

Working Group 2: EU Markets

Draft Minutes

Wednesday, 7 June 2023 (14:30 – 18:00 CET)

BusinessEurope, Av. de Cortenbergh 168, 1000 Brussels

Interpretation in EN, ES, FR

Welcome from the Chair, Pierre Commère

Click [here](#) to access the Chair's presentation.

Adoption of draft agenda and of the last meeting minutes (29.03.23): adopted

Action points of the last meeting

- **State-of-play of the decisions made during the last meeting – information**
- Illegal, Unreported and Unregulated (IUU) Fishing & Global Governance:
 - The Secretariat, in coordination with the interested members, to shorten the length of the main text of the draft advice on effectiveness of EU controls to prevent illegal imports, while maintaining the recommendations
 - Amended draft advice to be put forward to the Executive Committee for consideration and potential approval via written procedure
 - Secretariat to contact the LDAC Secretariat for coordination of potential joint adoption of the draft advice
 - Advice jointly adopted by MAC and LDAC on 21 April 2023
- Autonomous Tariff Quotas:
 - In the work programme of the next operational year, consider the upcoming public consultation and impact assessment on the inclusion of sustainability requirements in the ATQs instrument
 - Pending
- European Year of Skills:
 - Agreed draft advice to be put forward to the Executive Committee for consideration and potential approval
 - Advice adopted on 30 March 2023 and Commission replied on 11 May 2023
- EU-Angola Sustainable Fisheries Partnership Agreement:
 - Agreed draft advice to be put forward to the Executive Committee for consideration and potential approval
 - Advice adopted on 30 March 2023 and Commission replied on 25 April 2023



- Vice-Chair:
 - Chair to inform the Executive Committee about the lack of expressions of interest, plus to schedule the agenda item again in a future meeting, if a member expresses interest
 - Executive Committee informed at the 30 March 2023 meeting
- AOB:
 - Secretariat to circulate questionnaire on the Evaluation of 2019-2024 Protocol to the Fisheries Partnership Agreement between the EU and the Republic of Cabo Verde
 - Questionnaire circulated from 4 to 18 March 2023, but no reply received

Food and Agriculture Organisation (FAO)

- **Presentation on upcoming database on preferential trade agreements by Márcio Castro de Souza, FAO**
- **Exchange of views**

Click [here](#) to access the presentation.

Márcio Castro de Souza (FAO) explained that FAO was preparing a differentiated database on free trade agreements. Mr Castro de Souza emphasised the importance of fishery and aquaculture products in the international market. Following stable developments during the COVID-19 pandemic, a considerable rebound of international trade is foreseen. In 2023, there was already an increase, and an even greater increase is expected in 2024. When comparing the trade of fish products with other products of animal protein, fisheries and aquaculture products correspond to almost the sum of beef, poultry, and pork. 37% of fish production enter international markets. He drew attention to a map on the international trade flow of fisheries and aquaculture products, highlighting, in terms of participating countries, it is a very inclusive trade. Even large producing countries are, at the same time, importers.

Mr Castro de Souza recalled that, in the last decade, the World Trade Organisation continued trade negotiations on several aspects, but many regions of the world started to engage more in regional trade agreements. The purpose of the trade agreements is to reduce the tariffs on the preferential products. There are also facilitations concerning documentation and mutual recognition of regulations. Autonomously granted preferential tariffs will not be covered by the database. The database will focus exclusively on mutually negotiated trade agreements.

Mr Castro de Souza highlighted that preferential tariffs represented quantitative benefits due to the competitive advantage in exports and market access. There are qualitative benefits in facilitation of trade, food safety, and reduction of tariffs. To access the preferential tariffs, the exporting countries must comply with a series of conditions, which are enforced at the border. Exporters should know the import requirements well, so that the product can be exported in a competitive manner. He further highlighted that, in the fisheries sector, there was significant complexity in the determination of rules of origin. This is particularly complex for fisheries beyond the coastal areas under national jurisdiction.



Mr Castro de Souza explained that, traditionally, clauses in trade agreements focused on the nature of the product in terms of nationality, so associated with rules of origin. More recent trade agreements include “modern clauses” focused on sustainability, for example IUU fishing, fisheries subsidies, and pollution. He mentioned the Comprehensive Agreement for Progressive Trans-Pacific Partnership as an example of modern clauses.

On the existing main sources of preferential access information, Mr Castro de Souza mentioned the country, the World Trade Organisation’s analysis online, the World Trade Organisation’s Tariff Download Facility, the International Trade Centre’s Market Access Map, and the World Bank’s World Integrate Trade Solution as examples of sources of information. Most of these sources focus on the preferential access in relation to the free trade agreement, plus the legal text on rules of origin. These sources are not specific to fisheries and aquaculture products. The newer sustainability clauses are not explained in these sources. The specific nuances of the fisheries and aquaculture sector are not addressed.

