

Executive brief

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1. Background and key issues

Out of the world's total maritime stock of natural living resources, 85% are within the EEZs (exclusive economic zones, extending up to 200 miles from the coast). The coastal eco-systems of tropical countries, such as the waters of most ACP countries, are among the richest in fisheries resources. This wealth of resources has been attractive to all distant-water fishing nations, including the EU, which is a major power in world fishing. Many EU member states have long traditions as distant-water fishing nations, most notably Spain, Portugal, UK, France, Poland, the Baltic States, and more recently the Netherlands. Currently, EU distant-water fishing fleets are active throughout all of the FAO regions of the Atlantic Ocean as well as the western and southern parts of the Indian Ocean, and increasingly in the Pacific region. For about 30 years, the national fisheries of EU member states within Community waters have been governed by the Common Fisheries Policy (CFP), as have many aspects of their distant-water activities. The appropriate

level for analysing distant-water fishing by the EU is therefore the Community, rather than the individual member state.

The CFP is composed of measures agreed by EU member states, and is constructed on four main policy pillars:

■ *Conservation policy* – to protect fish resources by regulating fish capture and protecting juvenile fish by ensuring that conservation measures are respected;

■ *Structural policy* – to help the fishing and aquaculture industries adapt their equipment and organisations to the constraints imposed by scarce resources and the market;

■ *Market policy* – to maintain a common organisation of the market (CMO) in fish products and to match supply and demand for the benefit of both producers and consumers;

■ *External dimension* – to set up fisheries partnership agreements (FPAs) and to

negotiate at the international level within regional fisheries management organisations (RFMOs) for common conservation measures in high-seas fisheries.

The European Fisheries Fund (EFF) provides the necessary financial assistance to implement the proposed CFP reforms, and to support the development and restructuring of the EU fisheries sector. A specific financial instrument for the implementation of the Law of the Sea provides the funds for FPAs and participation in RFMOs. Monies allocated for sectoral support under FPAs have, in some cases, been complemented by EDF regional funding, the Monitoring Control and Surveillance (MCS) programmes in particular.

The CFP is reviewed, and necessary reforms are undertaken, every ten years. In July 2009, the EC launched a 'Green Paper' and a public consultation for the next reform of the CFP, planned to be finalised at the end of 2012. This is the first time that the CFP will be reformed under co-decision with the European Parliament.

Four main areas of discussion concerning the reform of the EU's external dimension have been identified by the EC in their Green Paper:

- strengthening the EU's international role in improving and developing good governance of seas and oceans;
- cooperating in strengthening RFMOs in their efforts to combat illegal, unreported and unregulated (IUU) fishing activities and protecting the marine environment;
- improving the use of bilateral fisheries agreements to promote EU investment in third countries and to strengthen capacity in developing countries to better manage their maritime natural resources;

- establishing greater consistency between the regional and bilateral approaches of EU external policy by linking together EU bilateral interests in a given region under an integrated regional approach.

In addition, the EC proposes a new generation of sustainable fisheries agreements (SFAs) to replace FPAs. More is set out on this aspect of the proposals below (see section 2.3.2).

Within the CFP, FPAs and EU initiatives in RFMOs provide the main framework for ACP–EU fisheries relations. Following the creation of EEZs, fisheries agreements were concluded to ensure continuity of access for EU fishing fleets to the 90% of global fish resources now placed under the jurisdiction of coastal states.

At present the EU has 21 FPAs (of which six are dormant). Of the 15 FPAs in force, 11 are tuna FPAs and four are multi-species FPAs (Mauritania, Guinea-Bissau, Morocco and Greenland). The EU's external fleet currently consists of more than 700 vessels, about half of them involved in FPAs. Around 400 vessels of EU origin operate under joint ventures established in third countries with a European partner. Fish caught under FPAs accounts for approximately 3% of total supplies of fish to the EU market.

Over the past 20 years, European fleets have been criticised for contributing to over-fishing and generating competition for resources with local ACP fisheries sectors. In response, since 2004, the EU has shifted towards FPAs, in which issues of sustainability are prominent. The main changes introduced in FPAs relate to the operations of EU fleets, the financial contribution, the inclusion of a social clause and the use of *ex-ante*, *ex-post* evaluations.

2. Latest developments

Fisheries partnership agreements

A number of significant developments have taken place under ACP–EU FPAs since January 2010.

The need to improve the impact of FPAs on local ACP economies

During a visit to Mauritania of a delegation from the European Parliament's Fisheries Committee in November 2010, the Mauritanian authorities called for support for investment in port infrastructure, to promote increased local landings and greater local value added processing (see *Agritrade* article '[Mauritania expects more EU on-shore investments in a future FPA](#)', March 2011). The concerns underpinning this call were echoed in the 2011 EC evaluation of the CFP, which 'with a few notable exceptions, found little evidence that funding from the FPAs has made any direct and/or substantial difference to the development of policies or plans for sustainable management and for improved conservation of fisheries resources'. The evaluation expressed the view that FPAs could be better aligned with national and regional development strategies, so as to better foster local economic development (see *Agritrade* article, '[EC evaluation of the CFP looks at FPAs](#)', July 2011). This view has been endorsed by some members of the European Parliament (MEPs) (see *Agritrade* article, '[The European Parliament approves the EU–Comoros FPA](#)', May 2011) and constitutes an important ongoing area of ACP concern.

