

**Long Distance Advisory Council (LDAC)
EU Transparency Register No. 905805219213-67**

LDAC Opinion

**Contribution to EU consultation
on review of Fisheries Control Systems**

**Increased Role of the European Fisheries Control Agency (EFCA) in the
Implementation of the International Dimension of the CFP**

**Adopted by the Executive Committee on 26th October 2017
Ref. R-05-17/WG5**

a. Overview: General comments on procedure and content of consultation

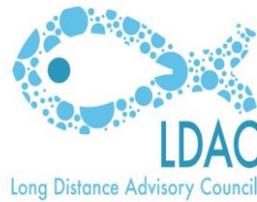
Procedure of consultation

The LDAC welcomes this public consultation of the EU on the review of the fisheries control systems in adherence to the “Better Regulation” principles stating that decision making is open and transparent to citizens and stakeholders so they can contribute through the policy and law making process.

The Better Regulation Guidelines set out the obligation to conduct mandatory open, internet-based public consultation of a minimum of 12 weeks for initiatives accompanied with an impact assessment¹. This is the situation for the current dossier.

The LDAC would therefore like to respectfully ask the European Commission to revert to the normal law-making procedure, as foreseen in the Better Regulation Guidelines, in order to: (i) allow all interested stakeholders to provide their opinion on all key impact assessment related issues within an appropriate and reasonable timeframe; and (ii) take enough time to collect data and analyse impacts on key issues relating to the EU fisheries control system.

¹ The only exception to that rule refers to situations where the evaluation and impact assessment are prepared in parallel (“back to back”); in which case, it is possible to conduct only one public consultation as long as relevant stakeholders are consulted on all the main elements of the impact assessment.



Content of consultation: international dimension of the CFP

The Fisheries Control Regulation is one of the three pillars of the European fisheries control system together with the Fight against IUU and the Sustainable Management of External Fleet Regulations.

Regarding the international dimension of EU, the EC Regulation 1380/2013, establishing a Common Fisheries Policy, deals with it at its Recital 50 and Part VI (titled “external policy”), namely articles 28-33.

The involvement and role of EFCA in ensuring compliance of the EU with international provisions is enshrined in article 30 of CFP Basic Regulation (EU) No 1380/2013, which reads: *“The Union shall, including through the **European Fisheries Control Agency** (“the Agency”), cooperate with third countries and international organisations dealing with fisheries, including RFMOs, to strengthen compliance with measures, especially those to combat IUU fishing, in order to ensure that measures adopted by such international organisations are strictly adhered to”*.

In its capacity as member of EFCA’s Advisory Board, the LDAC has been actively asking for an increased role and involvement of EFCA in EU-third countries relations, RFMOs and international waters. The LDAC has, since its creation, held a close relation with EFCA and contributed to convey EU fisheries stakeholders’ views, needs and concerns in relation to the role of EFCA outside EU waters in different areas such as participation in RFMOs, capacity building in third countries or fight against IUU fishing.

In 2016, the LDAC Secretary and several members participated to a survey and series of interviews carried out by external consultants (Blomeyer & Sanz) tasked to assess the functioning and performance of EFCA. This evaluation was made in accordance with EFCA’s Founding Regulation (Council Regulation (EC) 768/2005, as last amended by Regulation (EU) 1626/2016), and reviewed the implementation of the Regulation during 2012-2016 against the evaluation criteria of: relevance, coherence, utility, added value, efficiency, effectiveness, impact, sustainability and gender balance.

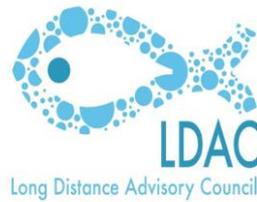
Data was collected with the help of extensive desk research, interviews with some 60 stakeholders, five case studies (focusing on specific EFCA activities) and five surveys of key stakeholders. The EFCA scored a positive performance across all evaluation criteria.

