

## Working Group 2: EU Market Minutes

Friday, 26 March 2021

14:00 - 16:45 CET

Zoom online meeting

### Welcome from the Vice-Chair, Katrin Vilhelm Poulsen

*The Chair was unable to attend. The meeting was chaired by the Vice-Chair, Katrin Vilhelm Poulsen.*

### Adoption of draft agenda and minutes of last meeting (29.01.21): adopted

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

The Chair provided an overview of the state-of-play of the action points of the last meeting.

- Brexit:
  - o With coordination from WG2 and the Executive Committee, working groups to identify key market and trade priorities to be addressed in a future advice
    - Questionnaire was circulated to WG2 members
- Contingency Plan for Ensuring Food Supply and Food Security:
  - o WG2 to follow-up on upcoming public consultation
    - Presentation, exchange of views & way forward included on the draft agenda
- Sustainable Fisheries Partnership Agreements (SFPAs):
  - o Chair and Secretariat to prepare questionnaire to the members concerning the Roadmap on the evaluation exercise
  - o Depending on the replies to the questionnaire, Chair and Secretariat to prepare draft advice for consideration through written procedure
    - Questionnaire circulated to WG2 members
    - Advice adopted on 9 March 2021

The Secretary General informed that, in relation to the Sustainable Fisheries Partnership Agreements (SFPAs) evaluation exercise, the Secretariat was contacted by the Commission's external consultant. The external consultant is responsible for the overall evaluation of SFPAs. The evaluation report is expected in Fall 2021. The external consultant is interested in a contribution from the MAC to the evaluation and will contact the Secretariat, at a later point, to provide more information.



## Code of Conduct for responsible business and marketing practices

- **Presentation of initiative by Commission representative**

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

The Chair highlighted that the Code of Conduct is a Farm to Fork Strategy initiative. It aims to encourage middle of the supply chain actors to agree on a voluntary code of conduct to improve communication on sustainability performance, covering both social and environmental sustainability of food.

Henk Westhoek (DG SANTE) explained that the Code of Conduct is one of the first deliverables of the Farm to Fork Strategy. The Code of Conduct is a non-legislative action. The F2F Strategy and the Code of Conduct address all aspects of sustainability. The F2F Strategy takes an integrated approach, addressing the entire food value chain and all actors. When designing the F2F Strategy, the Commission found that there was insufficient action dedicated to actors in the middle of the food chain, such as food industry, retail, hospitality, and food service. Therefore, the Code of Conduct was developed to seek voluntary commitments from the actors, in order to stimulate progress towards a more sustainable food system.

The Code of Conduct focuses on the actions of actors of the middle of the food chain. The Commission is aware that the main sustainability challenges are on the consumption and production sides. Nevertheless, actors in the middle of the chain have significant influence on consumers, including on eating habits, product portfolio, product formulation, and on primary production shifts. The aim is to shift the norm food business culture towards sustainability whilst guaranteeing fair and transparent competition. It aims to provide clarity and build trust among all food system actors. The Code of Conduct must be concluded by June 2021. The Commission is eager to present it as a way forward at the UN Food Systems Summit, which will take place in September or October.

The Code of Conduct will have two components. The first component is the general part of the Code, based on aspirational objectives, determining actions, including specific actions that can be practically adopted by all actors, that go beyond legal obligations and existing voluntary codes, and that minimise administrative burdens especially for SMEs. Monitoring will focus adherence to the code. The second component of the Code will have specific commitments from individual companies. There will be freedom for companies on how to reach these targets, while the outcomes and progress will be monitored. The topics and aspirational goals of the Code will derive from international agreements and conventions, UN Sustainable Development Goals, the Paris Agreement, the CBD Strategy Plan for Biodiversity, from EU policy instruments, such as F2F Strategy, Biodiversity Strategy, and 2030 Climate Target Plan, and from other relevant input, such as existing guidelines and good practices and input from stakeholders.



The purpose of the aspirational objectives are: non-binding objectives; objectives will show for which themes change is needed and how much; actions should be proportional to the aspirational objectives; overall objectives in other policies and developments will contribute; objectives will create link to monitoring; strive for limited number of objectives and ranking of priorities. Concerning the process of the Code, there will be a co-design process involving middle of the chain actors, primary producers, consumer representatives, and NGOs, experts and academia. It takes into account existing work, legislation and policies. It builds on best examples, such as industry codes and existing national and international work.

