



2.9.2016

# **OPINION**

of the Committee on Development

for the Committee on Fisheries

on the 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  
(COM(2015)0636 – C8-0393/2015 – 2015/0289(COD))

Rapporteur: Maria Heubuch

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## SHORT JUSTIFICATION

The proposal from the Commission is a revision of a regulation dating from 2008 that stipulates the provisions for issuing authorisations to fish outside the waters of the EU, as well as for non-EU vessels fishing in EU waters. It constitutes one of the three pillars of the control regime for the Common Fisheries Policy (CFP), the others being the control regulation and the EU Regulation to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU regulation). Since the reform of the CFP in 2013 included, for the first time, explicit provisions on the external dimension of the CFP, the regulation needs to be revised. The international legal structure has also evolved with new international developments such as the FAO Guidelines on Flag State Responsibilities and an Advisory Opinion from the International Tribunal of the Law of the Sea (ITLOS) which should be incorporated.

The existing regulation only covers fishing authorisations for a limited portion of the EU vessels fishing outside EU waters - those fishing under Sustainable Fisheries Partnership Agreements (SFPA) or in fisheries that are regulated by Regional Fisheries Management Organizations (RFMO). Other distant water fishing by EU vessels, such as under private agreements between EU ship-owners and other third countries was not covered, except for a plea that Member States collect whatever information they could. Nor were there rules concerning EU-flagged vessels chartered by an operator in another country.

The reformed CFP specifies that the EU shall:

“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 <sup>1</sup>”

It is thus appropriate that the Commission include provisions governing the issuing of authorisations for all types of fishing outside the EU.

Among the very positive improvements that the Commission is proposing:

- all types of activities by EU vessels outside EU waters with similar conditions and rules are included;
- fishing vessels must fulfil specific eligibility criteria conditions in order to receive a fishing authorisation, including no recent sanction for serious infringements by the vessel and the sustainability of the proposed activities;
- the flag Member State must explicitly verify the information sent by the vessel owner;
- ship-owners of vessels proposing to fish in third country waters outside the scope of an SFPA (direct authorisation) must provide a scientific evaluation conducted by the third country or RFMO (as appropriate) that demonstrates that the planned activities are sustainable;
- limitations are imposed on the chartering of vessels flying an EU flag by non-EU

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<sup>1</sup> Article 28.2(d)

operators;

- a publicly accessible database would be set up that lists the name and flag of every vessel receiving an authorisation as well as certain details of the activities allowed.

The establishment of common criteria that must be met by all vessels fishing outside the EU is extremely important and should bring consistency to the management of the distant water fleet. These vessels are, in a sense, ambassadors of the EU. Since the Advisory Opinion from ITLOS confirmed that the EU has sole competence for the external fleet, it is only correct that these vessels should meet certain minimum conditions with respect to sustainability and respect for the rules.

The EU has long been among the most transparent of fishing entities with respect to its bilateral agreements, as each one is on the web with details of the cost, the fisheries allowed, the conditions, etc. A public database will allow a certain level of public scrutiny over the vessels which will help ensure that they meet the criteria that are required.

The Commission's proposal is thus very much to be welcomed and deserves to be supported. There are certain procedural issues that are inconsistent or less than clear but overall it is a much-needed and excellent initiative.

A few amendments are nonetheless needed to clarify or improve elements of the text.

While the text refers to the principle of Policy Coherence for Development, and will surely contribute towards its achievement, it does not yet refer explicitly to the Sustainable Development Goals, in particular SDG 14 "Conserve and sustainably use the oceans, seas and marine resources" and SDG 12: Ensure sustainable consumption and production patterns, which has a target on the reduction of food losses along production and supply chains.

Among certain vessels there is a practice of fishing part of the year under an EU SFPA and then reflagging to a third country to fish outside the EU agreement, sometimes in the same waters as the EU agreement. This leads to unfair competition and additional fishing pressure beyond what may be sustainable. The proposal attempts to reduce this practice but more needs to be done.

The reform of the CFP brought in the concept of "surplus" stocks, meaning the fish that can be caught sustainably but that the coastal State is not catching, possibly because they lack the fishing capacity to do so. This concept is key to ensure that distant water fleets do not exploit resources that should be allocated in priority to local fishing communities, fishermen and women engaged in processing whose livelihood depends on it and therefore needs to be introduced into the regulation. It is through sustainable fishing by local fishing communities that the third country can best fulfil its obligations for development, food security and improving the status of women in the sector.