This is mostly explained with EFCA successfully operationalising a role of ‘honest broker’ between the administration and stakeholders, in particular MS, EC and industry, allowing to achieve objectives in terms of MS cooperation and compliance, thus contributing to the level-playing field and the sustainable exploitation of living aquatic resources.

The outcomes of this evaluation were presented at a workshop in Vigo on 20 June 2017². The final report published on 29 May 2017³ presented a number of recommendations for their mandate and scope of activity both in relation to EU waters and outside EU waters.

² Report and recommendations: <https://www.efca.europa.eu/en/content/external-evaluation-2017>

³ Contract No EFCA/DC/2016/01



The evaluation points to a common awareness of the need to ensure that EFCA's activities in EU waters remain a priority. However, it also proposes to expand the activities of the Agency in international waters.

In this respect, we would like to highlight:

3.2.2. Relevance

To promote the discussion / reflection to quantify added value of EFCA activities relating to the international dimension.

3.2.3. Coherence

To continue providing feedback to the AB on activities related to RFMOs, the fight against IUU and SFPAs.

To clarify the need for flexibility in relation to needs of SFPA partners, continue timely scheduling of missions to third countries in advance and clarify to the AB in which way the activities do not interfere with EFCA daily activities.

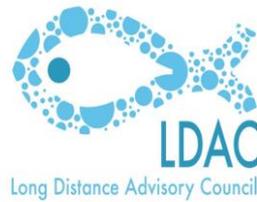
3.2.5. Added value

To outline the added value of EFCA (...) in the context of the various Horizon 2020 projects funded by the EC (Nota: LDAC partner of Far Fish on external waters)

3.2.7. Effectiveness

In international and third country waters, EFCA should call attention to the need for action regarding a number of areas, identified in the evaluation of the Control Regulation, where there is room for improvement, as well as the need to ensure consistencies with the IUU Regulation.

Catch certificates (CC): to enhance confidence between MS.



b. How could LDAC support EFCA contribution to the improvement of the international dimension of the CFP?

The international dimension of fisheries management and control is at the core of the LDAC activities. The LDAC is well placed in the debate as the only EU fisheries stakeholders-led body composed of both fishing industry and other interest groups (including environmental and cooperation for development NGOs) providing advice to the European Commission and EU Member States on the external dimension of the CFP, namely SFPAs, RFMOs and management at the high seas, as well as horizontal issues related to human and labour rights, fight against IUU and international ocean governance.

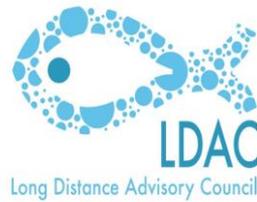
Regarding EFCA's role, and in line with the recommendations laid down in the consultant's report, there are three specific aspects where the LDAC sees that support will bring added value:

1. Achieving an effective implementation of IUU Reg. (EU) 1005/2008.

The LDAC has recently issued, together with the MAC and the MEDAC, a joint advice addressing 10 recommendations to the Commission asking for a harmonisation of import control procedures amongst the EU Member States. There is a general concern on the lack of action or cross checking and verifications of CCs-imports of fishing consignments by certain EU MS, being different levels of compliance.

EFCA role could be of particular importance in three specific actions:

- 1.1. To assist with technical specifications and expertise to establish a mechanism within the new IT system for the proactive sharing of intelligence and results of verifications and inspections, to ensure a steady flow of relevant information between Member States.
- 1.2. To assist the EC in the drafting of guidelines to provide further precision to Member States, particularly with regard to the content and scope of obligations to check and the verification of catch certificates on the basis of risk management, including in relation to consignments in transit.
- 1.3. To continue collaboration with EC to encourage a harmonised application based on a risk management approach across the Member States, through these guidelines.



2. Promoting a regional approach to fisheries management, Monitoring, Control and Surveillance and fight against IUU fishing.