Four different task forces were set up: promote healthy and sustainable consumption patterns, improve sustainability of internal processes in the middle of the chain, improve sustainability of food value chain, and cross-cutting monitoring framework. There is a parallel track with individual companies. The results will have two components: aspirational objectives with concrete actions and quantitative commitments by individual companies. In terms of taskforce process, there are four thematic Task Force sessions, all chaired by FoodDrinkEurope. Meetings take place under Chatham House rules. Each Task Force consists of members that attend all meetings, while organisations attend only one. Limited number of members per Task Force. Members are given “homework” questions ahead of the meetings, to ensure preparation and smooth progress. Decisions are taken on consensus-basis.

Pierre Commère (ADEPALE) wanted to know more about how the representation of SMEs is ensured. The Task Forces are chaired by FoodDrinkEurope, which represents large food companies.

Henk Westhoek (DG SANTE) explained that SMEs are partially represented by FoodDrinkEurope, since this association represents both small and large companies. SMEUnited is also represented at the meetings. There are other associations that represent SMEs, such as farmers associations.

Pierre Commère (ADEPALE) emphasised that, in large associations, such as FoodDrinkEurope, in practice, only large companies have enough financial and human resources to dedicate to meetings and ensure representation.

Henk Westhoek (DG SANTE) responded that the Commission is aware of the position of SMEs, which will be taken into account.

Frangiscos Nikolian (DG MARE) exemplified that Europêche and FEAP are also represented on the two main Task Forces and that these organisations also represent SMEs.

Todor Ivanov (Euro Coop), Task Force Vice-Chair & Rapporteur of the 1<sup>st</sup> Thematic Chapter on Sustainable Diets, presented their experience with the development of the Code of Conduct. Mr Ivanov highlighted that there were almost weekly meetings. The mandate of the Task Force is to discuss the first component of the Code. The Task Force is discussing the general aspirations, the



specific targets attached, and the type of monitoring framework. From the conceptual framework of the aspirational objectives, there are the sustainability pillars (environmental, social, economic) and the objectives (food consumption patterns, internal processes, value chain/primary producers). There are cross-cutting topics, such as food safety, food affordability, food security, and innovation. In terms of way forward, Task Force members receive “homework” questions in advance, meetings review members’ feedback and discuss common themes. There is a prioritisation. Each member proposes the top 3 issues in the thematic areas. After identifying the main issues, then there is a discussion on the potential aspirational objectives, potential operational actions, and enablers to support them.

Mr Ivanov exemplified that, under the first theme “food consumption for healthy and sustainable diets”, the aspirational objective could be “promote adequate, balanced nutrition, prevent malnutrition in all its forms, and help reverse the rise in childhood obesity”. Then, there would be an aspirational target attached “help reverse the negative trends of malnutrition in the EU by 2030”. The target would be linked to SDGs and Commission policies. There would be indicators to provide a context. Finally, there are potential actions. Under the second theme, the Task Force is looking at issues like climate change, resource efficiency, waste, and packaging. The third theme has an emphasis on partnerships and sustainable sourcing. The fourth theme is monitoring and evaluation. The Task Force still needs to decide on cross-cutting enablers, but these can include providing and supporting advisory services, training and skills; identifying, incentives and funding opportunities, and facilitating sharing of best practices; promoting collaboration and partnerships; developing harmonised definitions, data and methodologies.

As a conclusion, Mr Ivanov highlighted that it is a voluntary code. There are different views, but there needs to be a common ground. The timeframe is quite short, but they are optimistic. Mr Ivanov asked about how involved the MAC members would like to be, if there would be direct or indirect participation. There are members participating directly. Mr Ivanov offered to be a bridge the MAC and the thematic groups. In relation to the representativeness of SMEs, he highlighted that his organisation and Independent Retail Europe also represented SMEs. There is a wide group of SMEs beings represented in the associations participating in the process.

