spain	7 pole & line vessels	Tuna		COFREPECHE et al. (2013) ^{viii}
Sierra Leone No (S)FPA in place	2011	France	Not known	Tuna	Catches by French vessels in the EEZ of Sierra Leone under private agreements, noted in the 2012 ex post evaluation of the protocol to the EU-Cote d'Ivoire (S)FPA.	COFREPECHE et al. (2012) ⁱⁱⁱ
Tanzania No (S)FPA in place	2013	Spain	14 purse seine authorisations	Tuna	EU-flagged purse seine vessels provided with fishing authorisations under private agreements with ANABAC and OPAGAC.	NFDS et al. (2014) ^{ix}
	2013	France	2 purse seine authorisations	Tuna	French vessels provided with fishing authorisations under private agreements pending signature of an agreement with ORTHONGEL.	NFDS et al. (2014) ^{ix}
Tokelau No (S)FPA in place	2011–?	Spain	4 purse seine vessels	Tuna	Private agreement in place for Spanish-flagged purse seine vessels owned by OPAGAC members since 2011. <i>Note: These are the same four vessels that operate under the Kiribati (S)FPA:</i> <ul style="list-style-type: none"> • ALBATUN TRES (CFR ESP000026123) • ROSITA C (CFR ESP000024775) • ALBACORA UNO (CFR ESP000023164) • AURORA B (ESP000023885).^{xii} 	POSEIDON et al. (2013) ^{vii} Oceanic Développement and MegaPesca Lda (2014) ^x POSEIDON et al. (2012) ^{xi}
Tuvalu No (S)FPA in place	2009–2012	Spain	4 purse seine vessels	Tuna	Private agreement in place for Spanish-flagged purse seine vessels owned by OPAGAC between 2009 to mid-2012. <i>Note: These are the same four vessels that operate under the Kiribati (S)FPA.</i> <ul style="list-style-type: none"> • ALBATUN TRES (CFR ESP000026123) • ROSITA C (CFR ESP000024775) • ALBACORA UNO (CFR ESP000023164) • AURORA B (ESP000023885).^{xii} 	POSEIDON et al. (2013) ^{vii} Oceanic Développement and MegaPesca Lda (2014) ^x POSEIDON et al. (2012) ^{xi}

Notes

ⁱ COFREPECHE, POSEIDON, MRAG et NFDS (2013). *Revue des pêcheries thonières dans l'océan Atlantique Est*. Contrat cadre MARE/2011/01 – Lot 3, contrat spécifique n° 5). Bruxelles, 123 pp.

ⁱⁱ POSEIDON, MRAG, COFREPECHE and NFDS (2014). *Ex ante evaluation of a possible future fisheries partnership agreement and protocol between the European Union and Kenya*. Framework contract MARE/2011/01 – Lot 3, specific contract n° 7. Brussels, 91 pp.

ⁱⁱⁱ COFREPECHE, POSEIDON, MRAG et NFDS (2012). *Évaluation ex-post du protocole de l'accord de partenariat dans le domaine de la pêche entre l'Union européenne et la Côte-d'Ivoire*. Contrat cadre MARE/2011/01 – Lot 3, contrat spécifique n° 2. Bruxelles, 144 pp.

^{iv} POSEIDON, MRAG, NFDS and COFREPECHE (2014). *Review of tuna fisheries in the western Indian Ocean*. Framework contract MARE/2011/01 – Lot 3, specific contract n° 7. Brussels, 165 pp.

^v Oceanic Développement and MegaPesca Lda (2011). *Ex ante evaluation of existing conditions in the fisheries sector in Mauritius with a view to concluding a new fisheries partnership agreement and protocol*. Framework contract FISH/2006/20 – CONVENTION SPÉCIFIQUE N°34.

^{vi} COFREPECHE, NFDS, MRAG and POSEIDON (2015). *Ex post and ex ante evaluation of the protocol to the Fisheries Partnership Agreement between the EU and the Republic of Mauritius*. Framework contract MARE/2011/01 – Lot 3, specific contract n° 16. Brussels, 141 pp.

^{vii} POSEIDON, MRAG, COFREPECHE and NFDS (2013). *Review of tuna fisheries in the Pacific Ocean*. Framework contract MARE/2011/01 – Lot 3, specific contract n° 6. Brussels, 118 pp.

^{viii} COFREPECHE, NFDS, POSEIDON et MRAG (2013). *Évaluation prospective de l'opportunité d'un accord de partenariat dans le secteur de la pêche entre l'Union européenne et la République du Sénégal*. Sous le Contrat cadre MARE/2011/01 – Lot 3, contrat spécifique n° 5. Bruxelles, 115 pp.

^{ix} NFDS, POSEIDON, COFREPECHE and MRAG (2014). *Ex ante evaluation of a possible future fisheries partnership agreement and protocol between the European Union and the United Republic of Tanzania*. Framework contract MARE/2011/01 – Lot 3, specific contract n° 7. Brussels, 108 pp.

^x Oceanic Développement and MegaPesca Lda (2014). *Ex post and ex ante evaluations of the protocol to the Fisheries Partnership Agreement between the EU and Kiribati*. Framework Contract FISH 2011/01 – Lot 3, specific contract n°12.

^{xi} POSEIDON, MRAG, COFREPECHE and NFDS (2012). *Ex post evaluation of the current Protocol to the Fisheries Partnership Agreement between the European Union and Republic of Kiribati, and ex ante evaluation including an analysis of the impact of the future Protocol on sustainability*. Framework contract MARE/2011/01 – Lot 3, specific contract n° 01. Final report: final version, May 2012. Bruxelles, 138 pp.

