



DRAFT LDAC & MAC Joint ADVICE

Addressing China's global distant water fleet activities' implications for fisheries governance

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Proponent: Environmental Justice Foundation (EJF)

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Recommendations

While acknowledging that progress has been recorded in the cooperation between the EU and China in fighting IUU fishing and in the country's capacity to address this phenomenon, the LDAC and the MAC are concerned that the pace at which this progress is achieved is not commensurate with the rapid expansion of the Chinese DWF fleet and the global impact of its vast, unsustainable, and opaque activities, even more in light of the numerous cases of illegal fishing identified. The LDAC and the MAC also notes that the progress claimed by China does not seem to have fully translated into a radical improvement of the behaviours of its DWF fleet in fishing grounds and along the supply chain. The LDAC and the MAC remain particularly concerned vis-à-vis human rights abuses associated with this fleet. This situation highlights that China has not yet taken up the challenge to effectively regulate and control the activities of its DWF fleet.

In this context and bearing in mind the importance of the EU as a market State, **the LDAC and the MAC believe that it is essential for the EU to step up its engagement with China aiming at similar high sustainability standards and transparency being applied to drive positive changes all along the supply chain¹.**

In view of the above, the LDAC and the MAC would like to make the following recommendations to the European Commission:

¹ Long Distance Advisory Council. (2021). LDAC Recommendations for a Level Playing Field for EU and non-EU fish products. Available at: https://ldac.eu/images/EN_LDAC_Advice_LPF_25May2021.pdf.



I. Transparency

- **Use the position of the EU in relevant international fora² to clarify the actual size of China's DWF fleet (in number and capacity) and the scale of its operations (total catches in international waters and EEZ of third country's waters), particularly through the promotion of the FAO Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels ('FAO Global Record') and the IMO number.**
- **Use the position of the EU with some of its partners (e.g., ACP countries) in relevant international fora to clarify where Chinese nationals have registered the vessels they own and/or operate under third country's flags and to push for open national registers providing public access to beneficial ownership information, but also through strengthen conservation and management measures on the recording of ownership information in RFMOs.**
- **Gather data and provide statistics on fish caught by Chinese flagged vessels, particularly those from its distant-water fleet³, entering the EU market.**

II. Capacity building

- **Strengthen the number and adequacy of human and financial resources dedicated to the formulation and implementation of the EU's policy against IUU fishing in DG MARE and the European Fisheries Control Agency in line with its ambitions.**

III. IUU

- **In cooperation with EU Member States, significantly strengthen import controls over consignments of fisheries products stemming from the Chinese fleet and fleets owned by Chinese capital, particularly those from its distant-water fleet, through**

² E.g. WTO, FAO, RFMOs, IMO, ILO, OECD.

³ The LDAC notes that according to data disclosed by the Chinese government in the "2021 China Fishery Statistical Yearbook", in 2020, about 2,316,000 tonnes of fish was caught by the Chinese DWF vessels. Among these, 743,000 tonnes were directly sold to foreign markets and 1,573,500 tonnes were shipped back to China to be sold to processors or traders in the domestic market. Between 2012 and 2020, about 55-67% of China's distant water fishery production, were shipped back to China for further processing or directly sold to the domestic markets. As the regional governments encourage companies to ship their catch back to China through subsidies or rewards to bolster the local economy, this percentage is likely to further go up (see: <https://eifoundation.org/reports/murky-waters> and <https://www.seafoodsource.com/news/environment-sustainability/china-subsidies-testing-value-of-new-wto-deal>).

checks, verifications and inspection, and reject consignments where there is evidence that suggests non-compliance⁴.

- **Monitor that the scope and quality of checks applied by Member States are sufficient to address the risks and take necessary action to remedy any shortcomings.**
- **In light of the well-founded doubts of non-compliance, assess the possibility to publish an alert notice to warn operators and to ensure that Member States take appropriate measures in respect of the products stemming Chinese fleets and fleets owned by Chinese capital.**

In the context of the Commission's zero tolerance approach towards IUU fishing, make full use of all instruments under the EU IUU Regulation, including evaluation missions and carding decisions. In light of the strong evidence of IUU operations by vessels of Chinese origin all over the world, the LDAC and the MAC question the reasons why China has not been pre-identified ("yellow carded") yet. In this context, the LDAC and the MAC demand public disclosure of how China's performance has been evaluated (e.g., questionnaire(s), evaluation mission(s), etc.) and how this country operationally performs against the criteria set in Article 31 of the EU IUU Regulation. The LDAC and the MAC attach importance to a consistent and coherent implementation of the policy where no double-standards are applied to different countries.

IV. Sustainable Fisheries Partnership Agreements

- **Encourage and accompany, using all possible channels within the context of the CFP, coastal states with which the EU maintain a dialogue in strengthening the requirements on sustainability and transparency in access conditions to their EEZ, and in making public and keeping up to date details of access agreements and lists of vessels licensed to fish within their waters. Link these efforts with other EU policies such as development cooperation, trade or social policies (e.g., TAIEX or "ship to shore" which is a Southeast Asia project).**
- **Identify opaque operations and cases of discriminatory treatment by and in SFPA partner countries (as for instance those described in the subchapter on reflagging operations), and tackle those through dialogue with third country partners and in consultation with the LDAC and the MAC to guarantee transparency and a level**

⁴ Based on the data that could be retrieved from the reports on the application of Council Regulation (EC) No 1005/2008 for the year 2018 and 2019 submitted by EU Member States to the European Commission and which were accessed through access to documents requests by member organisations of the LDAC and the MAC, the LDAC and the MAC could record that 5 catch certificates recorded as validated by China were refused by EU Member States out of a total of 19,391 recorded as having been submitted to EU Member States for which information is available. Over the same period, 57 formal verification requests would have been sent from EU Member States to China. The LDAC and the MAC acknowledge that this information is partial due to data not being available for some EU Member States.

playing field. Nevertheless, since many DWF Chinese vessels are reflagged or chartered and considered as part of the national third country fleet, coastal states normally apply discriminatory treatment in favour of the national fleet (e.g., taxes, access to port infrastructures, etc.). In these cases, where there is an actual competition with the EU distant-water fishing fleet, the EU should rethink its strategy and seek equal treatment and a level playing field.