- **Exchange of views & way forward**

Daniel Voces (Europêche) informed that his association was invited by the Commission to participate in the process, which is a very relevant process. For Europêche, fish is an essential element of the F2F Strategy. It is the most efficient and climate-smart system that provides food to EU citizens, which fights obesity, while securing decent working conditions. Europêche will convey this message to the thematic groups and the task force. Fish should be a top priority in the Code of Conduct for citizens and the supply chain. The fishing industry will continue to invest in sustainability to ensure responsible fishing practices, in order to achieve sustainable fishing management in the EU, in line with the FAO. There are also challenges, such as the limited access to marine space and the high cost of producing at a high level. One of the targets should be to improve the position of fishers in the



value chain. An incentive could be the reduction of the VAT. Fishers must have full access to traditional fishing grounds. Fishers are tackling waste at sea through fishing gear and passively fishing marine litter coming from land. The involvement of the fishing industry in the circular economy is undeniable. On the social dimension, in the EU, the ILO 188 is being transposed into a directive, thanks to an agreement between the fishing sector. Europêche will continue to promote ratification and transposition of the directive into national legislation. Market forces should drive social change. All products, produced in the EU and third countries, should comply with a minimum level of social standards, in order to guarantee a level playing field, and to ensure equal competition.

The Chair highlighted the importance of labour issues, particularly when addressing the middle of the supply chain. It could also be relevant to provide some perspectives on the import of seafood, which is the majority of the seafood consumed in the EU.

Todor Ivanov (Euro Coop) agreed that, as a consumer, fish is part of a balanced and healthy diet. There will be two other rounds of meetings. The actions to fight obesity are still being identified. He agreed with the importance of fiscal incentives.

Guus Pastoor (Visfederatie) highlighted that the seafood supply chain has specific issues. AIPCE produced two codes of conduct on responsible sourcing of products and on responsible processing. These can be used as input. FoodDrinkEurope represents a wider range of food processing, covering many horizontal issues. It is important to ensure that the specific issues of seafood are addressed.

Katarina Sipic (AIPCE-CEP) expressed support for the two previous interventions. AIPCE-CEP plans to contribute to the discussions with the two mentioned codes of conduct. AIPCE-CEP is participating in the second task force. Information on the Code of Conduct's development is available on the dedicated page of DG SANTE.

María Luisa Álvarez Blanco (FEDEPESCA) expressed support for Europêche's intervention. She exemplified that Spain traditionally follows a healthy diet, but that it is being abandoned, while child obesity is rising. The sector has asked the Spanish government to lower VAT on seafood products. In the EU, there are different VAT levels for seafood products, from 0% to 21%. Fiscal policies should promote healthy habits by EU citizens.

Henk Westhoek (DG SANTE) explained that international sourcing is covered by the Code of Conduct, in order to ensure that there is no discrimination for seafood produced in the EU and imported seafood. The same principles will be applicable. In relation to VAT, the representative highlighted that the Code is voluntary, so not a legislative proposal. A reduction of VAT would need to be part of a legislative process. There is a legislative proposal on VAT legislation, which was tabled a few years ago by the Commission, but it is currently on hold. This could mean lower VAT rates for healthy food products and differences for organic and non-organic products.



The Chair asked members about their interest in the development of MAC advice, highlighting that several members already directly participate in the Code of Conduct.

María Luisa Álvarez Blanco (FEDEPESCA) expressed support for the development of advice.

The Secretary General stated that, based on the interventions, a short and general draft advice could be prepared. It is important to keep in mind that the Code of Conduct should be concluded by June. The advice could express support for the general principles of the code, while highlighting some specificities of the seafood sector, and that the uptake of the code amongst the sector in the could be promoted. The Secretary General encouraged members to email some main points to the Secretariat, so that a draft can be prepared and adopted through written procedure before June.

The Chair agreed with the suggestion of a written procedure and encouraged members to provide input to the Secretariat.

### **Contingency Plan for Ensuring Food Supply and Food Security**

- **Presentation of targeted consultation**

The Chair recalled that the MAC adopted advice on the Commission's Roadmap. The Commission has now launched a targeted consultation.

The Secretary General explained that the targeted consultation is much more detailed than the Roadmap. The feedback period is from 1 March to 3 May 2021. There was a letter from DG AGRI and email from DG MARE encouraging participation by the ACs and the members. The targeted consultation includes questions on food security in the EU, lessons learnt from the COVID-19 crisis, preparation for crises and future crises management, national and international preparedness for food crises, and the EU Food Crisis Contingency Plan. In relation to the main next steps, DG AGRI is meeting with expert groups until the Summer, there will be a JRC technical workshop, consultations of market observatories, Civil Dialogue Groups, and other consultative bodies, and ad hoc meetings. By the end of the year, there should be a F2F communication and staff working document. As for a way forward, the MAC could provide a submission to the targeted consultation, or draft advice on some of the topics of the targeted consultation, or merely encourage individual submissions by MAC members.