## **AMENDMENTS**

The Committee on Development calls on the Committee on Fisheries, as the committee responsible, to take into account the following amendments:

**Proposal for a regulation**

**Recital 2**

*Text proposed by the Commission*

(2) The Union is a contracting party to the United Nations Conventions on the Law of the Sea of 10 December 1982 (UNCLOS)<sup>16</sup> and has ratified the 1995 United Nations Agreement on the Implementation of the provisions of the United Nations Convention on the Law of the Sea relating to the conservation and management of straddling fish stocks and highly migratory fish stocks of 4 August 1995 (UN Fish Stock Agreement)<sup>17</sup>. These international provisions set out the principle that all states have to adopt appropriate measures to ensure the sustainable management of marine resources and to cooperate with each other to this end.

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<sup>16</sup> Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

<sup>17</sup> Council Decision 98/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing of the provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 14).

**Amendment 2**

**Proposal for a regulation**

**Recital 4 a (new)**

*Amendment*

(2) The Union is a contracting party to the United Nations Conventions on the Law of the Sea of 10 December 1982 (UNCLOS)<sup>16</sup> and has ratified the 1995 United Nations Agreement on the Implementation of the provisions of the United Nations Convention on the Law of the Sea relating to the conservation and management of straddling fish stocks and highly migratory fish stocks of 4 August 1995 (UN Fish Stock Agreement)<sup>17</sup>. These international provisions set out the principle that all states have to adopt appropriate measures to ensure the sustainable management *and conservation* of marine resources and to cooperate with each other to this end.

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<sup>16</sup> Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

<sup>17</sup> Council Decision 98/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing of the provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 14).

*Text proposed by the Commission*

*Amendment*

***(4a) In 2014, all members of the FAO, including the Union and its developing country partners, unanimously adopted the Voluntary Guidelines on Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication, including point 5.7 thereof, which highlights that small-scale fisheries should be given due consideration before agreements on resource access are entered into with third countries and third parties.***

### **Amendment 3**

#### **Proposal for a regulation Recital 4 b (new)**

*Text proposed by the Commission*

*Amendment*

***(4b) The FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication call for the adoption of measures for the long-term conservation and sustainable use of fisheries resources and for the securing of the ecological foundation for food production, underlining the importance of environmental standards for fishing activities outside Union waters that include an ecosystem-based approach to fisheries management together with the precautionary approach, so as to rebuild and maintain exploited stocks above levels that can produce the maximum yield by 2015 wherever possible, and by 2020 at the latest for all stocks.***

### **Amendment 4**

#### **Proposal for a regulation Recital 5**

(5) The issue of the obligations and concomitant responsibilities and liabilities of the flag State and, where appropriate, the flag international organisation, for the conservation and management of the living resources of the high seas under UNCLOS has increasingly come into focus at international level. This has also been the case, under the heading of a due diligence obligation flowing from UNCLOS, for concurrent coastal State jurisdiction and flag State jurisdiction and, as appropriate, flag international organisation jurisdiction, to secure sound conservation of marine biological resources within sea areas under national jurisdiction. A due diligence obligation is an obligation for a State to exercise best possible efforts and to do the utmost to prevent illegal fishing, which includes the obligation to adopt the necessary administrative and enforcement measures to ensure that fishing vessels flying its flag, its nationals, or fishing vessels engaged in its waters are not involved in activities which breach the applicable conservation and management measures. For these reasons, it is important to organise both the activities of Union fishing vessels outside Union waters as well as the governance system pertaining thereto in such a manner that the Union's international obligations can be efficiently and effectively discharged and that situations where the Union might be reproached for internationally wrongful acts are avoided.