- Provide increased support to coastal and port States, particularly those with a high presence of Chinese DWF vessels to increase their capacity to fight IUU fishing and bring about fundamental reforms of their fisheries policies. The LDAC and the MAC also recommends providing targeted technical assistance and capacity building assistance to developing country Members, for the purpose of implementation of the disciplines under the WTO agreement on fish subsidies (in line with art. 7 WTO) and the global ratification and effective implementation of the Port State Measures Agreement⁵
- Increase coordination of multilateral and bilateral cooperation mechanisms, trade-based measures and on global fisheries transparency policies, including in RFMOs and with other key ocean players such as Japan and the United States of America⁶ to leverage market power to push China to achieve the necessary reforms of its fisheries governance framework.
- In the context of SFPAs and the promotion of joint ventures, the EU must promote a dialogue with African countries that fosters the development of a regulatory framework for joint ventures with respect to catch applicable to all vessels of foreign origin, processing and marketing that guarantees that joint ventures operate transparently, do not compete with artisanal fishing and contribute to the development objectives of the partner country.⁷

V. Subsidies

- Investigate whether China is granting or maintaining subsidies to a vessel or operator engaged in IUU fishing or to fishing activities outside of the jurisdiction of a coastal

⁵ <https://www.fao.org/port-state-measures/background/parties-psma/en/>

⁶ The LDAC notes that China has been identified as a nation associated with IUU fishing in the [2021 Report to Congress](#) issued by the U.S. National Oceanic and Atmospheric Administration and ranked as “tier 3” in the [2021 Trafficking in Persons Report](#) issued by the U.S. Department of State (Tier 3: countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so).

⁷ https://ldac.eu/images/documents/events/2015/EN_FINAL_RECOMMENDATIONS_CONFERENCE_LDAC_ED_C_FP.pdf

state and outside the competence of a relevant RFMO⁸. If affirmative, use all the channels provided for under the WTO rules to redress the situation.

- Given the fact that only a country affected by IUU vessels in its own waters can file a complaint under WTO and that complain mechanisms are expensive and bureaucratic, the EU should push for part of the funds committed under WTO for developing countries for dispute settlement mechanism.

VI. Trade

- Ensure consistency between the IUU policy and other EU's policies, in particular the social and trade policies. Avoid signing trade agreements which include seafood fisheries and aquaculture products with countries with serious deficiencies in tackling illegal fishing and labour abuse in the sector (e.g., Vietnam). Ensure that the fisheries sector (particularly from coastal communities) will be given adequate attention in the formulation of future EU-wide supply chain and anti-forced labour legislations.
- In line with the MAC recommendation, countries which are linked to IUU fishing and serious labour abuses shall not benefit from preferential market access⁹. In the view of most of the membership of the LDAC and of the MAC, The Commission should therefore prevent the use of the ATQ instrument for products originating from China, particularly those caught by its distant water fleet. Furthermore, in connection with the response provided to the MAC in March 2020, the Commission should reassess the relevance of the ATQ Regulation, given the increased number of Free Trade Agreements and unilateral measures benefitting preferential partners.

-The Commission should effectively use the carding system to prevent the entry of products originating from these countries or new initiatives, like the new proposal for a regulation on prohibiting products made with forced labour, focusing on China, while taking advantage of current trade flows, using ATQ or other tools, between the EU processing companies and Chinese producers to progressively upgrade their standards thanks to EU buying power and responsible sourcing practices.

Once adopted, make full use of the EU Directive on corporate sustainability due diligence¹⁰ to identify and mitigate risks in the fisheries value chains linked to respect of human rights and environmental impacts. The LDAC and the MAC recommend the

⁸ Agreement on Fisheries Subsidies. Ministerial Decision of 17 June 2022.

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/33.pdf&Open=True>

⁹ MAC Advice level playing field <https://marketac.eu/wp-content/uploads/2021/10/MAC-Advice-Level-Playing-Field-LPF-30.09.2019.pdf> (page 4)

¹⁰ https://ec.europa.eu/info/publications/proposal-directive-corporate-sustainable-due-diligence-and-annex_en

production of EU guidelines to comply with the standards. Even though countries like France, Germany or The Netherlands already have legislation on due diligence it is generally speaking not applicable for fisheries and it only reaches the first step of the supply chain. The LDAC and the MAC support a strong and harmonised EU policy. Nonetheless, the burden on EU companies stemming from compliance costs, has to be adapted to the size, resources available, and the risk profile. As part of the supply chain, retailers will demand compliance from the fishing sector.

- **The** EU should reduce its dependence on imports from China (14%) by protecting the activity and production of European Joint Fishing Ventures¹¹. To this end, it must eliminate the tariffs that are being applied to them (Falkland Islands, MERCOSUR) and guarantee supplies to EU consumers, ensuring their food sovereignty.

The EU should increase their supply possibilities and needs, even considering the current Joint fishing ventures. To this end, it must eliminate the tariffs that are being applied to raw material (not final products), like in Falkland Islands or MERCOSUR, to improve the supply to EU consumers and factories.

- The LDAC and the MAC support the development and implementation of a meaningful Commission's strategy to promote decent work worldwide¹² and the new proposal for a regulation on prohibiting products made with forced labour on the Union market¹³. Accordingly, the LDAC and the MAC support strengthening import control, **using** risk indicators, which would of course include products of Chinese origin or provenance, to protect the EU market from imported **seafood** fishery and aquaculture products produced through forced labour and other human rights abuses, and to avoid European citizens consume fish caught by vessels that do not respect minimum social and labour conditions.¹⁴
- In this context, promote, and make gradual progress towards requiring, that all imports of fisheries products, **especially** from China, entering the EU comply with minimum internationally agreed standards such as those enshrined in the Labour Organization (ILO) Work in Fishing Convention, 2007 (No. 188), and transposed in the EU through the Directive (EU) 2017/159. Equally important are the 1998 Declaration

¹¹ Vid. [Recommendations](#) of the LDAC Conference on External Dimension of the Common Fisheries Policy, Recommendation 1.5. "European investors in the fisheries industry in third countries (joint ventures) must be included and recognised by the CFP. The EU must promote a dialogue with African countries that fosters the development of a regulatory framework for joint venture with respect to catch (applicable to all vessels of foreign origin), processing and marketing that guarantees that joint ventures operate transparently, do not compete with artisanal fishing and contribute to the development objectives of the country in question".

