


Global Europe: Legal and Policy Issues of the EU's External Action

Volume 3

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The *Global Europe Book Series: Legal and Policy Issues of the EU's External Action Series* is a peer-reviewed book series that explores the legal and policy issues pertaining to the EU's global actorness. The editors of the book series welcome edited volumes as well as monographs exploring the EU's identity as an international actor. The coverage extends to submissions identifying the internal and external factors that may challenge the EU's capacity to exercise value-based global leadership on crucial issues affecting European citizens as well as those from other parts of the world; critically reflecting on whether the external projection of the EU as a virtuous normative power comports with its practice on the ground as well as addressing the descriptive, normative and conceptual challenges that complement the ever-expanding global reach of EU law.

Mihail Vatsov

Fishing Power Europe

The EU's Normativity in Its External
Fisheries Action



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Stay awhile and listen
—*Deckard Cain*

Foreword

It is both a pleasure and a privilege to contribute the foreword to this important book by Mihail Vatsov on European Union external action in relation to fisheries. I first met Dr. Vatsov some years ago when he was engaged in Ph.D. studies at the University of Edinburgh. During his time in Edinburgh, we had a number of long and stimulating conversations about the EU's external fisheries actions.

Although fisheries have been an important element of the EU's external relations since the 1970s, it initially attracted little attention in the academic literature. When the first legal studies on the external dimension of the EU's Common Fisheries Policy (CFP) began to appear in the 1980s, they were, for the most part, straightforward black-letter law analyses. That began to change after 2000 when environmental NGOs began to turn their attention to the CFP and its external dimension. NGO critiques probably helped to generate a more questioning approach in the legal and political science literature. During the 2010s, a new generation of legal scholars with an interest in EU external fisheries action began to emerge, adopting a much more sophisticated approach than their predecessors. Among them was Dr. Vatsov. He helped to lead the way, not only with his publications but also by convening a conference of like-minded young scholars at the University of Edinburgh in 2018. That resulted in a fascinating and wide-ranging set of papers, subsequently published in 2020 as volume 35 (2) of the *International Journal of Marine and Coastal Law*.

Now comes this book. In it, Dr. Vatsov examines the EU's external fisheries relations, not only from the perspective of the CFP but also by discussing the fisheries dimensions of the EU's commercial, development, environmental, social and transport policies. He does so through the prism of the political science concept of normative power. Normativity in this context has three elements: (1) the endorsement and promotion of universal or universally realisable norms; (2) the employment of negotiations and persuasion as the means to that end, with coercive measures being a limited last resort and (3) acting legitimately, i.e. complying with the law, focusing on long-term community interests rather than short-term self-interest and being consistent and coherent. The author subtly and convincingly shows that observance of these three elements is required by EU law. The main part of the book considers, in an admirably clear and structured way, whether the EU in its external fisheries relations

has lived up to these criteria of normativity. It examines a wide range of external fisheries issues, including the safety and welfare of fishers, subsidies for the fishing industry, illegal, unreported and unregulated fishing, regional fisheries management organisations and the access of EU fishing vessels to the waters of developing states, drawing on a wealth of detailed practice. The author finds numerous failures by the EU to live up to its obligation to act normatively, particularly in relation to the legitimacy element, and suggests reasons for those shortcomings and how they might be remedied.

Overall, the book is an authoritative, richly informative and thought-provoking study of an important area of the EU's external relations. It is a major contribution to the literature on both the Common Fisheries Policy and EU external relations.

Auchterarder, UK
September 2022

Robin Churchill

Preface

This book is the result of many years of personal interest and research in the area of fisheries and even more in the area of the European Union's (EU) external action. It is based on my Ph.D. research conducted at the University of Edinburgh, which benefitted from the skilful, knowledgeable, supportive and compassionate mentoring of Prof. Dr. James Harrison and Prof. Dr. Tobias Lock, as well as the insightful conversations with Prof. Dr. Chad Damro, Daniel Owen and Prof. Dr. Robin Churchill in Edinburgh and Prof. Dr. Bruno de Witte and Prof. Dr. Joanne Scott in Florence. It is also the result of the insistence of Dr. Eva Kassoti on its publication. I hope it serves as inspiration to my niece Калина.