Mr Castro de Souza explained that the FAO’s Sub-Committee on Fish Trade meets every two years. Due to changes in schedule caused by the COVID-19 pandemic, the Sub-Committee met remotely in 2022 and will meet in person in 2023. At the last meeting, countries agreed that FAO should conduct the development of the database. At the 2023 meeting, FAO experts will present a scoping paper explaining the existing sources of information, plus the specificities and added value of the database. In terms of basic principles, the focus will be on a user-friendly format, nuance of the fisheries and aquaculture sector, and a comprehensive description of the product. The database will cover the different maritime zones and cover all fisheries and aquaculture products.

Mr Castro de Souza emphasised that the development of the database was in the early stages, expressing availability to receive suggestions. There are several documents available online connected to the 2022 and 2019 meetings of the Sub-Committee on Fisheries. He drew attention to the resources made available in GLOBEFISH.

The Chair expressed confidence that the database would prove to be very useful for operators. The Chair encouraged members to look into the database and provide suggestions to FAO.

Trade Agreements & Trade Policy Instruments

- **Update on latest trade developments by Paweł Szatkowski, DG MARE**
 - **EU-New Zealand Free Trade Agreement**
 - **EU-Australia Free Trade Agreement**
 - **EU-Thailand Free Trade Agreement**
 - **EEA Trade Agreement**
 - **Economic Partnership Agreements with ACP countries**



- **USA's Marine Mammal Protection Act**

Paweł Szatkowski (DG MARE) presented the latest trade developments:

- EU-New Zealand Free Trade Agreement:
 - Negotiations were concluded one year ago. The EU would like to start implementation in early 2024. The decision on the signing of the agreement by the COREPER will take place in June 2023. The signature of the agreement is scheduled for early July 2023. After the signature, the agreement will require ratification by the European Parliament and by the Parliament of New Zealand. Due to upcoming elections in New Zealand, there is an element of unpredictability.
 - In terms of fish trade, the agreement will essentially cover 35 thousand tonnes of exports from New Zealand to the EU. The EU does not export fishery products to New Zealand. The products covered are mainly frozen fillets of fish, including blue grenadier, hake, squid, and cuttlefish, caught in the Exclusive Economic Zone of New Zealand. There is virtually no trade of processed fish.
 - On market access, most tariff lines for fisheries products will be liberalised. There are two lines subject to staging, across several years, for example whole frozen blue grenadier, frozen fillets of fish, canned tuna, and shrimp.
 - On rules of origin, there was agreement to use the standard rules of origin. Vessel conditions include flag and vessel ownership. There is the possibility of a derogation for New Zealand, namely a quota of 8000 tonnes of squid and cuttlefish, 500 tonnes for mackerel, 5500 tonnes for frozen hake, blue whiting, and other fish. This fish must be caught in the Exclusive Economic Zone of New Zealand. The agreement includes a growth provision and a revision provision based on the utilisation by New Zealand.
 - New Zealand is the main beneficiary of two Additional Tariff Quotas currently in force in the EU: frozen hake and frozen fillets of blue grenadier. After the implementation of the free trade agreement, New Zealand would maintain this access.
 - The EU considers that the trade and sustainable development chapter is one of the most ambitious chapters ever concluded. There were some issues in the competition chapter, since New Zealand was seeking some provisions concerning the World Trade Organisation's agreement on fisheries subsidies, but agreement was reached.
- EU-Australia Free Trade Agreement:
 - Negotiations are ongoing. A round of negotiations took place in May 2023, which was originally thought to be the final round at technical level. Agreement has been reached on most issues. The agreement will cover around 3000 tonnes of Australian exports. The EU does not export fishery products to Australia.