¹² https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1187

¹³ https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5415

¹⁴ https://ldac.eu/images/EN_LDAC_Letter_Labour_Human_Rights_Sea_Workers_8August2016.pdf
https://ldac.eu/images/LDAC_Concept_Note_Factual_Background_Comparative_Analysis_Social_and_Labour_Clauses_SFPA_May2022.pdf
https://ldac.eu/images/EN_Letter_LDAC ETF_EP_Safety_Labour_Standards_May2021.pdf

of the ILO on fundamental principles and rights at work, as well as the eight ILO Fundamental Conventions¹⁵ which are horizontally applied to all sectors. This includes the freedom of association and the effective recognition of the right to collective bargaining, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. From a transversal perspective, support efforts to tackle the enabling factors of IUU fishing and human rights abuses such as corruption¹⁶ through, inter alia, risk mitigation strategies that include preventive, law enforcement and transparency measures.

VII. Development cooperation

- The LDAC and the MAC recommend that the EU better monitors and reports on the allocation and implementation of development aid granted to third countries and measure progress against the targets set out in the respective programmes.
- Link the development support to clear commitments from the third country towards sustainable fisheries. In addition, the Commission should link development cooperation with RFMO negotiations as well as bilaterally within the context of SFPAs.

The LDAC and the MAC underline the relevance of several recommendations included in some of its other advices, particularly in the advice “LDAC Recommendations for a Level Playing Field for EU and non-EU fish products approved on 25 May 2021 (including in relation to fisheries subsidies, RFMO/As, social aspects (including labour rights) and trade policies)¹⁷. the MAC advice “Level Playing Field (LPF)”¹⁸, and the MAC advice “Better Alignment of Import Control Schemes in Major Market States”¹⁹.

¹⁵ Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) Forced Labour Convention, 1930 (No. 29) Abolition of Forced Labour Convention, 1957 (No. 105) Minimum Age Convention, 1973 (No. 138) Worst Forms of Child Labour Convention, 1999 (No. 182) Equal Remuneration Convention, 1951 (No. 100) Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

¹⁶ UNODC. (2019). Rotten fish: a guide on addressing corruption in the fisheries sector. Available at: https://www.unodc.org/documents/Rotten_Fish.pdf.

¹⁷ Long Distance Advisory Council. (2021). LDAC Recommendations for a Level Playing Field for EU and non-EU fish products. Available at: https://ldac.eu/images/EN_LDAC_Advice_LPF_25May2021.pdf.

¹⁸ Market Advisory Council (2019). Level Playing Field (LPF). <https://marketac.eu/level-playing-field/>.

¹⁹ Market Advisory Council (2020). Better Alignment of Import Control Schemes in Major Market States. <https://marketac.eu/import-control-schemes-in-major-market-states/>



Background

a. The global footprint of China's distant-water fishing fleet

Driven by the depletion of fish populations in its own national waters, the government of China has supported the rapid expansion of its distant water fishing (DWF) fleet. Bolstered by national subsidies, China has by far the largest DWF fleet, official data from the Chinese government records 2,701²⁰ vessels. Research highlights that this number could be undercounted²¹. By way of comparison, the European DWF fleet is at most one tenth the size (est. 259 vessels)²². The Chinese DWF fleet now forms an integral part of the country's political priorities and is presented as an important component of the implementation of China's "Going Out" policy and "Belt and Road" initiative – two initiatives ultimately aiming at asserting China's regional and international profile^{23,24}. Concretely, since the Belt and Road initiative was adopted in 2013, and more precisely between 2012 and 2020, the production of the Chinese distant-water industry nearly doubled, increasing by 89% from 1,223.4 tonnes to 2,316.6 tonnes²⁵ (in 1,000 tonnes).

The LDAC and the MAC regret the lack of official, reliable, exhaustive and easily accessible public records on the fishing fleet of the country which accounts for most of the global catches and represents the largest number of fishing vessels. For this reason, the LDAC and the MAC also rely on data from non-official sources such as media reports, research articles and various websites. It also expressed strong concerns vis-à-vis how the Chinese governmental as outsourced the monitoring, control and surveillance of the Chinese DWF – with, for example, the China Overseas Fisheries Association being tasked with the monitoring of fishing vessels' activities via VMS data (see Appendix 1)²⁶.

²⁰ Bureau of Statistics. (2020). China Fishery Statistical Yearbook. Available at: <https://www.yearbookchina.com/naviBooklist-n3020013079-1.html>.

²¹ EJF. (2022). The ever-widening net: mapping the scale, nature and corporate structures of illegal, unreported and unregulated fishing by the Chinese distant-water fleet. Available at: <https://ejfoundation.org/reports/the-ever-widening-net-mapping-the-scale-nature-and-corporate-structures-of-illegal-unreported-and-unregulated-fishing-by-the-chinese-distant-water-fleet>.

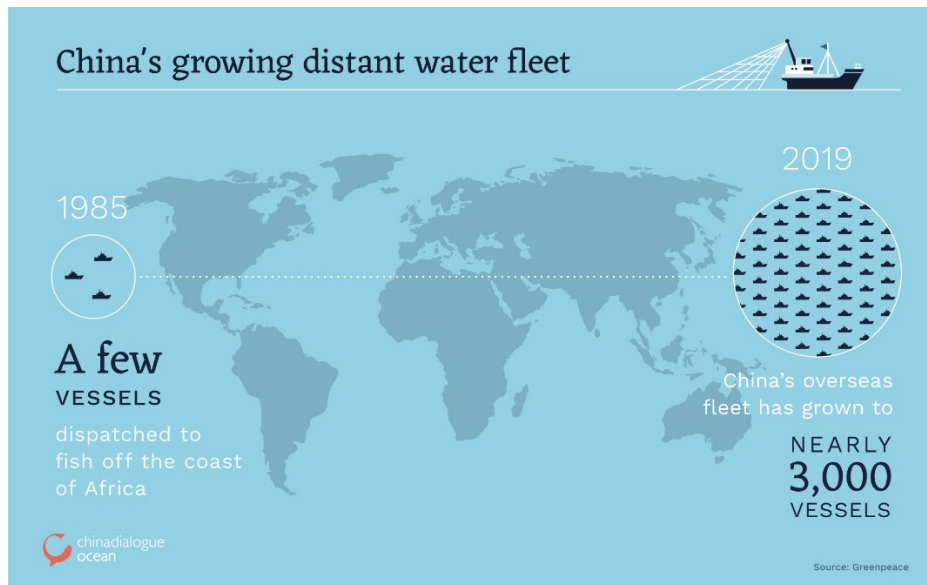
²² Scientific, Technical and Economic Committee for Fisheries (STECF). (2021). The 2021 Annual Economic Report on the EU Fishing Fleet (STECF 21-08). Available at: <https://stecf.jrc.ec.europa.eu/documents/43805/2832286/STECF+21-08+-+AER+2021.pdf/e85eedd6-8bf5-4a1d-b5ae-97f0889dabb4>.