The EC seems to be increasingly favourable for a regional approach to fisheries management to deal with MCS activities in a coordinated manner in areas such as the Gulf of Guinea area in West Africa. The EC has recently launched the PESCAO project on “Improved Regional Fisheries Governance in Western Africa”, adopted by Decision C (2017) 2951 on 28 April 2017. This project is funded under the European Development Fund, aimed to increase resilience and food security in the region. EFCA has been granted a role for implementing part of this project with the EC, providing technical assistance to Regional Fisheries Bodies (SRFC and FCWC) and their member countries in order to improve regional cooperation in the fight against IUU fishing.

This project has already been included under the final budget and establishment plan of the Agency for 2017, in accordance with Administrative Board Decision No 17-II-4 amending the Single Programming Document containing the Multiannual work programme 2017-2021 and the Annual work programme for year 2017⁴.

The LDAC wishes to offer their support to this project and also remember that it is working with its partner ATLAFCO-COMHAFAT⁵ to develop an ambitious project on a regional observer programme at sea and a regional port control scheme. The scoping study has been finalised for the first one and a call for studies has now been awarded for the later⁶. Both projects will be put forward for adoption at the forthcoming Ministerial Conference that COMHAFAT will hold in Abidjan in early 2018. The LDAC recommends that these initiatives should be coordinated and consistent with the objectives of PESCAO project and the requirements laid down in the SFPAs, as well as the work developed in this field by ICCAT and African Sub Regional Fisheries Organisations such as SRFC. This approach would also help the signatory contracting parties that have ratified the FAO Port State Measures Agreement to implement this important piece of international legislation.

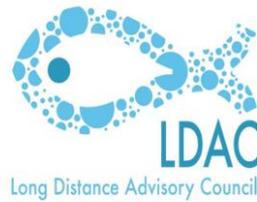
A structured and well-functioning regional observer programme at sea and regional port control inspection scheme would be beneficial for Coastal MS to develop harmonised MCS systems and progress on mutual recognition of inspection activities. It will also contribute to develop a common core curricula and training programme for regional inspectors that could develop a career path in their own countries, avoiding “brain drain” and creating employment opportunities.

The LDAC members, including industry, trade unions and NGOs, could help in this process by exchanging intelligence and useful information on methodology for collection and provision of (scientific and control) data on the ground; sharing good practices in terms of labour, decent work conditions and health, helping to strengthen policy coherence on several EU policies linked to fisheries such as trade, cooperation for development, health, labour, fight against IUU, etc.

⁴ MAWP 2017-2020 and AWP 2017: <https://www.efca.europa.eu/en/content/multiannual-work-programme-2017-2021-and-annual-work-programme-2017>

⁵ COMHAFAT is the Ministerial Conference on Fisheries Cooperation among African States bordering the Atlantic Ocean. It is composed of 22 African Coastal States from Morocco to Namibia.

⁶ More information can be found at COMHAFAT website: www.comhafat.fr



3. Enhancing capacity building and training in third countries.

EFCA role and mandate should be expanded and resources increased following the creation of the European Coastguard Force (where the EFCA is coordinated with EMSA and FRONTEX) and capacity building actions linked to the SFPAs and fulfillment of obligations derived from sectoral support.

Dedicated training courses for third country inspectors at EFCA premises and remotely/on site are encouraged, as well as an increase on the number and quality of training missions carried out on third countries tailored to their needs. Regarding core curricula, it is important that EFCA develop comprehensive and updated training materials, both in paper and online.

c. Conclusions and recommendations from the LDAC

At its last Administrative Board held in Vigo on 21 June 2017⁷, EFCA endorsed the recommendations made by the external evaluators *'to align EFCA mission and tasks with the external dimension of the CFP'*, and also *"to promote a reflection on how to plan EFCA's involvement on this basis"*.

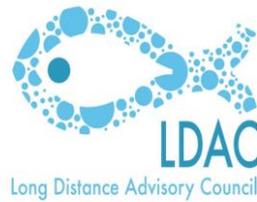
The LDAC welcomes this decision and fully adheres to this initiative, offering their collaboration to participate to this reflection and organise ad hoc meetings if necessary.