- Most tariff lines for fishery products will be liberalised with the entry into force of the agreement. There was agreement for standard rules of origin, plus a small derogation for a quota of fish caught in the Exclusive Economic Zone.
 - For the conclusion of the agreement, meetings at Ministerial and Commissioner-levels were scheduled for June 2023 to assess the development of the negotiations and outstanding issues. Several sensitive issues remain on agricultural products, services and investments, geographical indications, and raw materials. The sustainable development chapter has not been finalised.
- EU-Thailand Free Trade Agreement:
- Negotiations were launched in March 2023. Both sides are committed to negotiating a modern high-quality free trade agreement with sustainability at its core. As Thailand is the second biggest economy in ASEAN, the negotiations send a strong political signal on the EU's engagement in Southeast Asia and in the Pacific. Substantial rounds of negotiations are expected in September 2023, which will depend on the formation of the government in Thailand. In parallel with the process of negotiations, a sustainability impact assessment will take place. The Commission services remain available to discuss the next steps and substance with stakeholders.
 - Previous negotiations with Thailand came to a halt in 2014. With the restart of negotiations, there were questions about whether to use the previously negotiated text or to launch the new negotiations with a new text. The EU plans to propose to negotiate with a new revised text.
 - DG MARE and DG TRADE received a letter from ANFACO-CECOPECA. The Commission services are thankful for the letter and are aware of the sensitivities raised concerning canned tuna products. The Commission services are aware of the volume and economic weight of Thailand in this industry. The aim is to negotiate an agreement that does not hurt the EU's industry and interests. The exclusion of tuna products from liberalisation will be requested. The Commission services will advocate for restrictive rules of origin for fishery products, in similar manner to other free trade agreements.
- EU-Indonesia Free Trade Agreement:
- The aim is to finalise the agreement in 2023. There were significant advances on market access and rules of origin, but there are several outstanding issues.
 - Concerning the sensitivity of canned tuna products, Indonesia signalled an offensive interest in canned tuna. Indonesia has around 200 thousand tonnes of canned tuna produced per year. The EU has a defensive interest here.
- EEA Trade Agreement:



- No new developments in the negotiations. The negotiations are on hold since November 2022, when there were technical exchanges. No agreement has been reached on the way forward. Norway and Iceland seek a complete liberalisation of market access for fishery and aquaculture products, which is contributing to the stalling of the negotiations. The EU does not have a trade-related interest in the liberalisation, since there it does not have further offensive interests.
- There might be an offer from the EU's side to advance on the negotiations, since several Member States call for a swift conclusion of the agreement. Nevertheless, fisheries-related issues remain, namely with Norway and the management of mackerel and codfish, representing a politically sensitive issue. In June 2023, there could be some meetings of senior officials and technical experts to try to unblock the situation.
- The previous additional concessions expired in 2021 were not renewed, which means that, currently, only the general concessions and permanent quotas are in operation.
- EU Autonomous Tariff Quotas for certain fishery products for the period 2024-2025:
 - The Commission services are finalising the proposal for the upcoming period. This will be impacted by the political developments with Norway concerning fishing opportunities, access to waters, and management of shared stocks. The aim is to finalise the legislative proposal before the summer break. At the latest, the proposal will have to be submitted to the Council by September 2023, so that agreement can be reached before December 2023.
- Economic Partnership Agreements with ACP countries:
 - On the Economic Partnership Agreement with Eastern and Southern Africa, a round of negotiations is planned for June 2023. The aim is to conclude the negotiations as soon as possible. There are several outstanding issues, including on fisheries matters. There are issues concerning tuna and the automatic derogation for tuna loins and canned tuna. Mauritius and Seychelles are calling for a significant increase in canned tuna. In the case of tuna loins, there is access through the EU Autonomous Tariff Quotas. The Commission services were reflecting internally how to address the described issues. Under the fisheries chapter, Eastern and Southern Africa countries were making several demands that would be difficult for the EU.
 - On the bilateral Economic Partnership Agreement with Kenya, agreement was reached. A political-level meeting for signature was scheduled for June 2023.
- USA's Marine Mammal Protection Act:
 - Since 2021, USA authorities are examining the applications to allow exports of seafood, including the equivalence measures to meet the protection measures of the Marine Mammal Protection Act.



- In the summer of 2023, USA authorities will provide a second opportunity to applications that have not met the requirements. There will be a request for complementary information with a deadline of 30 days. The final decisions will be made in November 2023. Implementation will start in early 2024.
- According to the available information, most applications will be accepted. In the case of the applicants that do not receive an additional request for information, it likely means that the application will be accepted.

- **Exchange of views**
- **Way forward**

The Chair, concerning the defensive interests of the EEA Agreement, drew attention to the sourcing dimension of products coming from those countries. Several of the products can be covered by the EU Autonomous Tariff Quotas, but without providing a guarantee to the operators. The Chair emphasised that there were high expectations for the supply of the EU market. On Thailand and Indonesia, the Chair recognised that there were indeed defensive interests for the EU's tuna industry.

Paul Thomas (EAPO), on the negotiations with Norway and Iceland, emphasised that there were also high expectations from the fisheries industry's side. The negotiations on market access should be used to guarantee that EU fishery operators have access to sufficient fishing quota in the context of the ongoing negotiations on fishing quota attributions, so that economic operations can be maintained.