(5) The issue of the obligations and concomitant responsibilities and liabilities of the flag State and, where appropriate, the flag international organisation, for the conservation and management of the living resources of the high seas under UNCLOS has increasingly come into focus at international level. This has also been the case, under the heading of a due diligence obligation flowing from UNCLOS, for concurrent coastal State jurisdiction and flag State jurisdiction and, as appropriate, flag international organisation jurisdiction, to secure sound conservation of marine biological resources within sea areas under national jurisdiction. ***The Advisory Opinion of 2 April 2015 of the International Tribunal for the Law of the Sea (ITLOS), rendered in response to questions raised by the West Africa Subregional Fisheries Commission, confirmed that the Union bears international responsibility before third countries and international organisations for the activities of its fishing vessels, and that such responsibility requires it to act with due diligence.*** A due diligence obligation is an obligation for a State to exercise best possible efforts and to do the utmost to prevent illegal fishing, which includes the obligation to adopt the necessary administrative and enforcement measures to ensure that fishing vessels flying its flag, its nationals, or fishing vessels engaged in its waters are not involved in activities which breach the applicable conservation and management measures. For these reasons ***and, more generally, to strengthen the 'blue' economy,*** it is important to organise both the activities of Union fishing vessels outside Union waters as well as the governance system pertaining thereto in such a manner that the Union's international obligations can be efficiently and effectively discharged and that

situations where the Union might be reproached for internationally wrongful acts are avoided.

## Amendment 5

### Proposal for a regulation Recital 5 a (new)

*Text proposed by the Commission*

*Amendment*

***(5a) The Union committed itself at the United Nations Summit on Sustainable Development on 25 September 2015 to implementing the resolution containing the outcome document entitled "Transforming our world: the 2030 Agenda for Sustainable Development", including Sustainable Development Goal 14 "Conserve and sustainably use the oceans, seas and marine resources for sustainable development", as well as Sustainable Development Goal 12 "Ensure sustainable consumption and production patterns" and their targets.***

## Amendment 6

### Proposal for a regulation Recital 6

*Text proposed by the Commission*

*Amendment*

(6) The outcomes of the 2012 United Nations Conference on Sustainable Development 'Rio +20'<sup>19</sup> ***as well as*** the international developments regarding the fight against illegal wildlife trade should be reflected into the Union's external fisheries policy.

(6) The outcomes of the 2012 United Nations Conference on Sustainable Development 'Rio +20'<sup>19</sup>, the international developments regarding the fight against illegal wildlife trade ***and the New Sustainable Development Goals (17 goals to transform our world, including Goal 14: Life below water) adopted in September 2015 by the United Nations*** should be reflected into the Union's external fisheries policy.



<sup>19</sup> United Nations General Assembly Resolution A/Res/66/288 of 27 July 2012 on the outcome of the Rio +20 Conference, entitled "The Future We Want".

<sup>19</sup> United Nations General Assembly Resolution A/Res/66/288 of 27 July 2012 on the outcome of the Rio +20 Conference, entitled "The Future We Want".

## Amendment 7

### Proposal for a regulation

#### Recital 7

##### *Text proposed by the Commission*

(7) The objective of the Common Fisheries Policy (CFP), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council (the 'Basic Regulation')<sup>20</sup>, is to ensure that fishing activities are environmentally, economically and socially sustainable and are managed consistently with the objectives of achieving economic, social and employment benefits, and that they are contributing to the availability of food supplies.

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<sup>20</sup> Regulation (EU) no 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy (OJ L 354, 28.12.2013, p. 22).

## Amendment 8

### Proposal for a regulation

#### Recital 8

##### *Text proposed by the Commission*

(8) Regulation (EU) No 1380/2013 stresses the need to promote the objectives of the CFP internationally, ensuring that Union fishing activities outside Union waters are based on the same principles

##### *Amendment*

(7) The objective of the Common Fisheries Policy (CFP), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council (the 'Basic Regulation')<sup>20</sup>, is to ensure that fishing activities are environmentally, economically and socially sustainable and are managed consistently with the objectives of achieving economic, social and employment benefits, and that they are contributing to the availability of food supplies. ***It is also necessary, in implementing this policy, to take account of development cooperation objectives in accordance with the second subparagraph of Article 208(1) of the Treaty on the Functioning of the European Union.***

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<sup>20</sup> Regulation (EU) no 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy (OJ L 354, 28.12.2013, p. 22).

