



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

The Director-General

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Dear Mr Rodriguez,

Thank you for your email of May 27 in which you shared with us a concept note with technical information as well as LDAC's recommendations on the implementation of the Social Clause in Sustainable Fisheries Partnership Agreements (SFPAs) between the EU and third countries. We highly appreciate the quality of the documents and the inclusive consultative approach that you have adopted to prepare them.

Rest assured that we are taking this topic very seriously. The Commission is promoting decent working conditions and is working closely with relevant international organisations to push for a better consideration of this issue.

Regarding SFPAs, we are promoting an ambitious and comprehensive framework for the local fishers employed on board of EU vessels. Our regular dialogues with the Social Partners and the contributions of the LDAC in this regard have been and will be pivotal for our work, as exemplified by the new clause of the current SFPA Protocol with Mauritania, which was developed based on the social clause signed in 2015 in the Sectoral Social Dialogue Committee in Fisheries.

In this regard, I have the pleasure to provide you, in the attached document, with detailed answers to your recommendations on the application of the social dimension in the SFPAs. I am looking forward to continuing the discussion, including in the forthcoming meetings of the Working group 4 of the LDAC.

Yours faithfully,

Charlina VITCHEVA

Enclosure: Response to the LDAC advice on the Social Dimension of Sustainable Fisheries Partnership Agreements (SFPAs) between the European Union and Third Countries

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## ANNEX

### Response to the LDAC advice on the Social Dimension of Sustainable Fisheries Partnership Agreements (SFPA) between the European Union and Third Countries

#### **1. Promotion of decent work in fisheries – current status of the Commission’s work**

The Commission promotes decent work in fisheries in line with the objectives of the International Labour Organization (ILO), the International Maritime Organization (IMO) and the UN Food and Agriculture Organization (FAO). It does so in cooperation with partner countries, in the context of the UN 2030 Agenda for Sustainable Development and its SDGs 14, the Blue Economy and the EU International Ocean Governance Forum Agenda and the EU Common Fisheries Policy.

In the context of Regional Fisheries Management Organisations (RFMOs), the Commission fully support improving and enforcing requirements regarding labour standards. The Commission’s mandate for those organisations includes the promotion of the recommendations, where appropriate and to the extent permitted under the relevant constituent documents in RFMOs, encouraging the implementation of the Work in Fishing Convention of the ILO<sup>1</sup> (hereafter ILO Convention 188).

In this regard, the Commission welcomes the outcome of recent discussions in the International Commission for the Conservation of Atlantic Tunas (ICCAT), in the Indian Ocean Tuna Commission (IOTC) and in the Western & Central Pacific Fisheries Commission (WCPFC) to further promote labour standards in RFMOs.

More concretely, ICCAT adopted at its last annual meeting a Resolution ‘*to identify actions that Contracting Parties and Cooperating Non-Contracting Parties (CPCs) can take, individually and collectively, to improve labour standards in ICCAT fisheries*’, and planned intersessional discussions in 2022 to progress on this matter. The WCPFC adopted in 2018 a Resolution on Labour Standards for Crew on Fishing Vessels. Intensive intersessional work took place in 2021, but the draft Conservation and Management Measure (CMM) was not adopted due to the opposition of one WCPFC member and will be further progressed intersessionally.

Through its voluntary contributions to RFMOs, amounting to roughly 12 million EUR per year, the EU continues to be in the lead when it comes to adopting and implementing relevant international conventions and standards in numerous RFMOs. Hence, the Commission will continue the relevant work with these RFMOs.

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<sup>1</sup> Convention n°188 concerning work in the fishing sector, Geneva, 96th ILC session (14 Jun 2007)

In the context of SFPAs, the Commission advocates for the inclusion of the principles of the ILO Convention 188 during the negotiations with third countries. Furthermore, the Council's negotiation directives addressed to the Commission usually contain a general obligation to ensure that the Protocol will contribute to the promotion of decent work.

Within the EU, ILO Convention 188 is implemented through Directive 2017/159. Pursuant to Article 5 of Directive 2017/159<sup>2</sup>, the Commission must present a report on the implementation, application and evaluation of the Directive to the Council by mid-November 2022. The Commission services have started with assessing the completeness and correctness of the transposition of the Directive with support of an external contractor. Once this process is completed, the Commission services will be in the position to prepare the report referred to in Article 5 of the Directive. The LDAC will receive a copy of this report as soon as the procedure has been finalised.

The Commission shares the view that enforcement procedures are crucial to ensure proper implementation of the Directive. The enforcement procedures, in the absence of a specific legislative act at EU level, are regulated by ILO rules, as far as provisions of ILO Convention 188 are concerned and, as far as provisions of the Directive are concerned, they remain under the responsibility of Member States. Currently and in the context of an impact assessment on the possible revision of its maritime safety acquis, the Commission is assessing to what extent it may be appropriate to create a port state control regime for larger fishing vessels (over 24 metres), either within or in parallel to the port control Directive. The impact assessment on this issue is currently ongoing.