^{xii} <http://www.WhoFishesFar.org>; Oceanic Développement and MegaPesca Lda (2014). *Ex post and ex ante evaluations of the protocol to the Fisheries Partnership Agreement between the EU and Kiribati*. Framework Contract FISH 2011/01 – Lot 3, specific contract n°12.

References

- ¹ Council Regulation (EC) No. 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.
- ² Regulation (EU) No. 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy.
- ³ The legal framework that sets standards for obtaining such authorisations is now being revised. The European Commission's (EC) proposal for a regulation on the sustainable management of external fishing fleets (2015/636) was published in December 2015 and will replace the current Fishing Authorisation Regulation (Council Regulation (EC) No. 1006/2008).
- ⁴ See Sustainable Development Goal 14 of the United Nations, which refers to effectively regulating harvesting and ending overfishing, IUU fishing and destructive fishing practices by 2020: <http://www.un.org/sustainabledevelopment/oceans/>
- ⁵ Since the reform of the Common Fisheries Policy (EU) No. 1380/2013 what were previously called Fisheries Partnership Agreements or FPAs became Sustainable Fisheries Partnership Agreements or SFPAs.
- ⁶ For more information: http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm
- ⁷ Access rights are gained in exchange for a financial contribution.
- ⁸ For more information: http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm
- ⁹ Regulation (EU) No. 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy.
- ¹⁰ Art. 5(1), Council Regulation (EC) No. 1006/2008.
- ¹¹ Fishing Authorisation Regulation (Council Regulation (EC) No. 1006/2008).
- ¹² Art. 11(2), Council Regulation (EC) No. 1006/2008.
- ¹³ European Parliamentary Research Service (EPRS) (2015). *Beyond the European seas. The external dimension of the Common Fisheries Policy*. In-depth analysis. November 2015.
- ¹⁴ Recommendation 2013–14 by ICCAT on vessel chartering: <http://www.iccat.int/Documents/Recs/compendiopdf-e/2013-14-e.pdf>
- ¹⁵ Council Regulation (EC) No. 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters.
- ¹⁶ European Commission (EC) proposal for a regulation on the sustainable management of external fishing fleets (2015/636) published in December 2015. This will replace the current Fishing Authorisation Regulation (Council Regulation (EC) No. 1006/2008).
- ¹⁷ Judgement of the ECJ of 9 October 2014 in Case C-565/13.
- ¹⁸ Panossian, A. (2015) *Sustainable Fisheries Partnerships Agreements: A necessary harmonization of the scope and interpretation of the exclusivity clause*, Coalition for Fair Fisheries Arrangements (CFFA), January 2015; and Oceanic Développement and MegaPesca Lda (2014). *Ex post and ex ante evaluations of the protocol to the Fisheries Partnership Agreement between the EU and the Republic of Mozambique*.
- ¹⁹ Tallaksen, E. (2013). Tuna groups could ink private deal with Liberia. Undercurrent News, 6 June 2013: <http://www.undercurrentnews.com/2013/06/06/tuna-groups-could-ink-private-deal-with-liberia/>
- ²⁰ *Ibid.*
- ²¹ Murias, A. (2014). Third country flagged tuna vessels to abide European controls. *FIS.com*, 30 April 2014: <http://www.fis.com/fis/worldnews/worldnews.asp?l=e&country=0&special=&monthyear=&day=&id=68255&ndb=1&df=0>
- ²² Oceanic Développement (2008). *Étude sur la Flotte Externe de L'Union Européenne*. Final Report, January 2008.
- ²³ *Idem*. p. 43
- ²⁴ *Ibid.*
- ²⁵ *Ibid.*
- ²⁶ *Idem*. p. 50.
- ²⁷ Recommendations of the LDAC Conference on the External Dimension of the Common Fisheries Policy, Las Palmas de Gran Canaria, 16–17 September 2015.
- ²⁸ European Parliament resolution of 22 November 2012 on the external dimension of the Common Fisheries Policy (2011/2318(INI)) and European Parliament draft resolution of 12 April 2016 on common rules in respect of application of the external dimension of the CFP, including fisheries agreements (2015/2091(INI)).
- ²⁹ Council Regulation (EC) No. 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters.
- ³⁰ The IMO number is a global unique vessel identification system set up by the International Maritime Organization and administered by IHS Maritime and Trade. The IMO number is a permanent seven-digit number that stays with a vessel from construction through to disposal, regardless of any changes in the vessel's flag or where it operates. IMO numbers are recognised as the most reliable and effective way of tracking a vessel's history and monitoring compliance with applicable laws, yet are currently not required for vessels requesting an external fishing authorisation. Our recommendations for mandatory IMO numbers are set out here: http://www.whofishesfar.org/files/Case_Studies/Case_Study_FAR_ENG.pdf
- ³¹ According to Article 18 of the International Plan of Action to Prevent, Deter and Eliminate IUU fishing (IPOA-IUU), States should, to the greatest extent possible, take measures or cooperate to ensure that nationals subject to their jurisdiction do not support or engage in IUU fishing. In this regard, they should cooperate to identify those nationals who are the operators or beneficial owners of vessels involved in IUU fishing. <http://www.fao.org/docrep/003/y1224e/y1224e00.htm>

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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