##### *Amendment*

(8) Regulation (EU) No 1380/2013 stresses the need to promote the objectives of the CFP internationally, ensuring that Union fishing activities outside Union waters are based on the same principles

and standards as those applicable under Union law, while promoting a level playing field for Union operators and third-country operators.

and standards as those applicable under Union law, while promoting a level playing field for Union operators and third-country operators. ***Social and environmental legislation adopted by third countries may differ from that of the Union, creating different standards for fishing fleets. That situation could lead to authorisation for fishing activities inconsistent with the sustainable management of marine resources. It is therefore necessary to ensure consistency with environmental, fisheries, trade and development activities of the Union, especially when it affects fisheries in developing countries with low administrative capacity and where the risk of corruption is high.***

## Amendment 9

### Proposal for a regulation Recital 12

#### *Text proposed by the Commission*

(12) The core principle of the present regulation is that any Union vessel fishing outside Union waters should be authorised by its flag Member State and monitored accordingly, irrespective of where it operates and the framework under which it does so. The issuing of an authorisation should be dependent on a basic set of common eligibility criteria being fulfilled. The information gathered by the Member States and provided to the Commission should allow the latter to intervene in the monitoring of the fishing activities of all Union fishing vessels in any given area outside Union waters at any time.

#### *Amendment*

(12) The core principle of the present regulation is that any Union vessel fishing outside Union waters should be authorised by its flag Member State and monitored accordingly, irrespective of where it operates and the framework under which it does so. The issuing of an authorisation should be dependent on a basic set of common eligibility criteria being fulfilled. The information gathered by the Member States and provided to the Commission should allow the latter to intervene in the monitoring of the fishing activities of all Union fishing vessels in any given area outside Union waters at any time. ***This is necessary to enable the Commission to fulfil its obligations as Guardian of the Treaties.***

## Amendment 10

### Proposal for a Regulation

#### Article 5 – paragraph 1 – point e

*Text proposed by the Commission*

(e) the fishing vessel is not included in an IUU vessel list adopted by a regional fisheries management organisation and/or by the Union pursuant to Council Regulation (EC) 1005/2008;

*Amendment*

(e) the fishing vessel is not included in an IUU vessel list adopted by **a third country**, a regional fisheries management organisation and/or by the Union pursuant to Council Regulation (EC) 1005/2008;

## Amendment 11

### Proposal for a Regulation

#### Article 6 – paragraph 1 – point b

*Text proposed by the Commission*

(b) subsequently returned to the Union fishing fleet register ***within 24 months from the date of leaving it.***

*Amendment*

(b) subsequently returned to the Union fishing fleet register.

## Amendment 12

### Proposal for a Regulation

#### Article 6 – paragraph 2 – point b

*Text proposed by the Commission*

(b) it did not operate in waters of a non-cooperating third country pursuant to Articles 31 and 33 of Council Regulation (EC) No 1005/2008.

*Amendment*

(b) it did not operate in waters of ***either*** a non-cooperating third country pursuant to Articles 31 and 33 of Council Regulation (EC) No 1005/2008 ***or a third country which became identified as a country allowing non-sustainable fishing pursuant to point (a) of Article 4(1) of Regulation (EU) No 1026/2012.***

## Amendment 13

### Proposal for a Regulation

#### Article 6 – paragraph 4 – introductory part

*Text proposed by the Commission*

4. A flag Member State shall not issue a fishing authorisation to a vessel that has been reflagged:

*Amendment*

4. A flag Member State shall not issue a fishing authorisation to a vessel that has ***ever*** been reflagged:

**Amendment 14**

**Proposal for a regulation**

**Article 18 – paragraph 1 – point c – indent 2**

*Text proposed by the Commission*

- evidence of the sustainability of the planned fishing activities, on the basis of:

· a scientific evaluation provided by the third country and/or by a regional fisheries management organisation; and

· an examination of the latter by the flag Member State on the basis of the assessment of its national scientific institute;

*Amendment*

– evidence of the sustainability of the planned fishing activities ***and the existence of a surplus of allowable catch as required by Article 31 of Regulation (EU) No 1380/2013***, on the basis of:

· a scientific evaluation, ***taking into account the conservation of living marine resources and marine ecosystems***, provided by the third country and/or by a regional fisheries management organisation; and

· an examination of the latter by the flag Member State on the basis of the assessment of its national scientific institute;

**Amendment 15**

**Proposal for a regulation**

**Article 18 – paragraph 1 – point c – indent 4 a (new)**

*Text proposed by the Commission*

*Amendment*

- ***available data on the global fishing effort in the fisheries concerned; and***

**Amendment 16**

**Proposal for a Regulation**

**Article 24**

*Text proposed by the Commission*

This Chapter shall apply to fishing activities carried out on the high seas by Union fishing vessels exceeding 24 meters in overall length.