The Chair, concerning the USA's Marine Mammal Protection Act, wanted to know if companies that have not shown interest previously could submit a first request under the new deadline for clarifications.

Paweł Szatkowski (DG MARE), on the USA's Marine Mammal Protection Act, responded that there had already been several opportunities for applications. The new deadline is for the clarification of previous submissions.

Sustainable Fisheries Partnership Agreements (SFPAs)

- **Update on latest developments by Catherine Chapoux, DG MARE, with a focus on supply to local and EU markets**

The Chair recalled that, in 2021, the MAC adopted advice on the evaluation of Sustainable Fisheries Partnership Agreements, focusing on the market dimension, a dimension that was missing. Through fishing activities, there is the purpose of supplying local markets, the EU market, and third countries. The Chair highlighted that new initiatives related to Ghana, Côte d'Ivoire, Cabo Verde, and Kiribati were ongoing.

Catherine Chapoux (DG MARE) explained that the Sustainable Fisheries Partnership Agreements were international agreements that included a framework agreement and an implementation protocol.



Currently, there are active agreements being implemented, but also some dormant agreements due to expired protocols. Ms Chapoux outlined the currently active agreements:

- Atlantic Ocean: There are agreements with Greenland, Morocco, Mauritania, Senegal, Cabo Verde, Gambia, Côte d'Ivoire, São Tomé e Príncipe, Gabon, and Guinea-Bissau. The agreement with Morocco will become dormant, as renegotiation is not possible in the context of the court case on Western Sahara. An appeal was launched in the Court of Justice, which will be pending until the beginning of 2024. Additionally, there is a dormant agreement with Guinea.
- Indian Ocean: There are agreements with Mauritius and Seychelles. A protocol with Madagascar will be implemented from July 2023.
- Pacific Ocean: There are agreements with the Cook Islands. A protocol with Kiribati will be implemented from July 2023.

Ms Chapoux explained that several protocols were reaching the end of their validity in 2024, including Guinea-Bissau in June, and Côte d'Ivoire in July. The Commission services initiated the preparatory work to relaunch the negotiations. The preparatory work includes an independent evaluation of the various objectives and impacts of the fishing agreements. The trade aspect will be covered in the evaluations, including the types of products traded, the type of landings, and the type of processing. It can be quite difficult to gather the mentioned data. As an example, in the Atlantic Ocean, there are cases of EU vessels fishing tuna in Côte d'Ivoire, but that tuna was not necessarily processed in the country of landing. Therefore, it was difficult to determine the impact on the partner countries.

Ms Chapoux recognised that consumption has an impact on the quantity of sold products and the price fluctuations. There should be a differentiation between canned tropical tuna, which accounts for the activity of most of the fishing agreements, and the mixed species agreements. In the case of the mixed agreements, landings often occurred in ports closer to the EU. The prices and marketing channels were quite different.

Ms Chapoux highlighted that the evaluations for the agreements with Côte d'Ivoire, Guinea-Bissau, and Cabo Verde, would be made available soon. A Staff Working Document would provide further comments on the evaluations. The documents would be made available online. The evaluations would cover individual countries. No aggregated study was foreseen. The aspects of processing and added value generated were not part of the agreements. Usually, these agreements do not include trade or investment provisions. The agreements foresee broad economic cooperation.

Ms Chapoux informed that Gabon expressed interest in the development of their industrial policy through the fisheries agreement, but that the fisheries agreement would not be able to meet such objective. Gabon benefits from trade preferences at a low value. The Commission representative mentioned that often the partner countries want their industry to thrive thanks to the fishing agreements and the EU fleet, but that, in practice, this remained marginal.

Ms Chapoux commented that the landing obligation had limited impact on the fisheries agreements. The obligation was usually compensated with the availability of infrastructure. In the cases where the



partner country did not have the necessary infrastructure, the obligation did not have effect. The Commission representative added that Côte d'Ivoire, Cabo Verde, and Guinea-Bissau are processing countries. Mauritius and Seychelles also do significant processing of EU fish. Madagascar has some processing. Processing often occurred outside the fisheries agreements.

- **Exchange of views**
- **Way forward**

Daniel Voces (Europêche), concerning the upcoming expiration of the protocol with Morocco, expressed disappointment that the European Maritime Fisheries and Aquaculture Fund did not provide compensation to fishing vessels owners and fishers. Mr Voces wanted to know if the Commission was planning for the future, including the provision of advice or alternative opportunities for fishing vessels owners to make use of other agreements. He highlighted the importance of the Moroccan waters for both large and small-scale EU fishing vessels. He also wanted to know if the Commission services would be making an assessment on the quantity of seafood that would not reach the EU market due to the expiration, plus on how the EU would fill up this gap.

