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EU Common Fisheries Policy External Dimension: Improving sustainability through an ambitious revision of the Fishing Authorisation Regulation

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When the new Common Fisheries Policy (CFP)¹ entered into force on January 1st 2014², NGOs which had been calling for fair and sustainable fisheries relations between the EU and developing countries, welcomed it. Indeed, for the first time, there was a chapter in the CFP devoted to the ‘external dimension’, defining how the EU was to ensure that EU vessels operating outside EU waters would operate more sustainably, and would not, in developing countries, compete with local fishing communities.

At the heart of this new ‘External dimension policy’, is a key principle: EU vessels fishing outside EU waters should operate with the same standards of sustainability as when fishing in EU waters. To achieve that, the new CFP provides that EU vessels fishing under Sustainable Fisheries Partnership Agreements (SFPAs) should only have access to the surplus of resources that cannot be caught locally³. This was welcomed by African artisanal fishing communities, nowadays united in the ‘African Confederation of Artisanal Professional Fishing organisations’ (CAOPA). Mr Sid’Ahmed Abeid, President of the CAOPA, stressed: “*All that can be fished by the artisanal fishermen should be left for them*”.

Another key aspect was the commitment to promote more transparency in fisheries. EU fishing agreements texts, as well as the ex ante/ex post evaluations⁴ of fishing agreements, are public documents. But the same is not true for access agreements signed by coastal countries with other major fishing nations, such as Russia, China, or Korea. If there is no transparency about how much fish these fleets of foreign origin catch in a developing country’s EEZ, it will be impossible to know whether there is a surplus of resources. The CFP external policy therefore requires the EU to have transparency about the overall fishing effort in a third country’s EEZ before entering into SFPA negotiations with that country.

¹ Regulation 1380/2013 on the Common Fisheries Policy

² DG Mare presentation of the CFP http://ec.europa.eu/fisheries/reform/index_en.htm

³ The implementation of the surplus principle however raises a series of issues <http://cape-cffa.squareSPACE.com/new-blog/2015/5/11/no-surplus-no-fishing>

⁴ These evaluations were made public in 2012, following an NGO campaign <http://cape-cffa.squareSPACE.com/new-blog/2012/6/11/ec-will-publish-fpa-evaluations>

The implementation of the New CFP External Dimension Policy

Since January 2014, there have definitely been improvements registered in SFPAs, especially in terms of restricting access to the surplus⁵. However, tide still needs to turn as regards vessels fishing outside the framework of SFPAs.

Indeed, SFPAs only provide a partial glimpse of the EU external fleet operations in developing countries. The EU external fleet counts around 700 vessels⁶, but only 245 vessels fished under SFPAs in 2014⁷. Several hundreds of EU vessels operate outside SFPAs, negotiating private agreements with third countries (this is only allowed when there is no SFPA between the EU and the particular country in place), or setting up chartering arrangements for their vessels with local businesses.

Unfortunately, there is currently no way to have information about these arrangements, as the NGO Oceana pointed out on their website ‘Who fishes far’⁸: currently, ‘EU member states whose vessels engage in fishing activities in non-EU country waters through private or chartering agreements must only inform the European Commission of the names of the vessels concerned. There is no requirement to provide other relevant information, such as the target species, fishing area, period or gear, or for this information to be made publically available’. This makes it impossible to ensure these vessels do indeed follow sustainability principles.

This may change in the next months with a review of the so-called ‘Fishing Authorisation Regulation’ (FAR)⁹. This regulation will stipulate ‘eligibility criteria’, - designed to ensure transparency and sustainability- , that any EU vessel wanting to operate in external waters will have to fulfill to obtain a fishing authorisation from the EU Member State in which it is registered.

The proposal for a future FAR Regulation is currently being examined by the European Parliament and the Council. However, the oldest EU institution, the European Economic and Social Committee (EESC), has already given its opinion¹⁰ on the matter. The EESC considers it necessary to review the existing regulation to promote simplification, increase transparency, improve governance, and ensure EU fishing operations sustainability. In particular, the EESC wants the European Commission to verify the validity of the authorisations given by the Member State, checking whether the eligibility criteria have been duly applied.

⁵ With the most notable exception of Guinea Bissau. End of 2014, the EU renewed, without any further negotiations, its fishing agreement protocol with Guinea-Bissau, on the basis of a text negotiated in 2012. Based on fisheries data that were used to negotiate the 2012 text, this new protocol does not take into account the fact that since 2012, more Asian vessels have started to fish in the waters of Guinea-Bissau. Greenpeace also revealed in 2015 that vessels of Chinese origin fishing in Guinea-Bissau have systematically and largely under-reported their tonnage, and therefore their fishing capacity. These various elements suggest that this protocol does not ensure EU vessels only access the surplus of resources that cannot be caught locally, based on the best available scientific data, as required by the new CFP.