*Amendment*

This Chapter shall apply to fishing activities carried out on the high seas by Union fishing vessels exceeding 24 meters in overall length ***or is capable of fishing on the high seas.***

**Amendment 17**

**Proposal for a Regulation**

**Article 25 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) it has been issued with a fishing authorisation by its flag Member State; and

*Amendment*

(a) it has been issued with a fishing authorisation by its flag Member State, ***contingent upon presentation of a scientific evaluation demonstrating the sustainability of the planned activities which has been validated by the national scientific institute of the flag Member State;*** and

**Amendment 18**

**Proposal for a regulation**

**Article 26 – paragraph 1**

*Text proposed by the Commission*

A flag Member State may only issue a fishing authorisation for fishing activities on the high seas if the eligibility criteria in Article 5 are fulfilled.

*Amendment*

A flag Member State may only issue a fishing authorisation for fishing activities on the high seas if:

- (a) the eligibility criteria in Article 5 are fulfilled;
- (b) ***the planned fishing activities are:***
  - ***based on an ecosystem-based approach to fisheries management as defined in point 9 of Article 4 of Regulation (EU) No 1380/2013; and***
  - ***in accordance with a scientific evaluation, taking into account the***

*conservation of living marine resources and marine ecosystems provided by the national scientific institute of the flag Member State.*

## Amendment 19

### Proposal for a Regulation Article 31 – paragraph 1

*Text proposed by the Commission*

1. When carrying out fishing activities under this Title, ***and if the sustainable fisheries partnership agreement with the third country so provides***, an operator of a Union fishing vessel shall send the relevant catch declarations and landing declarations to the third country, and send its flag Member State a copy of that communication.

*Amendment*

1. When carrying out fishing activities under this Title, an operator of a Union fishing vessel shall send the relevant catch declarations and landing declarations to the third country, and send its flag Member State a copy of that communication.

## Amendment 20

### Proposal for a Regulation Article 39 – paragraph 2 – point a

*Text proposed by the Commission*

(a) name and flag of the vessel;

*Amendment*

(a) name and flag of the vessel ***and its CFR and IMO number***;

## Amendment 21

### Proposal for a Regulation Article 39 – paragraph 2 – point a (new)

*Text proposed by the Commission*

*Amendment*

***(aa) name and address of the owner/operator and beneficial owner***;

## Amendment 22

### Proposal for a Regulation

#### Article 39 – paragraph 2 – point b

*Text proposed by the Commission*

(b) type of authorisation; and

*Amendment*

(b) type of authorisation, ***including fishing opportunities***; and

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Sustainable management of external fishing fleets						
<b>References</b>	COM(2015)0636 – C8-0393/2015 – 2015/0289(COD)						
<b>Committee responsible</b> Date announced in plenary	PECH 17.12.2015						
<b>Opinion by</b> Date announced in plenary	DEVE 17.12.2015						
<b>Rapporteur</b> Date appointed	Maria Heubuch 4.3.2016						
<b>Discussed in committee</b>	11.7.2016						
<b>Date adopted</b>	31.8.2016						
<b>Result of final vote</b>	<table> <tr> <td>+:                   </td><td>22</td></tr> <tr> <td>–:                   </td><td>1</td></tr> <tr> <td>0:                   </td><td>2</td></tr> </table>	+:	22	–:	1	0:	2
+:	22						
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0:	2						
<b>Members present for the final vote</b>	Louis Aliot, Beatriz Becerra Basterrechea, Ignazio Corrao, Manuel dos Santos, Doru-Claudian Frunzuliță, Nathan Gill, Enrique Guerrero Salom, Heidi Hautala, Maria Heubuch, György Hölvényi, Teresa Jiménez-Becerril Barrio, Stelios Kouloglou, Arne Lietz, Linda McAvan, Norbert Neuser, Cristian Dan Preda, Lola Sánchez Caldentey, Eleni Theocharous, Paavo Väyrynen, Bogdan Brunon Wenta, Rainer Wieland, Anna Záborská						
<b>Substitutes present for the final vote</b>	Brian Hayes, Joachim Zeller						
<b>Substitutes under Rule 200(2) present for the final vote</b>	Liliana Rodrigues						