Furthermore, the Commission is aware that IMO is pressing its member to ratify the 2012 Cape Town Agreement on fishing vessel safety so that it can enter into force on the 10th anniversary of the CTA on 22 October 2022. Unfortunately, despite a Council Decision 195/2014 by which EU MS were authorised to ratify/accede to the CTA, 'within a reasonable time period' and subsequent activities to promote ratification, several EU Member States with large fleets still have to ratify it.

## **2. Training, capacity building and certification of fishers working on board of EU vessels**

The Commission is and will continue promoting the ratification and effective implementation of ILO Convention 188 but also other relevant international standards, including the IMO Convention on Standards of Training, and Certification and Watch

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<sup>2</sup> Council Directive (EU) 2017/159 of 19 December 2016 implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche), OJ L 25, 31.1.2017, p. 12–35

keeping for Fishing Vessel Personnel (STCW-F)<sup>3</sup>.

The Commission is keen to convey the importance of improved social conditions of the fishers and is seeking the best modalities to harmonize the most suitable conditions concerning the minimum qualifications for work on board EU fishing vessels with the countries, with which it has signed a SFPA. As an example, the 2015 protocol with Mauritania introduced detailed requirements before allowing the boarding of local fishers. In the 2022 protocol, a new appendix (Appendix 11) to the agreement further reinforces these requirements. Similar requirements have been included in other protocols, such as with Seychelles and Gabon. The Commission will continue to point out the need for a social chapter in all SFPA protocols.

Furthermore, the Commission recognizes the importance of supporting training and capacity building in SFPA partner countries. Hence, it regularly suggests using the sectoral support to this end in its dialogue with the partner countries. Several third countries benefit from SFPA's sectoral support and other EU financial tools to help build capacity and create employment opportunities, including toward local youth. For example, it has been used for the training of the local fishermen on board EU fishing vessels in Senegal and in Mauritania. In Ivory Coast, the resources access component of the EU financial contribution was also used in this respect.

In addition, TAIEX and SOCIEUX+ programmes could be used to set up, propose and execute ILO Convention 188 assistance programmes for SFPA partner countries. Further money can be allocated to this type of projects under NDICI country envelopes<sup>4</sup>.

Such training could also be eligible for EMFAF funds, as Article 63(4) of the Common Provisions Regulation provides that all or part of an operation may be implemented outside the Union, provided that the operation contributes to the objectives of the programme.

### **3. Compliance and transparency on the social clause under the SFPAs**

In our SFPA's partner countries, labour issues are relying on several actors, including relevant national administrations, EU vessels' owners, private crewing agents and professional organisations. Those issues are part of the permanent dialogue between the Commission and local actors. They are regularly raised during the Joint Committee meetings in order to monitor and address unclear provisions and possible irregularities in the implementation of the social clause.

Specifically on the payments, the Commission agrees with LDAC to say that that each fisher is entitled to receive a detailed payslip for his/her remuneration and should sign a receipt in case payment has been made in cash. Therefore, it encourages vessels' owners and agents to act accordingly. However, the Commission cannot interfere in a private legal

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<sup>3</sup> International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 7 July 1995

<sup>4</sup> For example: [: https://www.ilo.org/DevelopmentCooperationDashboard/#a1rurye](https://www.ilo.org/DevelopmentCooperationDashboard/#a1rurye);  
<https://www.ilo.org/DevelopmentCooperationDashboard/#a2s7mm6>.

relationship, taking place outside its jurisdiction.

Coming to the medical care for fishers on board, according to Directive 2017/159, the financial responsibilities of the fishing vessel owner in case of work-related sickness, injury or death guaranteed under that directive, may be ensured either through a system of fishing vessel owners' liability, or through compulsory insurance, workers' compensation, or other scheme.

The Commission thanks the SSDC-F for its suggested Guidelines for medical examination.

However, the Commission would like to recall that the European Maritime Safety Agency (EMSA) cannot carry out on the spot audits to ensure that the guidelines are followed. EMSA does not have medical expertise nor the legal mandate to do so.

As for social security, EU law in this field provides for the co-ordination and not the harmonisation of the Member States' national social security systems. Therefore, each Member State is free to determine the details of its own social security system, including which benefits are provided, the conditions for eligibility, how these benefits are calculated and what contributions should be paid. Article 11(4) of Regulation 883/2004<sup>5</sup> (in conjunction with Regulation 1231/2010<sup>6</sup> on applicable law) applies solely to the third country nationals who are in cross border situation and who reside legally in the EU.

In the SFPAs specifically, taking the wording of ILO Convention 188 (especially point k) of the Annex II to the Convention), the Protocol with Mauritania provides that workers contract should contain health and social security coverage and benefit (Article (3)(k) of the Appendix 11 to the Protocol).

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<sup>5</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1–123

<sup>6</sup> Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality, OJ L 344, 29.12.2010, p. 1–3