- **Exchange of views & way forward**

The Chair drew attention to the complexity of the targeted consultation, which means that it could be difficult to develop a joint submission.



Katarina Sipic (AIPCE-CEP) informed that AIPCE-CEP is participating in the Commission's expert groups. The third meeting of the expert group is taking place. There were presentations from Member States on civil preparedness, but also from third countries, such as Japan and USA. AIPCE-CEP registered different vulnerability aspects of the seafood sector in the expert group. Ms Sipic offered to make available AIPCE-CEP's input to the public consultation, in case the MAC decides to provide input. In terms of vulnerability aspects, there are systemic risks, such as climate changes, depletion of oxygen in the oceans, warming of the oceans. There are human-caused aspects, such as overfishing, pollution, infrastructure, fuel and power supply, packaging, workforce, consumer confidence. Taking into account that the EU is a seafood deficit market, geopolitical risks are also important, such as trade disruptions and trade sanctions. Fish is the most globally traded product. The EU imports over 100 different types of seafood products. In some species, the dependency of imports is over 90%. It is important to underline the vulnerability in global supply chains and possible disruptions stemming from natural disaster and geopolitical relationships.

Patrick Murphy (IS&WFPO) expressed agreement with the previous speaker. Mr Murphy underscored that fishing is a business, so there must be an economic return. The disruption due to the COVID-19 pandemic caused a dramatic reduction in prices, impacting the viability of fishing vessels and jeopardising the industry. Climate changes and variations in fuel prices are important factors.

The Chair suggest the drafting of an advice providing an overview of the topics raised. The MAC should not participate in the targeted consultation, but encouraged individual members to contribute.

The Secretary General encouraged members to send contributions to the Secretariat, which could be used as inputs for drafting advice on the topics of the targeted consultation. Taking into account the deadline of the targeted consultation, the Secretary General suggested consultation and adoption through written procedure. The advice could be short and simple, avoiding being too technical.

## Trade

- **Presentation of EU-Colombia/Ecuador/Peru FTA evaluation**

The Secretary General stated that Trade Unit of DG MARE could not be present, but that written questions could be sent. The Secretary General explained that there is an ongoing evaluation of the EU-Colombia/Ecuador/Peru FTA. The goal is to open markets on both sides and increase stability and predictability of trade and investment environment. It is considered a "new generation FTA", since, besides the liberalisation of trade in goods and services, it also includes aspects like investment, public procurement, intellectual property rights, and sustainable development. Under the FTA evaluation, there is an ongoing study to analyse the economic, social, human rights, and environmental aspects. The Commission published a survey, which seeks inputs to the evaluation study. The survey's questions are on the awareness of the agreement, operational objectives and implementation, and economic, social, environmental, and human rights impacts.



The Secretary General highlighted that the survey is quite detailed and that it was unclear if there were members interested in the EU-Colombia/Ecuador/Peru FTA. As ways forwards, the MAC could reply to the survey, draft advice on the topics of the consultation, draft advice on other seafood topics, and/or encourage individual submissions by MAC members. According to the MAC's Work Programme, the MAC should always consider the possibility of replying to the Commission's consultation on trade matters.

The Chair asked members if there was interest in further work on the EU-Colombia/Ecuador/Peru FTA. The members did not express interest.

- **Presentation of latest trade developments**

The Secretary General presented some of the latest trade developments, for the information of the members. The EU reviewed the Trade Enforcement Regulation, in order to empower the EU to act in the WTO and in FTAs when a trade dispute is blocked despite the EU's good faith effort to follow trade dispute settlement procedures, plus to expand the scope and possible trade policy countermeasures to services and intellectual property rights. The Commission appointed a Chief Trade Enforcement Officer, created a new Directorate in DG TRADE for enforcement, market access, and SMEs, and established the Access2Markets tool. The Commission recently published the Communication on the Trade Policy Review, which aims to achieve the European Green Deal objectives, remove unjustified trade barriers in the digital economy, reinforce alliances and have stronger focus on neighbouring countries and Africa, to have a more assertive approach towards the implementation and enforcement of trade agreements, fighting unfair trade and addressing sustainability concerns.