However, the LDAC deplors that there seems to be a certain degree of division of views or discrepancies between Member States members of EFCA Administrative Board regarding a stronger involvement of EFCA in the international dimension as this is perceived as moving away from their core business which is the design and implementation of SCIPS/JDPs and control aspects related to implementation of the landing obligation for fisheries in EU waters.

On the other side, a huge majority of the stakeholders represented in the ACs, and even the DG MARE seem to be generally supportive of increased presence and action outside EU waters and even consider an amendment of its Founding Regulation to make this clear.

A more defined and active role in the IUU dialogue with third countries, and an extended training programme to third country officials, would greatly contribute to the international dimension of the EU IUU Regulation. EFCA plays a key role in research and data analysis and intelligence carried out prior to missions. This element should also be maintained and strengthened, as the expertise of the Agency in risk-based strategies and approaches brings added value to the preparations of missions by DG MARE. In this regard, the increased competencies and budget attributed as a result of the creation of the European Coastguard Force might be of assistance, together with the increasing participation in EU funded projects related to improving regional fisheries governance.

⁷ Access to the EFCA AB report: <https://www.efca.europa.eu/en/content/minutes>



Summary of recommendations:

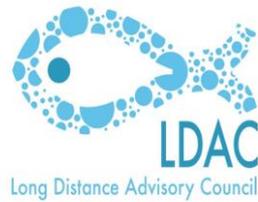
The LDAC would like to see an increase of EFCA's role and a wider mandate given by the European Commission in their work and operations related to the international dimension of control activities, namely operational campaigns (SCIPs/JDPs) for RFMOs and focused on fight against IUU fishing, capacity building and training activities for third country inspectors and control authorities as well as mission in site in third countries with SFPAs. This could be particularly useful in the context of implementation of FAO PSMA.

Core elements of the external dimension of the CFP, such as dialogue held by the EU with third countries in relation to SFPAs or fight against IUU fishing, as well as participation of EU in RFMOs, should be coherent and compatible with the EU Cooperation for Development Policy. The LDAC recommends that the DG MARE of the European Commission provide to EFCA an adequate mandate to channel this closer cooperation with DG DEVCO, being a good example its participation and involvement in PESCAO project to improve regional fisheries governance and fight IUU fishing in West Africa.

The LDAC understands that one of the main constraints for a more prominent role of EFCA in the international dimension is the lack of human and financial resources that could also be addressed by participating in such programmes. In this regard, the increased tasks and budget attributed as a result of the creation of the European Coastguard Force should be of assistance, together with the increasing participation in EU funded projects related to improving regional fisheries governance.

The LDAC would like to support an amendment of the EFCA's founding regulation to ensure that the provisions on the international dimension are fully incorporated into its activities and follow the recommendations of the report of the 5-year evaluation of its performance, endorsed by the Administrative Board.

For any revision of current EU legislation in force, the European Commission needs to ensure that it adheres to the "Better Regulation" Principles stating that decision-making is open and transparent; and that citizens and stakeholders can contribute throughout the policy and decision-making process. This is especially relevant for the Fisheries Control Regulation, as it is one of the three key pillars of European fisheries control system together with the EU regulations to prevent, deter and eliminate fight IUU fishing; and on the sustainable management of external fishing fleet. The members of the LDAC therefore expect that the European Commission holds systematically a fully-fledged public consultation amongst stakeholders as this is a mandatory requirement in EU legislation.



d. Bibliography / background documentation

- EFCA Annual Work Programme for year 2017 and Multiannual Work Programme 2017-2021, as per Administrative Board Decision No 17-II-4 amending the Single Programming Document containing the Multiannual work programme 2017-2021 and the Annual work programme for year 2017
- LDAC Summary Reports of Administrative Boards.
- Minutes of EFCA Advisory Boards – 20 September 2016, 3 March 2017 and 20 September 2017.
- Final report on Five-Year Independent External Evaluation of the European Fisheries Control Agency – presented at EC Seminar in Vigo on 20 June 2017
- Minutes of 27th and 28th Administrative Board meetings – Vigo, 5 April and 21 June 2017

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