²³ Ministry of Agriculture and Rural Affairs. (2021). "Thirteenth Five-Year" Fishery Highlights. Available at: http://www.yyj.moa.gov.cn/gzdt/202101/t20210104_6359366.htm.

²⁴ European Parliamentary Research Service. (2016). One Belt, One Road (OBOR): China's regional integration initiative. Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586608/EPRS_BRI\(2016\)586608_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586608/EPRS_BRI(2016)586608_EN.pdf).

²⁵ 68% of which will be shipped back to China, the remaining being directly sold overseas.

²⁶ EJF. (2022). Murky waters: analysis of the regulatory framework governing the distant water fishing fleet of the People's Republic of China. Available at: <https://ejfoundation.org/reports/murky-waters>.



Source: <https://chinadialogueocean.net/en/fisheries/12714-china-fisheries-law-distant-water-fishing/>

The fleet operates across the globe in both the high seas and in the exclusive economic zones (EEZs) of coastal States (see Appendices 2 and 3). The Chinese fleet has notably become a significant presence in developing countries, where millions of people are highly reliant on healthy fish populations for both livelihoods and food security.

Specific Observations

b) Reflagging operations in 3rd countries and nationalisation of China's DWF fleet

According to some research, of the 927 vessels flagged in countries other than China, 518 Chinese DWF vessels registered in African nations. The vast majority of them – 92.7% (480 vessels) — fly the flags of West African countries, under joint ventures or chartering arrangements.²⁷

Many of such joint ventures are described as 'fictitious'²⁸ because even if the flag of the vessel is that of the African host country, control of the operations remains firmly in the hands of the Chinese company. In order for a fishing vessel to fly the flag of the African host country, and thus be recognised as national, most African countries' legislations require that the vessel transferred must be owned by the flag State concerned or be more than half owned (51%) by nationals or persons residing in the flag State. However, in most African countries where these fisheries joint ventures are set up for Chinese vessels – like Senegal, Ivory Coast, Ghana – these rules are not respected, which leads to the setting up of 'front' joint ventures²⁹. The opacity surrounding the establishment of fisheries joint ventures, including with Chinese operators,

²⁷ https://cdn.odi.org/media/documents/chinesedistantwaterfishing_web.pdf

²⁸ For further details, see <https://www.cffacape.org/publications-blog/q2nriapbiy782wqmauibpprt43x1ku>

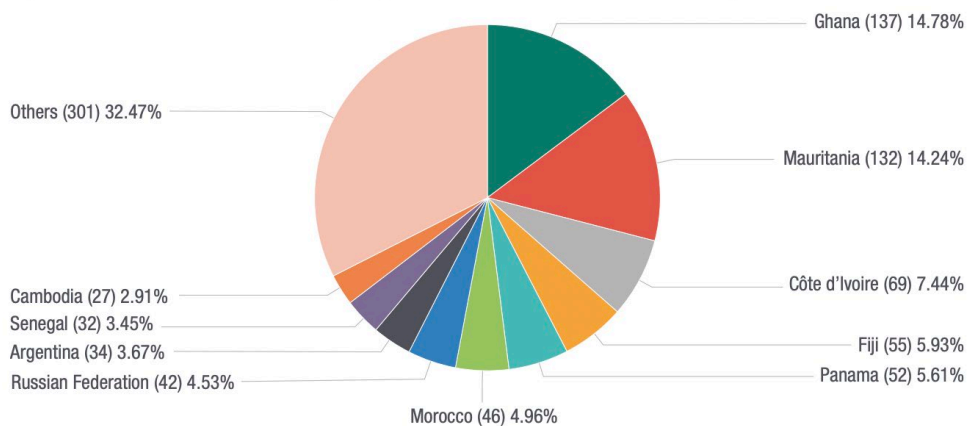
²⁹ <https://ejfoundation.org/reports/chinas-hidden-fleet-in-west-africa-a-spotlight-on-illegal-practices-within-ghanas-industrial-trawl-sector>



in Africa means that there is little information available on these companies. Often, it is only when the arrival of these vessels causes discontent among the local fishing communities that the issues associated with their presence under joint ventures are uncovered, and in several cases, ties between these vessels and illegal fishing operations were uncovered.

By using chartering and coastal States flags, China benefits from access to areas normally reserved to national fleets, mainly small-scale, as in Mauritania where the law has been revised specifically so that the artisanal fishing zone is extended to incorporate 15-meter trawlers of Chinese origin under the Mauritanian flag (chartering), hitherto excluded from this zone, thus contravening with the policy of preservation of coastal zones and species yet applied to foreign vessels until then, in particular EU vessels operation under the Sustainable Fisheries Partnership Agreement (SFPA), which have been excluded since 2012 (policy which has contributed to reducing fisheries pressure and environmental impacts).

Figure 6 The 10 most common foreign-flag states for Chinese distant-water fishing vessels



Source: elaborated from FishSpektrum (2018).

In addition to the existing studies that attempt to map the size, location and cases of IUU fishing by the Chinese DWF fleet, recent research by the Environmental Justice Foundation (EJF)³⁰ has highlighted that, based on data published by the Ministry of Agriculture and Rural Affairs (MARA) of China, over a third of the DWF operations authorised by China in 2019 and 2020 covered 29 EEZs in Africa, Asia and South America. This represents 806 “offshore fisheries projects” approved by MARA. The remaining two-thirds of the approved projects that could be identified in the data published by MARA (i.e., 1,593) covered oceanic areas (i.e., Antarctica, the Atlantic, Indian and Pacific oceans)³¹.

³⁰ EJF. (2022). The ever-widening net: mapping the scale, nature and corporate structures of illegal, unreported and unregulated fishing by the Chinese distant-water fleet. Available at: <https://ejfoundation.org/reports/the-ever-widening-net-mapping-the-scale-nature-and-corporate-structures-of-illegal-unreported-and-unregulated-fishing-by-the-chinese-distant-water-fleet>.

³¹ See appendices 1 and 2.