Poul Melgaard Jensen (Danish Seafood Association), Chair of the Initial Focus Group on Trade, explained that the FG hoped to have a draft report ready in the near future. The report will be divided in three parts. The first part focused on how the EU market is composed and the relative importance of sourcing from third countries compared to EU production. The second part maps trade instruments relevant for seafood products, such as preferential agreements, *erga omnes* instruments, and trade defence instruments. The individual instruments are listed with the products covered and conditions. SFPAs are also included. The third part provides an analysis of the most important species and products, according to four criteria: highest volume, highest value added, most conflicting with EU production, and risk of IUU. It aims to show the significance of trade instruments for selected species. For this final part, external input is needed. A request was sent to DG MARE. There is a high degree of overlap between the instruments, making it difficult to identify the significance of individual instruments. It can also be difficult to measure volume and significance of EU catches in third countries' waters. Trade statistics on the origin can also be quite complex, particularly for processed products.





- **Exchange of views & way forward**

Matthias Keller (Bundesverband der deutschen Fischindustrie und des Fischgrosshandels e.V.) explained that his association sent a question to the European Commission on the EU trade measures against the USA. His association would like to know whether frozen fillets of pacific salmon should be subject to additional duties under Commission Implementing Regulation (EU) 2020/1646. The whole salmon is not included, so it seems unusual that the fillets would be. There might be a problem with the CN code used. It is important to have an answer, even though the Regulation has been suspended for four months.

The Secretary General offered to send a written question via email from the Secretariat to the Trade Unit of DG MARE on the matter.

### **Brexit**

- **Identification of key market and trade priorities for future advice**

The Chair recalled that, under the Work Programme for Year 5, the MAC committed to producing advice to the Commission on the impact and mitigation of Brexit. At the previous meeting, the Working Group agreed, as an action item, to identify key market and trade priorities for future advice. The Secretariat circulated a questionnaire to the members. There was a significant number of replies to the questionnaire and other members signalled interest in the matter.

The Secretary General recalled that questionnaire prepared by the Secretariat was circulated from 17 to 24 March. A compilation of the replies was circulated. Replies were submitted by Fischverband, ADEPALE, OPP Lugo, Conxemar, and ANFACO-CECOPECA. The Secretary General provided an overview of the replies.

Sean O'Donoghue (KFO) emphasised that the EU-UK Trade and Cooperation Agreement is of critical importance to the catching sector. Due to time constraints, EAPO was not able to provide a reply to the questionnaire. Following the extension of the questionnaire's deadline, the working group could prepare a draft highlighting the concerns. There are several uncertainties regarding the Specialised Committee on Fisheries. The Brexit Adjustment Reserve should also be covered in the advice.

Javier Ojeda (FEAP) informed that FEAP missed the deadline, but would like to provide a response to questionnaire's question on the impact on the sector. There is an urgent need for simplification in exports. The export health certificate needs to be simplified. It was not designed for perishable products like fish. Molluscs that are exported from the UK to the EU without depuration cannot be imported in the same way as before.



Katarina Sipic (AIPCE-CEP) informed that AIPCE-CEP submitted a paper on the topic, but, due to the time constraints, did not reply to the questionnaire directly. AIPCE-CEP shares some of the concerns of Fischverband, ADEPALE and ANFACO-CECOPESCA. Ms Sipic expressed support for KFO's suggestion of an extension of the questionnaire's deadline. She expressed support for the Brexit Adjustment Reserve, as it is important to mitigate the impact on the sector.

- **Way forward**

The Chair highlighted that there seem to be common concerns among members. Following the submission of additional replies to the questionnaire, there could be sufficient input to draft advice for consideration at the next Working Group meeting.

The Secretary General explained that there was a commitment to adopt advice under the Work Programme, but there was no strict deadline. In order to ensure the relevance of the recommendations, the adoption of the advice should not be delayed too much. The Secretary General suggested a one-week extension of the questionnaire's deadline, circulation of the replies, and preparation of a draft advice based on the replies. The draft could be prepared by the Secretariat, which could be considered at the May meeting.