Catherine Chapoux (DG MARE) responded that the protocol with Morocco would expire on 14 July 2023, meaning that the agreement would become dormant. There would not be fishing opportunities for the EU fishing vessels. No compensation was foreseen under the European Maritime Fisheries and Aquaculture Fund. In terms of alternative, Ms Chapoux drew attention to the agreement with Mauritania, which remained underused. In the mid-term, there were some possibilities with Guinea and with Angola. On the reduction of supply, there was no forecast available.

The Chair requested information on potential negotiations with Ghana.

Catherine Chapoux (DG MARE) responded that there were no negotiations with Ghana. Ms Chapoux highlighted that there were also dormant agreements with Mozambique and Kenya, but that the authorities of these third countries were not expressing interest in negotiating.

Guus Pastoor (Visfederatie) emphasised the importance of the topic for the market. Every year, AIPCE-CEP published the “Finfish Study”, an analysis of the EU market of fishery and aquaculture products. In many cases, it can be quite difficult to determine the origin of the fish. It is difficult to know how much direct and indirect supply come from the Sustainable Fisheries Partnership Agreements into the EU market. Mr Pastoor argued that this data was relevant to assess the level of utilisation of the Autonomous Tariff Quotas. In the case of tuna, it could be caught under one flag and then processed in Thailand, meaning that, for trade purposes, the provenance would be registered as Thailand, instead of the original country of catch. He asked Ms Chapoux for more information about how the Commission services would gather this data and how the MAC could assist her.

Anne-France Mattlet (Europêche) thanked Ms Chapoux for drawing attention to the issue of the landing obligation and the cases of lack of infrastructure in the partner country, which was a problem that the EU tuna fleet frequently faced. In Madagascar, the local infrastructure was still under development and often the vessels had to wait several months for payment. Similar problems were



faced in Senegal. EU fishing vessels were eager to land catches in Senegal, but priority was given to Chinese vessels, meaning that EU vessels had to wait for several days or even weeks. Ms Mattlet emphasised that traceability data was available, but agreed with Mr Pastoor that it could be difficult to know the exact origin or provenance of the fish, so she called for increase transparency.

Catherine Chapoux (DG MARE) responded that the evaluation studies would assess the landings of the fish, processing, and added value of the economic activity in the partner country. If these activities do take place in the partner country, the expert will aim to quantify the values and to analyse the corresponding activities, such as transshipments, port activities, and processing. The purpose is to know whether the partner country is benefiting from the partnership agreement. It will not provide an overall view on the destination of the fish.

Ms Chapoux stated that, based on the catch data, it was not possible to know the final destination. The fisheries agreements only provided data on the landings, which, in the case of transshipment, would be less relevant. The Commission representative highlighted that, under the IUU Regulation, catch certificates were required. The certificates were issued by the master of the vessel that caught the fish, even in the case of processed fish. The supply chain was much broader than the fisheries agreements. She expressed agreement with the traceability objectives, but added that the fisheries agreements were unlikely to be the appropriate instrument to further implement this.

Paweł Szatkowski (DG MARE), on traceability and the origin of fish products, responded that there was difference between preferential and non-preferential rules of origin. Under most free trade agreements, preferential rules of origin foresaw flag registration and vessel ownership. These vessel conditions were applicable beyond the territorial sea. This does not provide information about where the fish was caught. Most of the fish entering the EU via free trade agreements came from the Exclusive Economic Zone of the partner countries. This issue was related to the capacity of customs authorities to check compliance with rules of origin as well as the level of requirements demand from partner countries. The Commission representative added that, in the case of non-preferential rules of origin, the main criteria was the flag of the fishing vessel, which was less restrictive.

Mr Szatkowski, on the Autonomous Tariff Quotas, responded that this was not based on the preferential nor on the non-preferential rules of origin. The data on the utilisation of Autonomous Tariff Quotas was based on the country of export, based on the import declaration received by customs authorities. Therefore, there were data limitations. For example, in the case of tuna loins imported from Indonesia under Autonomous Tariff Quotas, it was not possible to know whether it had been caught by an Indonesian vessel, except by checking the catch certificate. The Autonomous Tariff Quotas apply “*erga omnes*” which means that they are not country specific. Therefore, it is not subject to preferential rules of origin.

Mr Szatkowski recalled that the Commission would be launching an impact assessment on the potential addition of a sustainability element to the Autonomous Tariff Quotas Regulation. In the future (2026 and onwards), the regulation will impose requirements to ensure the sustainability of the imported fish. At a future point, the need for increased traceability would have to be addressed. The Commission representative recalled that the European Parliament expressed dissatisfaction with the high level of imports from China.