Based on this data, Africa stands out for its apparent importance to the activities of the fleet, accounting for nearly 80% of the approved DWF operations and 20 of the 29 EEZs – a finding that is consistent with previous research³². Some of these geographies are characterised by fragile and threatened fish populations, limited monitoring, control and surveillance (MCS) capacity and most of the times poor fisheries governance³³. In oceanic areas, China has put a clear emphasis on developing its capacity to target squid species: vessels equipped to target such species now represent more than two in three DWF operations covering oceanic areas. Vessels of these fisheries maintain significant activities in major squid fishing grounds not covered by any regional fisheries management organisations or arrangements (RFMO/As)³⁴. Another noticeable feature the LDAC and the MAC notes is that the Chinese fleet export most of the catches for fish meal, not human consumption, in other words food for animals in China. As a consequence, fish meal plants are set up in African countries and operated by Chinese interests. Other non-EU fleets are making use of these factories.

EJF's research found that illegal fishing is rife among the fleet. Testimony from over a hundred crew aboard 88 vessels showed that 95% reported witnessing some form of illegal fishing³⁵. These testimonies add to more 554 possible incidents of illegal fishing between 2015 and 2019 identified through governmental and non-governmental sources. Fishing without a licence or authorisation would be the most common recorded illegal fishing incident, constituting 42% of the total. Using prohibited gear and the capture of prohibited species would be the next highest-ranking offences, at 11.5% and 10.3% respectively.

c. Labour abuses

Interviews conducted also indicate that 99% have experienced or witnessed wages being deducted or withheld, 97% have experienced some form of debt bondage/confiscation of “guarantee” money and documents, 89% have worked excessive overtime, 85% reported abusive working and living conditions, 70% experienced intimidation and threats, and 58% have seen or experienced physical violence. The recruitment network of foreign fisheries by Chinese fishing companies remains largely unregulated with, inter alia, no nation-wide legal route for doing so, a labour dispatching system that does not provide for social insurance or other benefits, layers of manning agencies being involved in recruitments, etc.³⁶. This situation contributes to the great vulnerability of crew working onboard the fleet.

³² Pauly, D. et al. (2013). China's distant-water fisheries in the 21st century. *Fish and Fisheries*, 15, 474–488.

³³ Market Advisory Council. (2021). Illegal, unreported and unregulated (IUU) fishing activities by Ghana's industrial trawl sector and the European Union seafood market. Available at: <https://marketac.eu/wp-content/uploads/2022/04/MAC-Advice-Ghana-IUU-and-EU-Market-11.01.2021.pdf>.

³⁴ WWF, Trygg Mat Tracking. (2020). Unregulated fishing on the high seas of the Indian Ocean: the impacts on, risks to, and challenges for sustainable fishing and ocean health. Available at: https://wwfeu.awsassets.panda.org/downloads/wwftmt_unregulated_fishing_on_the_high_seas_of_the_indian_ocean_2020.pdf.

³⁵ <https://eifoundation.org/reports/the-ever-widening-net-mapping-the-scale-nature-and-corporate-structures-of-illegal-unreported-and-unregulated-fishing-by-the-chinese-distant-water-fleet>

³⁶ EJF. (2022). Murky waters: analysis of the regulatory framework governing the distant water fishing fleet of the People's Republic of China. Available at: <https://eifoundation.org/reports/murky-waters>.



d. Consequences and extent of the abusive behaviour of the fleet

Beyond the obvious direct consequences suffered by the victims of human rights abuses and abusive living and working conditions on board fishing vessels of the Chinese DWF fleet – most of which are migrant workers –, these practices have widespread and harmful economic, environmental, and human consequences.

The depletion of resources and the destruction of ecosystems caused by the activities of this fleet are contributing to the increasing precarity of coastal livelihoods in countries and regions dependent on marine and coastal ecosystems, but also beyond. The distortive effects of the Chinese DWF fleet and associated national fleets, either fishing illegally or not complying with international standards nor with the same rules as the EU, negatively affect the artisanal and industrial EU fisheries sector whose competitiveness is undermined by these players not subject to or sharing high environmental, social or labour standards. This is proved by the fact that China is not even signatory of the main international conventions for fishing³⁷.

The LDAC and the MAC also note that, *de facto* and at least indirectly, the policies governing the management of the Chinese DWF fleet contribute to weakening ties between Western countries – including the EU – and developing countries (including OACPS)³⁸. More generally, the behaviour of the fleet directly contributes to jeopardising the world's collective capacity to achieve the objective of the 2030 Agenda for Sustainable Development.

e. Challenges of EU funding invested in countries with presence of China capital not reaching objectives of good fisheries governance

As part of the EU's fundamental role in promoting better governance across the globe, the European Commission has been investing millions of Euros over the past years in developing countries through different EU programmes to combat IUU fishing and improve fisheries management. For instance, the Infrastructure and Sustainable Development section of the European Union funded in 2019 a € 3.3 million project called "Far Ban Bo Project" in Ghana to ensure sustainable fishing³⁹. Another recent example is the FISH4ACP project which supports, amongst others, the industrial shrimp fishery value chain in Cameroon – a sector mainly composed of vessels of Chinese origin under joint ventures – which are over-exploiting the resources and competing with local small scale fishing sector.

³⁷ LDAC Recommendations for a Level Playing Field for EU and non-EU fish products https://ldac.eu/images/EN_LDAC_Advice_LPF_25May2021.pdf (page 38)

³⁸ EU Institute for Security Studies. (2017). Chinese futures: Horizon 2025. Available at: https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_35_Chinese%20futures.pdf

³⁹ Ghana (projects financed by INTPA): FarBanBo 1 650 000, 00 EUR + Far Dwuma Nkodo 1 520 000,00 EUR (both covering 2017-2022)



However, the LDAC and the MAC regret to observe that the situation has not improved despite these programmes. Quite the opposite, the EU pre-identified/issued a yellow card to Ghana and Cameroon based on various shortcomings relating to their ability to comply with their duties under international law as flag, port, coastal or market States.

f. Trade and subsidies

China provides substantial subsidies to its fishing operations. In 2013, the Chinese central government spent RMB 40.383 billion (or \$6.5 billion) on fisheries subsidies. Most of this amount – 94 percent – was in the form of fuel subsidies. A study found that about 95 percent of Chinese fisheries subsidies were harmful to sustainability.⁴⁰

A 2021 analysis of China's fisheries subsidies⁴¹ reveals decreasing transparency in reporting and continued heavy subsidization of China distant water fleet, but also documents a drop in domestic subsidy spending. However, experts appear to confirm that the reductions in fuel subsidies is for the domestic fishing industry, rather than the distant-water fishing (DWF) industry. Overall, China's subsidy program has an outsized impact on the sustainability of global fish stocks. This is especially notable given the disproportionate allocation (42%) to vessels fishing outside China's waters, despite accounting for only 22% of China's catch.