The Chair informed that the Aquaculture Advisory Council sent a letter to the MAC on the impossibility to export live bivalve molluscs from the UK to EU Member States.

Cécile Fouquet (AAC Secretariat) highlighted that, in the letter, the AAC encourages the MAC to intervene with the Commission to take measures.

Wouter van Zandbrink (Dutch Mussel Traders Association) expressed support for the draft based on the AAC letter prepared by the MAC Secretariat ahead of the meeting. The problem is quite urgent, since there was a significant loss of added value in the EU. When there is purification in the UK and packaging in the EU, there is a significant loss of live molluscs. More than 30% of molluscs' loss, which should not be the intention of the EU's regulations.

The Chair explained that there was a draft ready, based on the AAC letter. The draft advice would summarise the concerns of the AAC and recommend to the Commission to re-examine the trade of molluscs between the EU and the UK, allowing the trade of unpurified live bivalves from the UK to purification centres in the EU. The Chair asked members if they supported the draft.

Guus Pastoor (Visfederatie) stated that the mentioned situation was an example of unintended consequences of Brexit. Mr Pastoor expressed support on behalf of AIPCE-CEP members.

Patrick Murphy (IS&WFPO) wanted to know if the recommended change in rules for imported live unpurified bivalve molluscs would be for all coastal States or specifically for the UK.



Wouter van Zandbrink (Dutch Mussel Traders Association) stated they would appreciate a solution for the UK especially.

Patrick Murphy (IS&WFPO) highlighted that the issue would be more complex than the UK specifically. Changes would apply to coastal States generally.

The Chair wondered if additional language could be added to the draft, in order to clarify the implications.

Patrick Murphy (IS&WFPO) commented that a change in the legislation would expand the scope, meaning that it would not be applicable only to the UK, but to all coastal States exporting live fish from sources of water with low health classifications.

Guus Pastoor (Visfederatie) stated that the comments from IS&WFPO were correct, but that the matter was connected to the EU-UK Trade and Cooperation Agreement. There is a traditional practice. The Agreement could be amended to allow imports from the UK, without expanding it to other third countries. If the UK can maintain the same conditions as before, then the imports should be possible.

Patrick Murphy (IS&WFPO) highlighted that then it would be an amendment on the EU-UK Trade and Cooperation Agreement and not to the general legislation on the import of live bivalve molluscs.

The Chair proposed to put forward the draft advice to the Executive Committee for adoption.

Pierre Commère (ADEPALE) requested additional time to read the draft advice before putting it forward to the Executive Committee for adoption.

The Chair proposed instead to proceed with consideration through written procedure before putting the draft advice forward to the Executive Committee.

### **Illegal, Unreported and Unregulated fishing (IUU)**

- **Presentation of report on flags of convenience by Sophie Nodzenski, Senior Campaigner, EJF**

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

Sophie Nodzenski (EJF) explained that, in October 2020, EJF published a report on the use of flags of convenience (FoC). Around the world, FoCs are widely used. These are quite problematic for the fisheries sector. For several decades, NGOs have been describing how harmful these are. The report means to reassess what FoCs are and calls on States to take a united approach and focus on transparency. The report looks at how FoCs prevent accountability of vessel owners in case of IUU fishing activities.



On the definition of FoCs in the context of fisheries, at present, there is no definition. The original definition of the International Transport Workers' Federation, is that FoCs allow the "beneficial ownership and control of a vessel be elsewhere than in the country of the flag the vessel is flying". The definition has increasingly included elements of flag State performance. In fisheries, these can be States with flexible open registers (e.g., Panama, Vanuatu) or, in the view of EJF, States with laxly enforced corporate laws (e.g., Ghana, Cameroon). In theory, these last States impose nationality requirements to ensure a genuine link with the registered vessels, but, in practice, the corporate laws are laxly implemented. This means that the registered fleets can be close to total foreign ownership.

There are several reasons for FoCs, such economic benefits, such as tax, low fees, low operational costs, or operational reasons to access specific resources. The practice to register a foreign flag is not problematic per se, but some unscrupulous operators can use FOCs to hide the ownership structure and avoid accountability in relation to IUU fishing activities and other offences. In terms of mechanisms, to register a FoC, often it is necessary to create a corporate structure in the country. In the case of States with open registries, unscrupulous operators will use the opportunity to create shell or front companies to hide the true ownership. In the case of States with laxly enforced corporate law, a local partner acts as a front or agent for the foreign owner that truly owns the company. These companies can be used to hide the beneficial owners and avoid sanctioning.