I wrote this book because there is an enormous gap in the literature on the EU's external action in the area of fisheries. This book also stands out because it provides a legal overview of that action, which is encapsulated in the leadership narrative often found in the political science and international relations debates. As such, it seeks to not only explore in a more comprehensive way what the EU does in the area of fisheries at the international stage, but also put flesh to the bone of leadership debates from the legal perspective.

This book is aimed at academics and practitioners alike working in the area of fisheries globally but also on the EU's external action more generally. Any views and opinions expressed in this book are my own and should not be considered as representative of the European Commission's official position.

Brussels, Belgium
September 2022

Mihail Vatsov

Contents

1 Introduction	1
1.1 The Inception of Fishing Power Europe	1
1.2 Purpose of the Book	4
1.3 Contribution to the Literature	5
1.4 Theoretical Context	6
1.5 Structure	9
References	12
2 Normative Power Europe as an Analytical Framework for Examining the EU's Normativity	17
2.1 Introduction	17
2.2 Elements of Normative Power Europe	18
2.2.1 The EU's Distinctiveness	19
2.2.2 Universality	20
2.2.3 Use of Instruments	22
2.2.4 Legitimacy	28
2.3 The Adapted Concept and Its Use	34
References	35
3 The EU Area of Fisheries and Normative Power Europe	39
3.1 Introduction	40
3.2 The Area of Fisheries	40
3.3 Can the EU Act Normatively in the Area of Fisheries?	42
3.3.1 Institutional Framework	42
3.3.2 Competences to Act in the Area of Fisheries	48
3.3.3 Capacity to Act Internationally in the Area of Fisheries	61
3.4 Is the EU Required to Act Normatively in the Area of Fisheries?	62
3.4.1 Universality	63
3.4.2 Use of Instruments	64
3.4.3 Legitimacy	65
3.5 Conclusion	69
References	70