The Chair drew attention to the future digitalisation of the catch documentation under the CATCH IT tool, which would lead to changes in import schemes, providing further harmonisation. The new rules should provide more information on the origin of the products. In relation to Ms Mattlet's intervention, the Chair emphasised that the lack of consumer information did not mean that there was no traceability.

Anne-France Mattlet (Europêche) wanted to know how the Commission planned to compensate for the impact of the Autonomous Tariff Quotas on the Sustainable Fisheries Partnership Agreements. In the case of some canneries in ACP countries, there was an impact from the Autonomous Tariff Quotas on tuna loins. For ACP countries, it represented additional competition from Asian countries with lower production costs.

Guus Pastoor (Visfederatie) stated that the Autonomous Tariff Quotas were a source of supply for processing in the EU. Therefore, it was easier to determine the origin for products under the Autonomous Tariff Quotas than for products entering the EU via free trade agreements. In the case of many species, the volumes were much higher under the free trade agreements than in the Autonomous Tariff Quotas.

Paweł Szatkowski (DG MARE) recognised that the supply of tuna loins and of other raw materials was challenging. The Sustainable Fisheries Partnership Agreements provide the possibility for the EU fleet to fish tuna in third countries for canning, while, under the Autonomous Tariff Quotas, there was an opening of the market to the same products. This would be covered in the impact assessment. This issue was also addressed in negotiations with third countries. In his view, it was preferable to open the market to partner countries that respect similar norms. Both the Sustainable Fisheries Partnership Agreements and the Autonomous Tariff Quotas aimed to provide an answer to supply issues.

The Chair highlighted that, as demonstrated in a previous exchange under Working Group 1 about an EUMOFA study on the EU tuna market, there were complex trade flows connected to free trade agreements, Sustainable Fisheries Partnership Agreements, and Autonomous Tariff Quotas. Further studies on the matter were needed.

Corporate Sustainability Due Diligence

- **Update on state-of-play of legislative proposal**
- **Exchange of views**

Click [here](#) to access the presentation.

The Secretary General recalled that, the previous year, a Commission representative delivered a presentation on the legislative proposal for a Corporate Sustainability Due Diligence Directive. The proposal was adopted on 23 February 2022. The proposal requires large companies to identify and address their negative rights and environmental impacts in line with key international frameworks, including the United Nation's Guiding Principles on Business and Human Rights the OECD's Guidelines for Multinational Enterprises and associated due diligence guidance.



On 30 November 2022, the Council published its General Approach, departing in some key aspects from the Commission's position. On 25 April 2023, the responsible committee on legal affairs (JURI Committee) adopted its final report setting out the negotiating position, on which the Parliament voted on 1 June 2023. The institutional negotiations will start on 8 June 2023.

Banning Forced Labour

- **Presentation of external study on forced labour in the fisheries and aquaculture market by Sébastien Metz and Nicolas Fournier, Sakana Consultants**

Click [here](#) to access the presentation.

The Chair recalled that, at a previous meeting, agreement was reached on Terms of Reference for an external study on forced labour. A Steering Committee was appointed, which was supposed to meet at the launch, intermediate point, and the final version of the study, but that the Steering Committee only managed to meet twice.

Sébastien Metz (Sakana), as a disclaimer, informed that Sakana Consultants was involved in long-term contracts with the Global Seafood Alliance and with the Global Dialogue on Seafood Traceability. Mr Metz recalled that the aim of the study was, in the context of the proposal for a new draft regulation on prohibiting products made with forced labour on the Union market:

- Collecting information sources on species/products/countries/companies most likely to be connected to forced labour (both EU production and imports)
- Identifying Member States' initiatives to fight forced labour in the supply chain and industry initiative to combat forced labour in the supply chain
- Broad economic analysis of the presence of forced labour
- Drafting recommendations to the Commission and Member States for potential consideration during the interinstitutional negotiations

This legislation should be understood as part of a larger framework with the Corporate Sustainability Due Diligence Directive. The European Commission purposely separated these matters into two different legislative proposals. In some other regions for the world, these issues were addressed together.

Mr Metz explained that "forced labour" was defined by a convention of the International Labour Organisation (ILO) in 1930. The definition was reinforced by several following instruments. The vast majority of ILO Member States, including EU Member States, ratified these instruments, meaning that these countries are required to make the practice of forced labour a crime. He emphasised that modern slavery was cheap, and it was easily replaceable. In 1850, a slave would cost the equivalent of 40 000 USD in American confederate states (converted in 2019 USD). In 2019, the average cost for a slave was estimated at 90 USD.