In these cases, even if the flag State wanted to exercise control over the vessel, the owner might not be identifiable. It is difficult to properly sanction the entity that ultimately profits from illegal fishing activities, since they cannot be identified, or the sanctions are not deterrent enough. To avoid sanctions, it is possible to reassign the registered person or company. The speaker exemplified that, recently, in Ghana, there were fishing vessels registered to small Ghanaian companies, which were actually owned by large multimillionaire Chinese companies. The fines are low, since these are calculated on the registered company than on the ultimate owners. The fines are not proportionate or deterrent, becoming a mere operating cost for large companies. Since there is a network of registries, FoCs allow vessels to flag-hop between registries, escaping detection and sanctions. This seriously complicated the work of law enforcement agencies.

As for recommendations, FoCs frustrate the efforts of well-performing States and create an uneven playing field. FoCs are harmful and should not be used in the fishing sector. Some FoCs States have done a great work in deregistering vessels. In the meantime, EJF recommends that all flag States have systems in place to be able to identify vessels' ultimate owners. These should be adopted alongside measures to improve control and strengthen fisheries legal framework. As for private companies, EJF recommends the removal of FoC suppliers and, if not possible, to be particularly cautious of these vessels with increased due diligence.



- **Exchange of views & way forward**

The Chair wanted to know what due diligence measures should private companies put in place to deal with FoCs.

Sophie Nodzinski (EJF) highlighted that EJF and WWF developed a due diligence guide for importers and processors. The measures are not specific to FoC vessels. These vessels should be treated as higher risk. There should be extra evidence on their operations, including copies of the fishing licenses, use of VMS, and adequate catch documentation. The vessels should be prioritised in audits.

Pierre Commère (ADEPALE) wanted to know if EJF considered the proactive registration system used by the International Seafood Sustainability Foundation is appropriate and responds to the concerns.

Sophie Nodzinski (EJF) was not fully aware of the system, but offered to provide a response at a later stage.

Pierre Commère (ADEPALE) highlighted that this system was well developed and widely used in the tropical tuna sector. It is used as a reference for the operators.

Daniel Voces (Europêche) expressed support for the EJF's messages. For Europêche, it is essential to know the lifespan of a vessel, which is why they promote the mandatory use of the IMO number, which is generally used by EU vessels operating outside EU waters. The EU should promote these in RFMO negotiations. The same level of compliance should be requested of non-EU vessels operating in the same waters. Mr Voces expressed disagreement with the definition provided by ITF. The definition should apply to States that lack standards and inspection schemes, without labour rules, and with low taxes. He drew attention to the EU's Regulation on the Sustainable Management of External Fishing Fleets, which prevents flag hopping and recharting. Even EU vessels operating outside SFPAS need to provide information to public authorities.

Sophie Nodzinski (EJF) responded that the EJF promotes the IMO number as a transparency principle. The ITF's definition is not fit for purpose for the fisheries sector. There is an issue around FoCs and flag State performance. The report focuses more on the accountability. The measures in the SMEFF Regulation are covered in the report. Other countries should adopt similar measures to the EU. The EU should support other countries in the adoption of measures against abusive reflagging.

Christine Absil (Good Fish Foundation) commented that the report mentions reefers and wondered if there were problems related to reefers owned by EU companies with FoCs, particularly problems that suppliers should be aware of.



Sophie Nodzinski (EJF) responded that the report only mentioned the vessel Wisdom Sea Reefer, which was ultimately owned by a Thai company. In the past, EJF came across some cases with EU owners, but none recently.

Sean O'Donoghue (KFO) requested information on the magnitude of the problem, such as number of vessels, nationalities, FoCs States, and routes to market.

Sophie Nodzinski (EJF) responded that there are routes to the EU market. EU carding scheme can be used to try and prevent FoCs flag States from exporting to the EU. The use of the catch certification scheme can also help. Developing a list of the FoCs in fisheries is a challenge. Therefore, it was not possible to have an idea of the magnitude. As long as there are FoCs, there will be interest from unscrupulous operators. There was a significant number of fishing vessels migrating to other flags, when Korean authorities improved their systems.