In addition to governmental subsidies, Chinese cities are competing fiercely to get investment from processors and distant water firms⁴². Individual Chinese cities are offering generous payments to local fishing companies to buy vessels as well as separate payments to subsidise the return of overseas catches. For instance, the southern Chinese city of Shenzhen offers up to 30 percent of the cost of a new fishing vessel under the recently published guidelines for payment of the Shenzhen Municipal Fishery Modernisation Assistance Funds. CNY 17,600 (EUR 2,464) per ton is available for air freighting chilled tuna back to Shenzhen while CNY 1,500 (EUR 210) per ton is available to transport tuna by sea with CNY 1,300 (USD 182, EUR 182) per ton in handouts for the transport of other "self-caught" seafood species back to Shenzhen by fishing firms from the city operating in distant waters. Payments are also available for the construction of cold chain logistics facilities by Shenzhen based enterprises as well as payments for building pelagic fishery bases "at home and abroad".

Moreover, the LDAC and the MAC note that recent reforms of China's subsidies scheme have translated in compliance scores obtained by distant-water fishing companies during their annual reviews being included in the calculation formula for subsidies; but we also note that compliance assessments partially rely on self-evaluation by the companies⁴³ and wish to

⁴⁰https://www.academia.edu/23673925/Fisheries_Subsidies_in_China_Quantitative_and_Qualitative_Assessment_of_Policy_Coherence_and_Effectiveness

⁴¹ <https://oceana.org/reports/chinas-fisheries-subsidies-propel-distant-water-fleet/>

⁴² <https://www.seafoodsource.com/news/premium/supply-trade/chinese-city-of-shenzhen-offers-payments-to-draw-tuna-catch>

⁴³ EJF. (2022). Murky waters: analysis of the regulatory framework governing the distant water fishing fleet of the People's Republic of China. Available at: <https://ejfoundation.org/reports/murky-waters>.



reiterate our concerns about the effectiveness of China’s MCS system and its capacity to close the potential gap left by a system relying on self-evaluation.

The LDAC and the MAC regret the alarming lack of transparent and official public records on the fish subsidies provided by the world’s largest producer of wild catch, China. For this reason, the LDAC, the MAC and the international community have to rely on data from non-official sources such as media reports, research articles and various websites. See chart below from OECD:

Subsidy	Category	Amount in 2012 (USD)	Amount in 2012 (EUR 2015)	Source	Comment
Catching		>7.63 billion	>8.2 billion	OECD (2015)	
Fuel tax concessions	Capacity adjustment	5.70 billion	6.13 billion	OECD (2015)	Method of estimation is unclear.
Modernisation and construction of vessels	Capacity adjustment	1.80 billion	1.93 billion	OECD (2015)	Method of estimation is unclear. This is not observed in Sumaila et al. (2016)
Restocking	General services	0.07 billion	0.08 billion	OECD (2015)	Method of estimation is unclear
Guarantee for supply of aquatic products	Capacity adjustment	0.04 billion	0.04 billion	OECD (2015)	Method of estimation is unclear
Research	Services	0.02 billion	0.02 billion	OECD (2015)	Method of estimation is unclear
Aquaculture		n/a	n/a		
Marketing and processing		n/a	n/a		

Note: Chinese fleet fishing for tuna in the West and Central Pacific Ocean received USD 83 million (EUR 96.74 million) of subsidies in 2009; of which USD 35.62 million (EUR 41.52 billion) of fuel tax concessions and USD 47.5 million (EUR 55.37 million) of other subsidies, for a value of landings of USD 287 million (EUR 334.52 million) (Sumaila et al. 2016).

Source: Adapted by consultants based on OECD (2016) *OECD Review of Fisheries: Country Statistics 2015*.

Hongzhou (2015) reports fuel subsidies in China at CNY 23.5 billion in 2012 (EUR 3.6 billion), as taken from China Fisheries Yearbook, 2014. This estimate is much lower than the Mallory (2016) value for 2013.



An under-appreciated element to China's potential influence in the fishing sectors of developing countries is its role as a dominant creditor nation. As reported in an FAO webinar on access arrangements (2021)⁴⁴, Chinese state loans to developing countries currently surpass the amounts of loans provided by the World Bank. One issue relevant to fisheries is the nature of loan agreements to developing countries. Beyond the strict confidentiality clauses, Chinese official loans include 'stabilisation' clauses, punitive for the debtor country. Most contracts for China's official loans include clauses that prohibit debtor countries to make any changes to regulations that affect the profitability of projects financed by China.

Changes that are made by the debtor government that affect the profitability of Chinese investments, like more restrictive access to fisheries regulations, can lead to compensation payments. To add to that, the vast majority of Chinese official loans include an 'illegality clause'; any legislative or policy changes that negatively affect Chinese investments will allow the creditor (e.g., Export-Import Bank of China and the China Development Bank) to declare the debts illegal, which requires the full amount, including interest, to be paid immediately. These stabilisation and legality clauses are used by all creditors to developing countries, but the contracts attached to China's official loans are considered to be broader and more punitive for creditor countries like African countries. Through stabilisation and illegality clauses, developing countries with considerable loans from China will therefore face extreme difficulty in reforming fisheries access arrangements, if any proposed reforms threaten to impact China's fishing interests in a negative way.

The LDAC and the MAC note with concern that it is increasingly difficult for the EU to sign agreements with third countries. This is mainly due to the fact that EU requirements for agreements appear to be more stringent than the conditions offered by China, making EU deals less attractive for third countries. In the case of private licences, it is also problematic for EU fleets to get access to infrastructure and logistics when Chinese fleet or capital is present in the country. China is even more influential in countries reluctant to accept the sustainability standards required within the external dimension of the CFP. According to LDAC stakeholders, China also puts pressure on third country's authorities advocating for less strict controls and inspections to its fleets.