4 Challenges to the EU’s Normativity Posed by Lack of Membership in Global Institutions 75

4.1 Introduction 76

4.2 Universality in Safety and Working Conditions of Fishermen 77

4.3 The Normative Impact of Participation Limitations 80

 4.3.1 Relevant International Fora and the EU’s Status
 Therein 80

 4.3.2 Involvement in Multilateral Processes 83

 4.3.3 Damaged Coherence and Consistency 97

4.4 Overcoming Participation Limitations 100

 4.4.1 Utilising Available Participation Rights 100

 4.4.2 Utilising Other Policies and Instruments 102

4.5 Conclusion 107

References 108

5 Challenges to the EU’s Normativity Notwithstanding Its Membership in Global and Regional Bodies 115

5.1 Introduction 116

5.2 Normativity in Cooperative Management of Fish Stocks 117

 5.2.1 Universality in Cooperative Management of Fish
 Stocks 117

 5.2.2 Re-emerging Participation Limitations 118

 5.2.3 Legitimacy 126

5.3 Normativity in Reducing Fisheries Subsidies 138

 5.3.1 Universality in Reducing Fisheries Subsidies 138

 5.3.2 Use of Instruments 141

 5.3.3 Legitimacy 143

5.4 Conclusion 148

References 149

6 Challenges to the EU’s Normativity in Multileveled Coercive Action 157

6.1 Introduction 158

6.2 Universality in Fighting IUU Fishing 159

6.3 Implementing Multilaterally-Agreed Measures 161

6.4 Conditionality and Bilateral Trade Agreements 163

6.5 Adopting Unilateral Measures 167

 6.5.1 The IUU Fishing Regulation 167

 6.5.2 The Sustainable Fishing Regulation 177

6.6 Conclusion 186

References 187

7 Challenges to the EU’s Normativity in Gaining Access to Foreign Resources 193

7.1 Introduction 194

7.2 Universality of Sustainably Fishing in a Foreign EEZ 195

- 7.2.1 The EEZ Regime and Sustainable Fishing 195
- 7.2.2 Origins of the EU’s Fisheries Agreements 197
- 7.2.3 Evolution of the EU’s Fisheries Agreements 199
- 7.3 The EU’s Normativity in Using Compensatory Agreements 201
 - 7.3.1 Undue Pressure on Stocks 202
 - 7.3.2 Failing to Ensure Mutual Benefit 204
 - 7.3.3 Attempting to Export Norms Through SFPAs 204
 - 7.3.4 Complicating On-Going Disputes 206
- 7.4 Case Study: Western Sahara 208
 - 7.4.1 Legal and Factual Context 209
 - 7.4.2 Normativity of the EU’s Conduct 212
- 7.5 Conclusion 221
- References 222
- 8 Conclusion 229**
 - 8.1 The EU’s Power in the Area of Fisheries 230
 - 8.2 Normativity Characteristics 231
 - 8.2.1 The EU’s Fishing Power Is Dispersed 231
 - 8.2.2 The EU’s Normative Conduct Is Multileveled 232
 - 8.2.3 The EU’s Normativity Requires Flexibility 233
 - 8.3 Law and Normativity 234
 - 8.3.1 Acting Normatively Has Important Legal
Consequences 234
 - 8.3.2 The International Law Framework Still Limits
the EU’s Conduct 235
 - 8.3.3 The EU Member States Are Central to Addressing
These Limitations 236
 - 8.3.4 The EU’s Distinctiveness Helps and Hinders
Normativity 238
 - 8.4 Towards Achieving Normativity 238
 - References 239
- Index 241**

Abbreviations

AG	Advocate General
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CCP	Common Commercial Policy
CCRF	Code of Conduct for Responsible Fishing
CCSBT	Convention for the Conservation of Southern Bluefin Tuna
CETA	Comprehensive and Economic Trade Agreement
CFP	Common Fisheries Policy
CFR	Charter of Fundamental Rights
CGD	Changes in the geographical distribution
CJEU	Court of Justice of the European Union
CNCP	Cooperating non-contracting party
COFI	Committee on Fisheries
CSTCW-F	International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel
CTA	Cape Town Agreement
CTP	Common Transport Policy
DARIO	Draft Articles on the Responsibility of International Organisations
DCP	Development Co-operation Policy
DWFF	Distant water fishing fleet
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
EEZ	Exclusive Economic Zone
EFCA	European Fisheries Control Agency
EFF	European Fisheries Fund
EMFAF	European Maritime Fisheries and Aquaculture Fund
EMFF	European Maritime Fisheries Fund
EU	European Union
EUMOFA	European Market Observatory for Fisheries and Aquaculture
FAO	Food and Agriculture Organization
FPA	Fisheries Partnership Agreements

FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GC	General Court
GFCM	General Fisheries Commission for the Mediterranean
GSP	Generalised System of Preferences
ICCAT	International Commission for the Conservation of Atlantic Tunas
ICJ	International Court of Justice
ILC	International Labour Conference
ILO	International Labour Organization
IMO	International Maritime Organization
IPOA	International Plan of Action
IUU	Illegal, unreported, or unregulated
LDAC	Long Distance Fleet Advisory Council
MPA	Marine protected areas
MSY	Maximum sustainable yield
NAFO	Northwest Atlantic Fisheries Organization
NEAFC	North East Atlantic Fisheries Commission
NGO	Non-government Organisations
NPE	Normative Power Europe
NPFC	North Pacific Fisheries Commission
NSGT	Non-Self-Governing Territories
OECD	Organisation for Economic Co-operation and Development
PFLC	Protocol to the Forced Labour Convention
PSMA	Port State Measures Agreement
REIO	Regional Economic Integration Organisation
RFMO	Regional Fisheries Management Organisation
SDG	Sustainable Development Goal
SFPA	Sustainable Fisheries Partnership Agreement
SFR	Sustainable Fishing Regulation
SPRFMO	South Pacific Regional Fisheries Management Organisation
STECF	Scientific, Technical and Economic Committee for Fisheries
TAC	Total allowable catch
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TSD	Trade and Sustainable Development
UNCLOS III	Third United Nations Conference on the Law of the Sea
UNCLOS	United Nations Convention on the Law of the Sea
UNEP	United Nations Environment Programme
UNFSA	United Nations Fish Stocks Agreement
UNGA	United Nations General Assembly
VCLT	Vienna Convention on the Law of the Treaties
WFC	Work in Fishing Convention
WSC	Western Sahara Campaign
WTO	World Trade Organization