⁶ There is no recent accurate estimate of how many vessels are in the EU external fleet. A 2008 study mentioned 718 vessels http://ec.europa.eu/fisheries/documentation/studies/study_external_fleet/external_fleet_2008_summary_en.pdf, whilst the latest available Annual Economic Report on the EU Fishing Fleet, Scientific, Technical and Economic Committee for Fisheries (STECF 2015) highlighted that ‘Less than 1% of the European fishing fleet, - 85.000 vessels-, represents the distant-water fishing fleet (DWF)’ https://stecf.jrc.ec.europa.eu/documents/43805/1034590/2015-07_STECF+15-07+-+AER+2015_JRCxxx.pdf

⁷ Presentation DG Mare http://www.combat.org/fr/files/actualites/doc_actualite_1128.pdf

⁸ <http://www.whofishesfar.org/agreements>

⁹ http://eur-lex.europa.eu/resource.html?uri=cellar:3c2190d3-9f2f-11e5-8781-01aa75ed71a1.0021.02/DOC_1&format=PDF

¹⁰ <https://webapi.eesc.europa.eu/documents/anonymous/EESC-2015-04398-00-00-AC-TRA-en.docx>

Why the European Commission should verify what Member States do - The case of Italy

Nowadays, Italy is officially a very modest player of the EU external fleet, with limited activities mainly in Guinea Bissau. Some years ago, there were more Italian vessels active in West Africa, including the six trawlers of the company Ittipesca based in Mazara del Vallo¹¹. All were ‘exported’ and reflagged to the Republic of Guinea, changing their names to ‘Ittiguinee’¹², the last one in 2005. That year, Ittiguinee II (formerly Ittipesca Quinto) was arrested by the dilapidated Guinean fishing patrol boat, for fishing without a license¹³. Some years before, another of the same company Ittiguinee was already arrested in Guinea for the same reason. At the time of arrest, these vessels had an Italian captain, and their catches were exported to the EU¹⁴. Today, the company Ittiguinee is still registered in the headquarters of Ittipesca, in Sicily, in Mazara del Vallo.

Equatorial Guinea is also attracting Sicilian fishing interests. In 2014, Giovanni Tumbiolo, the president of the fishing district of Mazzara del Vallo signed a cooperation protocol with Equatorial Guinea Fisheries Minister, to ‘develop Equatorial Guinea fishing sector’. This could include, as has often been the case in the past, the arrival of a certain number of vessels from Sicily to fish locally, although very little is known about the state of the fish resources in Equatorial Guinea. Something particularly disturbing in this case is the fact that, according to OXFAM, Giovanni Tumbiolo was arrested, end of the 90’s, for drug trafficking. He was at the time director of a company, the *Cameroon Lonestar Fishing company*, identified by Interpol as being a façade for narco-traffic¹⁵.

A more recent equally worrying development is the case of several Italian flagged trawlers operating in West Africa outside the scope of a fishing agreement¹⁶. The Italian flagged trawler *Idra Q*, also from Mazzara del Vallo, was arrested in The Gambia in 2015 for fishing with the wrong fishing gear¹⁷. This vessel had been previously fishing under the EU-Guinea Bissau fishing agreement during the period 2007-2011. During the same period, two other Italian trawlers were fishing under that agreement: the *Pegaso Q* et the *Orione Q* (from Palermo). These two trawlers subsequently ‘disappeared’ from the agreement, but a simple search on ‘Marine Traffic’ showed them, still flying an Italian flag, in the region of Dakar in September 2016.

¹¹ ITTIPESCA UNO, ITTIPESCA QUARTO, ITTIPESCA QUINTO, ITTIPESCA SECONDO, ITTIPESCA SESTO, ITTIPESCA TERZO

¹² The company is still registered in Italy http://www.world-ships.com/company/cd1bcd5ce959fe82f4996a58fd7c4c9f#.V77rG_mLTIU

¹³ Party to the Plunder report, EJF in partnership with CFFA, 2006
<http://ejfoundation.org/sites/default/files/public/party%20to%20the%20plunder.pdf>

¹⁴ The constitution of joint ventures where the new flag state is a developing state poorly equipped to monitor the vessel transferred, - a practice much used by China, Korea, and some EU Member States-, often encourages unsustainable levels of fishing and sometimes illegal practices. This shows the need for the EU to promote a framework for joint ventures with vessels of EU origin that will ensure the sustainability of their operations.

¹⁵ See article <http://www.france-guinee-equatoriale.org/un-homme-daffaire-sicilien-pret-a-doper-le-secteur-de-la-peche-en-guinee-equatoriale/>

¹⁶ Currently, there are only three Italian boats fishing under a bilateral fishing agreement: the tuna vessel *Torre Giulia* (In the Indian Ocean), the trawlers *Myra Q* and the *Salvatore Primo* (in Guinea Bissau)

¹⁷ See article http://www.repubblica.it/esteri/2015/03/09/news/gambia_liberato_pescatore_italiano-109150676/?refresh_ce. The simple fact that an Italian vessel was fishing there contravenes the new CFP rules. Indeed, The Gambia has what is called a ‘dormant’ agreement with the EU – it has a framework agreement, but no protocol in force. According to the ‘exclusivity clause’, where a fishing agreement framework exist, EU vessels can only fish in the framework of such agreement

Given that a bilateral agreement framework now exists with most countries of the area (Morocco, Mauritania, Senegal, The Gambia, - although it has no protocol in force-, Guinea Bissau), these Italian flagged vessels that are not covered by any of these agreements, shouldn't be fishing there. Indeed, according to the 'exclusivity clause', when a fishing agreement framework exists, EU vessels can only operate in a third country's EEZ if they are doing it under the framework of this agreement.

These examples show that some EU countries tend to turn a blind eye to what their vessels are doing once they fish outside EU waters, thereby failing to fulfill their responsibilities as flag State under international law. Italy has consistently delivered fishing authorisations for all these vessels to fish in West Africa regardless of the fact that they shouldn't be fishing there or that they were involved, like the *Idra Q*, in illegal fishing.

This shows that if the EU is to ensure, through its Fishing Authorisation Regulation, that all its fishing vessels fishing outside EU waters respect "the same principles and standards as those applicable under Union law in the area of the CFP"¹⁸, the European Commission has to play a key role to verify that all EU member states apply sustainability criteria rigorously before allowing their vessels to fish in third countries waters.

¹⁸ Article 28.2 (d) of Regulation 1380/2013 on the Common Fisheries Policy