For these reasons there is a strategic issue for the EU to approach the countries where Chinese operators or capital is present. The EU should provide adequate incentives and capacity building to raise the ambition of the coastal states to achieve sustainability targets and prevent such double standards/treatment that are impacting the ambition of the EU in terms of International Ocean Governance and level-playing field.

g. EU-China relations and cooperation on fisheries

⁴⁴ <https://www.fao.org/in-action/globefish/news-events/details-news/fr/c/1456413/>



According to EUMOFA, in 2019, China ranked as the world's top catch producer having produced 15% of the total of catches in tonnes (three times the production of the EU). This figure grows to 39% should aquaculture be included (13 times the production of the EU). As highlighted by EUMOFA, in 2020, the EU trade of fisheries and aquaculture products was the highest in the world. Imports accounted for 78% of the total value of trade (i.e., EUR 24,21 billion) and 71% in volume (i.e., 6,15 million tonnes). China ranked second after the EU. However, while the EU trade of fisheries and aquaculture products is driven by imports, China is a net exporter in terms of value. The EU and China are major trade partners in fisheries and aquaculture products. In 2020, the EU received 14% of China's exports in volume and 10% in value, and China ranked as third most important extra-EU country of origin for the EU in value (behind Norway and the United Kingdom) and second in volume (behind Norway and on par with the United Kingdom)⁴⁵.

As such, it is estimated that EU Member States receive around 30,000 catch certificates and processing statements validated by the competent authorities of China, per year⁴⁶.

The European Commission has long been engaged in a high-level bilateral dialogue on maritime affairs and fisheries with China⁴⁷. The institution is also cooperating with this country on IUU fishing-related matters in the context of an "IUU Working Group" which was formalised in 2015 and officially first met in 2016⁴⁸. Building on these initiatives and others such as the EU-China Blue Year in 2017⁴⁹, the EU and China concluded a "Blue Partnership for the Oceans" in 2018. This partnership sets important objectives and principles such as a commitment to the 2030 Agenda for Sustainable Development, in particular to Sustainable Development Goal (SDG) 14 and other related SDGs. This partnership covers a wide range of issues including in relation to ocean governance and fisheries (e.g., cooperation to improve global ocean governance and for the conservation and sustainable use of oceans, promotion of initiatives aiming at fighting IUU fishing activities and cooperation to strengthen effective systems of control, inspection, and enforcement, etc.)⁵⁰.

⁴⁵ European Market Observatory for Fisheries and Aquaculture Products. (2021). The EU fish market 2021 edition. Available at: https://www.eumofa.eu/documents/20178/477018/EN_The+EU+fish+market_2021.pdf/27a6d912-a758-6065-c973-c1146ac93d30?t=1636964632989.

⁴⁶ European Parliament. (2021). Committee on Fisheries 28/10/2021. Available at: https://multimedia.europarl.europa.eu/en/webstreaming/pech-committee-meeting_20211028-0900-COMMITTEE-PECH.

⁴⁷ European Parliament. (2017). Parliamentary question E-002147/2017, answer given by Mr Vella on behalf of the Commission. Available at: https://www.europarl.europa.eu/doceo/document/E-8-2017-002147-ASW_EN.html

⁴⁸ European Parliament. (2018). Parliamentary question E-006510/2017, answer given by Mr Vella on behalf of the Commission. Available at: https://www.europarl.europa.eu/doceo/document/E-8-2017-006510-ASW_EN.html.

⁴⁹ European Commission, Government of the People's Republic of China. (2017). Joint press statement on 2017 EU-China Blue Year. Available at: http://megapesca.com/megashop/CF201706_877/EU_China_blue_year_2017_en.pdf.

⁵⁰ European Commission. (2018). EU and China sign landmark partnership on oceans. <https://ec.europa.eu/newsroom/mare/items/631485>.



This cooperation is particularly relevant considering the trade-related aspects mentioned above, but this relevance extends much beyond. To name a few, it is of note that China is currently a member of eight RFMOs⁵¹, all of which the EU is also a member. China's fishing operations are also massively taking place in the waters of countries that have concluded a SFPAs with the EU. Out of the top 5 countries that had in their EEZ the largest share of Chinese government-approved fishing operations in 2019 and 2020, 4 countries have concluded SFPAs with the EU (Mauritania, Guinea-Bissau, Senegal and Morocco).

Based on interactions with the Directorate-General for Maritime Affairs and Fisheries (DG MARE) under the umbrella of Working Group 5 (WG5) of the LDAC and other fora such as interventions in the European Parliament's Committee on Fisheries, the LDAC is aware of the efforts made by the European Commission to address the issue of IUU fishing in China's DWF fleet. The LDAC thanks the European Commission, particularly DG MARE, for its openness to discuss the matter in its WG5. It also acknowledges and commends the efforts made. Likewise, the LDAC and the MAC note the importance of the European Parliament Initiative report "The implications of Chinese fishing operations on EU fisheries and the way forward" and the supporting parliamentary policy analysis.

The LDAC and the MAC also note the interventions of the European Commission indicating that cooperation with China on IUU fishing has improved over recent years. It notes that the European Commission assesses that these discussions are open, frank and conducted in a spirit of transparency thanks to years of building trust. It is also aware of recent and ongoing legal and regulatory developments in China – which offered opportunities for the EU to provide comments, attempts to strengthen the country's MCS capacity and some readiness by MARA to investigate suspected IUU cases for which the EU shared information and to take sanctions were appropriate. Finally, the LDAC and the MAC welcomes the determination of the European Commission to continue its efforts towards increased and improved cooperation with China on IUU fishing⁵².