Calls for more transparency

MEPs have consistently called for more transparency in the use of financial com-

pensation, as well as on the access to fish resources allocated by ACP countries to other distant-water fishing fleets (see *Agritrade* article, '[MEPs call for more onshore investment and transparency in a new EU-Mauritania FPA](#)', January 2011). EU and ACP NGOs have also asked for more transparency, calling for FPA *ex ante*, *ex post* evaluations to be accessible to the public (see *Agritrade* article, '[Call on MEPs to improve the EU-Solomon Islands Fisheries Agreement](#)', October 2010). This was the subject of a dedicated seminar in the European Parliament in 2011 (see *Agritrade* interview '[Transparency in African marine fisheries](#)', July 2011). Some progress has been made in this area, with the EC now making the proceedings of FPA joint committees meetings publicly available (see *Agritrade* article, '[Lessons from the FPA joint committees meetings](#)', March 2010).

Discussion on the role of fishing joint ventures

FPAs contain provisions for supporting EU investments in ACP fisheries, particularly through joint ventures. However a 2009 report noted the difficulties faced in promoting joint-ventures through FPAs. This was attributed to the poor infrastructure and investment climate in some developing countries (see *Agritrade* article, '[EC report calls for review of policy coherence of FPAs](#)', November 2009). The technical annex of the EC Green Paper on CFP reform highlighted how most EU joint ventures were established in countries where fishing opportunities to trawlers were no longer offered (e.g. Senegal and Angola), or where the agreement has either expired or has been restricted to tuna (e.g. Mozambique and Gabon). In spite of the important EU support to the third countries concerned, mixed agreements (such as those with Morocco, Mauritania or Guinea-Bissau) have not had any knock-on effects in terms of

private investments by EU operators (see *Agritrade* article, '[European investments in third-country fisheries to be a key component of future partnerships](#)', July 2010). Rather, private operators, such as the Spanish Association of Fishing Joint Ventures (Acemix) have disclosed plans to invest in the renewal of the fleet operating in third countries with no FPA such as Namibia, Argentina and Senegal (see *Agritrade* article '[Spanish companies are to invest €120 million in renewing fleets operating in Namibia, and Senegal](#)', March 2011).

The EC Advisory Committee for Long Distance Fishing (LDRAC), a body composed of EU fishing industry and NGO representatives, takes the view that joint ventures may be an appropriate tool for third-country fishing-sector development if they

- do not contribute to fishing overcapacity;
- do not compete with local fishing communities;
- use selective gear and fishing methods;
- provide local high quality jobs.

(see *Agritrade* article, '[European fleets are committed to paying full costs for access to ACP waters](#)', January 2010).

Who will pay fisheries access costs?

The cost of access to fisheries has been a major issue for discussion. Currently, boat owners pay, on average, 30% of the costs of fishing access. In the context of the current proposals for reform of the CFP, the EC is recommending that boat owners should in future pay 50% of the costs, with this rising to 100% over time. The EU's role is then restricted to negotiating the costs of access to be paid by ship-owners and the conditions associated with fishing, so as to ensure transparency and a level playing field for European operators. (see *Agritrade* article, '[The EU wants to maintain fish-](#)

[eries agreements, but vessel owners will pay more](#)', May 2010). The fairness of the access payments has also become an issue. Non-state actors have pointed out that the licence fees for tuna have remained unchanged for 30 years, despite much higher market prices for tuna. The LDRAC has called for a clearer distinction to be made between the costs of access to be covered by ship-owners, which should represent a fair part of the value of the catches, and the sector support provided to the third country through FPAs (see *Agritrade* article, '[European fleets are committed to paying full costs for access to ACP waters](#)', January 2010).

The establishment of the co-decision procedure

Since 1 January 2010 FPAs have fallen under the co-decision procedure involving the EU Council and the European Parliament. However, the Parliament can only agree or disagree with the EC proposal resulting from negotiations with a third country, it cannot change its content. In order to influence the process, the European Parliament has chosen, in the case of the EU–Mauritania FPA negotiations – the most important and complex FPA – to vote a resolution prior to the start of the negotiations, highlighting its main expectations. The aim is to establish a benchmark for subsequent assessment and approval of individual FPAs by the Parliament.

RFMOs

The EU is a member of all RFMOs. As such it reiterated in 2010 its commitment to supporting developing countries' participation in RFMOs. RFMOs are seen as an important means of promoting more sustainable forms of fisheries exploitation. Since the RFMOs impacting on ACP countries are all involved in the management of tuna stocks, this issue is addressed more thoroughly in the tuna executive brief (see *Agritrade*, '[Tuna sector: issues and challenges](#)', Executive Brief, 2011).