Mr Metz provided an overview of the mechanism foreseen in the legislative proposal. First, a submission process. Despite exchanges with DG TRADE and DG GROW, the process remains unclear, particularly the involvement of civil society, unions, and interest groups. Second, a preliminary phase with a preliminary investigation. The legislative proposal does not provide details on how the investigation would take place. Third, if there are substantiated concerns, a proper investigation. Fourth, based on evidence, a decision to prohibit the placing or making available on the EU market. Fifth, there is a withdrawal from the EU market and a ban on imports and exports.

Mr Metz described the initiatives inside the EU. Forced labour is regularly mentioned in the legislation of Member States, but there are few specific tools. Few guideline documents are actually applicable, with the exception of Denmark. In a few Member States, there are due diligence legislations in place, for example in France and in Germany. The threshold to be subject to the law is quite high, but, in practice, there is a strong trickledown effect. The European sectoral social dialogue committee for sea fisheries issues a joint declaration on minimum conditions for social certification in the seafood supply chain, which is focused on the ILO Convention 188. He also described regulatory initiatives outside of the EU, market-based initiatives, fisheries and aquaculture certifications, and available databases.

On the creation of an EU database to support risks assessments, Mr Metz highlighted that, at the present stage, the intention was to gather public information on countries and products, not on companies. In his view, there were still several outstanding issues. First, the multistakeholder process. It is unclear who would participate. Trade unions have expressed concern about the lack of focus on workers. Second, the specificity of fisheries activities. Aquaculture could be compared to farming and fish processing could be compared to other processing sector, but fisheries is not comparable. Third, most tools are using *ad hoc* data. Very little data derives from international organisation databases, so it is mostly variables developed by researchers and qualitative analysis transcribed numerically. Fourth, a question of bias and transparency. Fifth, replicability. Sixth, the irregularity of updates. Seventh, once the database is created, there are questions on the weighing of inputs. Finally, there are issues on the link with the Corporate Sustainability Due Diligence Directive.

Mr Metz explained that his consultancy developed an example of a database, which used, as an example, the Better Cotton Initiative, with the weight structure for fisheries and aquaculture products at processing level. Based on these, combinations of countries and products were identified. The “problematic duos” in the example had a total value of 4,2 million euros out of 27,2 million euros, so 15% of the imported value. He wondered about the relevance of the foreseen Commission’s two years development of a database by consultants, since a similar list could quickly be developed by informed stakeholders.

Mr Metz summarised the recommendations of the report: pushing for the ratification of the ILO’s Convention 188; strengthening multilateral engagement; establishing, within the EU, a dedicated organisation for the maintenance and management of comprehensive databases on both social and environmental issues; developing more nuanced approaches to risk assessment, considering the nature of forced labour; developing a severity scale for forced labour; enhancing transparency and stakeholder engagement in the regulation; ensuring transparency in investigations; establishing a transparent list of companies linked to forced labour for effective due diligence; and establishing a



transparent mechanism for companies to demonstrate compliance and exit the list of companies linked to forced labour.

- **Exchange of views**

The Chair emphasised that, in the context of the legislative proposal, the main question was how the fisheries and aquaculture stakeholders should react, including tools to eradicate forced labour from the supply chain. Therefore, study was very helpful.

Daniel Voces (Europêche) congratulated the experts for such a high-quality work in a concise timeframe. The implementation of the legislation on forced labour and on due diligence will be very considerable work for companies in the fisheries sector. Therefore, the additional clarity on the implementation was welcomed.

Concerning chapter 2.2 “how to identify forced labour”, Mr Voces highlighted that the fisheries sector was partially excluded from the Working Time Directive, plus many fishers in the EU are self-employed. He suggested some redrafting in 2.3 “specific major risks in the fishing sector regarding forced labour” to avoid misleading readers. Concerning the examples on the level of implementation of rules against forced labour in different Member States, he wondered whether there were cases of Member States with tools against forced labour, but that simply the legislation’s name did not make explicit reference to “forced labour”.

Mr Voces expressed appreciation to the references to the European sectoral social dialogue’s committee for sea fisheries, adding that his organisation is closely involved with the committee. He expressed support for the recommendations outlined in the study.

Sébastien Metz (Sakana) responded that the comments made by Mr Voces would be taken into account in the final version of the study.

The Chair encouraged members to read the document and provide comments.

Juana Maria Parada Guinaldo (OR.PA.GU.), on the difficulties of cooperating with third countries that do not implement legislation on forced labour, gave an example of a fishing vessel in the Indian Ocean which was operating with crew members sleeping on top of each other. In these cases, trade tools should be used, since these products could enter the EU’s market.