The Chair asked Ms Nodzinski about her availability to produce a draft advice on the topic for the working group to consider.

Sophie Nodzinski (EJF) highlighted that several issues could be explored. The EU could be asked to check its own system is working properly, particularly Article 39 of the IUU Regulation. The EU could be called on to be more vocal in RFMOs on transparency and beneficial ownership rules. The EU could push other countries to adopt measures against abusive reflagging. Ms Nodzinski agreed to produce a draft for consideration by the MAC.

**AOB**

None.



## Summary of action points

- Code of Conduct for responsible business and marketing practices
  - Members to send input to the Secretariat
  - Secretariat to prepare short and general draft advice focused on general principles of the code and specificities of the seafood sector to be considered via written procedure
- Contingency Plan for Ensuring Food Supply and Food Security
  - Members to send input to the Secretariat
  - Secretariat to prepare short and general draft advice covering some of the topics of the target consultation to be considered via written procedure
- Trade
  - Secretariat to send written question to the Commission services regarding the application of Regulation (EU) 2020/1646 to frozen fillets of pacific salmon on behalf of Bundesverband der deutschen Fischindustrie und des Fischgrosshandels e.V.
- Brexit
  - Deadline of the Secretariat's questionnaire on Brexit to be extended for one week
  - Secretariat to prepare draft advice based on the replies to the questionnaire to be considered at the next meeting
  - Draft advice on import of live unpurified bivalve molluscs from the UK, based on the AAC letter, to be considered via written procedure
- Illegal, Unreported and Unregulated fishing (IUU)
  - Sophie Nodzinski (EJF) to prepare draft advice proposal on flags of convenience to be considered at the next meeting



## List of attendees

Representative	Organisation
Aitana López (observer)	Spain
Alexandre Rodríguez	Long Distance Advisory Council
Anna Boulova	FRUCOM
Catherine Pons	FEAP
Cécile Fouquet	Aquaculture Advisory Council
Christine Absil	Good Fish Foundation
Daniel Voces de Onáindi	Europêche
Eduardo Míguez	OPP77 Puerto Celeiro
Daniel Weber	European Fishmeal
Emilia Gargallo Gonzalez	European Commission
Eduardo Míguez	OPP77 Puerto de Celeiro
Frangiscos Nikolian	European Commission
Garazi Rodríguez	FEAP
Georg Werner	Environmental Justice Foundation
Guus Pastoor	Visfederatie
Henk Westhoek	European Commission
Iván López	Europêche
Jaroslav Zieliński	PSPR
Javier Ojeda	FEAP
Jens Mathiesen	Danish Seafood Association
Jérémie Souben	FEDOPA
José Basilio Otero Rodríguez	Federación Nacional de Cofradías de Pescadores
José Carlos Escalera Aguilar	Federación de Cofradías de Pescadores de Cadiz (FECOPESCA)
Juana María Parada Guinaldo	OR.PA.GU.
Katarina Sipic	AIPCE-CEP







Market Advisory Council

Representative	Organisation
Katrin Vilhelm Poulsen (Chair)	WWF
María Luisa Álvarez Blanco	FEDEPESCA
Massimo Bellavista	COPA COGECA
Matthias Keller	Bundesverband der deutschen Fischindustrie und des Fischgrosshandels e.V.
Mike Turenhout	Visfederatie
Nicolás Fernández Muñoz	OPP72
Patrick Murphy	IS&WFPO
Pedro Luis Casado López	OPP80 Punta del Moral
Pedro Reis Santos	Market Advisory Council
Pierre Commère	ADEPALE
Poul Melgaard Jensen	Danish Seafood Association
Purificación Fernández	OPPC-3
Quentin Marchais	ClientEarth
Rosalie Tukker	Europêche
Sean O'Donoghue	Killybegs Fishermen's Organisation Ltd
Sergio López García	OPP LUGO
Signe Aaskivi	EFCA
Silvia Corral	Conxemar
Sophie Nodzinski	EJF
Stavroula Kremmydiotou	Market Advisory Council
Todor Ivanov	Euro Coop
Tuure Eskelinen	EuroCommerce
Vanya Vulperhorst	Oceana
Wouter van Zandbrink	Dutch Mussel Traders Association
Zarah Bellefroid	EAPO