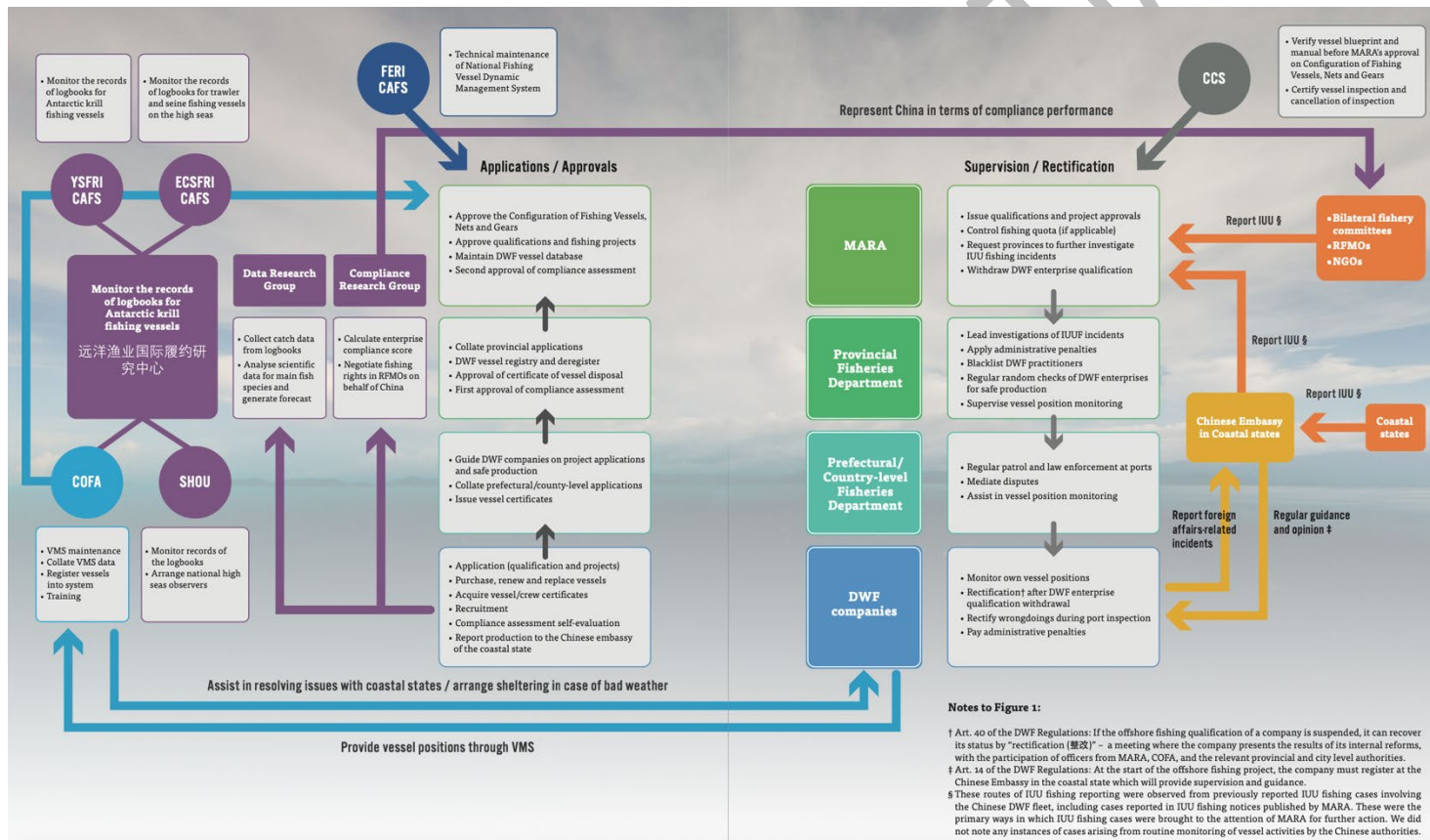
Notwithstanding the above, the LDAC and the MAC are not aware to date of possible efforts or specific actions undertaken by the European Commission to address the issues of human rights abuses and poor working and living conditions on board the Chinese DWF fleet.

This is against this background that the LDAC and the MAC have formulated the recommendations mentioned at the beginning of this advice.

⁵¹ ICCAT, IOTC, WCPFC, IATTC, NPFC, SPRFMO, SIOFA, and CCAMLR.

⁵² European Parliament. (2021). Committee on Fisheries 28/10/2021. Available at: https://multimedia.europarl.europa.eu/en/webstreaming/pech-committee-meeting_20211028-0900-COMMITTEE-PECH.

Appendix 1: EJF's infographic on the responsibilities of DWF companies and each level of Chinese government and other institutions for regulating offshore fishing activities



Source: <https://ejfoundation.org/reports/murky-waters>.

Appendix 2: Operations covering specific EEZs for which information was published and could be retrieved in 2019 and 2020^{53,54}

<i>EEZ</i>	<i>Continent</i>	<i>Percentage of the total number of vessels covered by operations related to specific EEZs</i>
Mauritania	Africa	29.9%
Myanmar	Asia	9.3%
Guinea-Bissau	Africa	8.6%
Senegal	Africa	6.7%
Morocco	Africa	5.8%
Guinea	Africa	5.3%
Sierra Leone	Africa	4.1%
<i>Madagascar</i>	Africa	3.1%
Malaysia	Asia	3.1%
Iran	Asia	3.0%
Gabon	Africa	2.6%
<i>Mozambique</i>	Africa	2.6%
Argentina	South America	1.6%
Ghana	Africa	1.6%
India	Asia	1.5%
Kenya	Africa	1.5%
Pakistan	Asia	1.5%
Somalia (Puntland)	Africa	1.5%
Angola	Africa	1.2%
Oman	Asia	1.2%
The Gambia	Africa	1.2%
Côte d'Ivoire	Africa	1.0%
<i>Liberia</i>	Africa	0.7%
Cameroon	Africa	0.4%

⁵³ EJF. (2022). The ever-widening net: mapping the scale, nature and corporate structures of illegal, unreported and unregulated fishing by the Chinese distant-water fleet. Available at: <https://ejfoundation.org/resources/downloads/China-Report-2022-final.pdf>.

⁵⁴ Colour code: plain blue has been used for countries with which the EU has concluded a SFPA, green for “green carded” countries under the EU IUU Regulation and yellow for “yellow carded” / pre-identified countries. Italicised names of countries indicate that they have a “dormant” SFPA with the EU.



Tanzania	Africa	0.2%
Uruguay	South America	0.2%
Congo (Rep)	Africa	0.1%
Russia	Asia	0.1%
South Africa	Africa	0.1%

Appendix 3: Operations covering oceanic areas for which information was published and could be retrieved in 2019 and 2020⁵⁵

<i>Oceanic areas</i>	<i>Percentage of the total number of vessels covered by operations related to oceanic areas</i>
Indian Ocean	27.0%
Pacific North	22.9%
Atlantic Southwest	20.2%
Pacific Southeast	20.0%
Pacific Ocean	5.0%
Pacific Northwest	4.3%
Atlantic Ocean	0.4%
Antarctica	0.2%

⁵⁵ EJF. (2022). The ever-widening net: mapping the scale, nature and corporate structures of illegal, unreported and unregulated fishing by the Chinese distant-water fleet. Available at: <https://ejfoundation.org/resources/downloads/China-Report-2022-final.pdf>.