Pim Visser (VisNed) asked whether the Environmental Justice Foundation was involved in the recommendations, highlighting this organisation’s work against forced labour.

Sébastien Metz (Sakana) explained that the legislative proposal had been primarily developed by DG GROW and DG TRADE. The intention is to have to the same rules on banning of products. In practice, operators will have to implement the due diligence directive, while public administrations will use the directive on forced labour to ban the products. As for the Environmental Justice Foundation, Mr Metz informed that the organisation was mentioned in the study, since they worked on one of the tools referenced in the study.



The Chair commented on the important role that the proposed directive would have on combatting forced labour and the importance of stakeholders preparing for the implementation.

Sébastien Metz (Sakana) emphasised that the proposed directive would be applicable to all products placed in the EU market. Therefore, it was important to draw attention to the specificities of fishery and aquaculture products.

- **Way forward**

The Chair proposed a three week deadline for members to send comments on the draft study to the Secretariat, which would be forwarded for the consideration of the external consultants.

AOB

None.

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Summary of action points

- Banning Forced Labour:
 - Members to send comments on the draft study, within three weeks, to the Secretariat, to be forwarded to the external consultants for their consideration
 - After the deadline for comments, a third meeting of the Steering Committee to be scheduled, followed by the circulation of the final version of the study
 - Draft advice on the topic to be considered at the September 2023 meeting

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Attendance List

Representative	Organisation	Role
Aitana López Baquero	Spain	Observer
Alen Lovrinov	Omega 3 Producers Organisation	Member
Alessandro Manghisi	Marine Stewardship Council (MSC)	Member
Alexandre Bonneau	SNCE	Member
Alexandra Philippe	Market Advisory Council	Secretariat
Anna Rokicka	Polish Association of Fish Processors (PSPR)	Member
Anne-France Mattlet	Europêche	Member
Aoife Curtis	Environmental Justice Foundation	Member
Arthur Yon	FROM Nord	Member
Bruno Guillaumie	European Molluscs' Producers Association (EMPA)	Member
Catherine Chapoux	European Commission	Expert
Christine Absil	Good Fish	Member
Daniel Voces	Europêche	Member
Emiel Brouckaert	European Association of Fish Producers Organisations (EAPO)	Member
Gaëtane Le Breuil	European Fishmeal	Member
Garazi Rodríguez Valle	APROMAR	Member
Guus Pastoor	Visfederatie	Member
Isabel Mariño Prieto	Conxemar	Member
Jaroslaw Zieliński	Polish Fish Producers Association (PFPA)	Member
Javier Ojeda	Federation of European Aquaculture Producers (FEAP)	Member
Jennifer Reeves	Marine Stewardship Council	Member
Jérémie Souben	FEDOPA	Member
José Carlos Escalera	Federación de Cofradías de Pescadores de Cadiz	Member
Juana Maria Parada Guinaldo	OR.PA.GU.	Member
Julien Lamothe	Association Nationale des Organisations de Producteurs (ANOP)	Member





Market Advisory Council

Representative	Organisation	Role
Katarina Sipic	EU Fish Processors and Traders Association (AIPCE) / European Federation of National Organizations of Importers and Exporters of Fish (CEP)	Member
Márcio Castro de Souza	Food and Agriculture Organisation (FAO)	Expert
María Luisa Álvarez Blanco	Federación de Asociaciones Provinciales de Empresarios Detallistas de Pescados y Productos Congelados (FEDEPESCA)	Member
Mariano García García	Federación Andaluza de Cofradías de Pescadores (FACOPE)	Member
Marine Cusa	Oceana	Member
Massimo Bellavista	COPA COGECA	Member
Miguel Lizaso	European Commission	Expert
Nicolás Fernández Muñoz	OPP72	Member
Nicolas Fournier	Sakana	Expert
Paul Thomas	European Association of Fish Producers Organisations (EAPO)	Member
Paweł Szatkowski	European Commission	Expert
Pedro Luis Casado López	Asociación de Armadores Punta del Moral (OPP80)	Member
Pedro Reis Santos	Market Advisory Council (MAC)	Secretariat
Pierre Commère	Association Des Entreprises de Produits Alimentaires Élaborés (ADEPALE)	Chair
Pim Visser	VisNed	Member
Rosalie Tukker	Europêche	Member
Sean O'Donoghue	Killybegs Fishermen's Organisation (KFO)	Member
Sébastien Metz	Sakana	Expert
Vanya Vulperhorst	Oceana	Member
Xavier Pires	ALIF	Member
Yobana Bermúdez	EU Fish Processors and Traders Association (AIPCE)	Member