A new system for fisheries control

On 1 January 2010, a set of new rules entered into force designed to bolster the control system of the CFP. The new framework comprises three separate but interlinked regulations:

- a regulation to combat IUU fishing (the IUU Regulation);
- a regulation on fishing authorisations for the EU fleet operating outside EU waters;
- a regulation establishing a control system for ensuring compliance with the rules of the CFP (the Control Regulation).

The new IUU regulation aims at stopping products from illicit activities entering the EU market, through certifying the origin of all marine fishery products traded into the EU. A comprehensive catch-certification scheme aims to ensure that the fish caught, landed, brought to market and sold can be traced through all stages of the process – ‘from net to plate’. To effectively combat infringements, the regulation also introduces a harmonised system of proportionate and deterrent sanctions. Moreover, the accountability of EU nationals has been extended so that they may be prosecuted at home, regardless of where they operate around the world.

This regulation is of considerable importance to ACP countries. Strong emphasis is placed on checking, inspecting and verifying activities that are being carried out according to common criteria established for risk management and assessment. Since 2008 the EC has been holding seminars and information session to help non-EU countries adapt to the new requirements, and has established detailed implementing rules that should make it easier for ACP governments to operate the new system.

The fishing authorisations regulation, establishes a single, coherent framework for all EU vessels fishing outside EU waters either under FPAs, RFMOs or private arrangements with third countries. Through this regulation the EU seeks to set an example of sound management at the international level and demonstrate its serious intent with regard to the protection of global fisheries resources.

It is important to note that the EU proposes to provide assistance for developing countries to control unlawful fishing, so as to help them to comply in full with the undertakings that they will make under the FAO international plan of action (IPOA) to prevent IUU fishing. For the ACP, this assistance is provided either under FPAs, or through specific monitoring, control and surveillance (MCS) programmes financed under development assistance instruments.

In 2010, NGOs denounced the fact that some fishing-vessel owners who had been convicted of IUU fishing (serious infringements ranging from mis-reporting catches to the use of illegal fishing gear), continued to receive EU subsidies. This raises the issue of the deterrent effect of IUU-related sanctions.

The CFP reform process

In 2010, the EC published the contributions from the consultation on the reform of the CFP held in 2009, including on the external dimension. Most contributions emphasised that the CFP objectives should apply equally internally and externally in order to ensure policy coherence. An overwhelming majority of stakeholders agreed to the need for more prominent involvement of the EU in RFMOs.

Most contributions focused on FPAs. Industry stakeholders presented the case for maintaining the current FPA structure so as to ensure legal protec-

tion and responsible fishing and provide a platform for compliance, transparency, and third-country support. NGOs proposed replacing FPAs with a fisheries governance framework. A large number of industry stakeholders prefer to maintain the current method of funding FPAs, while significant numbers of others state that FPAs should be financed privately or in public-private partnerships. NGOs insist that the industry players pay for their access to third-country waters and also demonstrate their compliance with sustainability criteria.

Many see the importance of aligning the principles of the CFP and those of FPAs more closely with other policies, so as to ensure coherence and synergy between EPAs, trade agreements, development aid and support to local development.

The ACP countries submitted their own contribution to the Green Paper, highlighting the importance of:

- the EU not seeking access to ACP resources in the absence of a scientifically established surplus;
- ensuring that EU vessels only use appropriate fishing practices, methods and gear consistent with the nature and size of the fisheries resources to be exploited;
- ensuring that there are compulsory landings of at least part of the catches in ACP countries so as to promote the development of local processing industries;
- maintaining bilateral agreements within a common regional framework for dealing with issues of IUU fishing, catch reporting, collaboration at RFMOs.

Institutionally the Agriculture and Fisheries Council is the primary EU body dealing with ACP–EU fisheries relations. Four working groups are dedicated to preparing the Council deliberations on CFP issues. One of these working groups deals with external fisheries policy.

There have been different perspectives on the future of the CFP among EU member states. Southern EU member states – Spain, Italy, Portugal, France, which account for 80% of EU vessels fishing outside of EU waters – want to retain a strong external policy and to maintain fisheries agreements mainly as a means of accessing third-country waters. The governments of these countries support the use of public aid to transfer fishing capacity to third countries in order to renew fleets involved in joint ventures, within sustainable fishing limits. Northern member states, which are, with some notable exceptions, not involved in external fisheries, have been asking for more transparency and accountability in the way that FPAs have been implemented. They also insisted on environmental sustainability while southern member states insisted on socio-economic viability. This provides the context to negotiations around the future of the CFP.

The CFP reform package

The package of proposals for CFP reform was presented on 13 July 2011. It includes:

- A legislative proposal for a basic regulation on the CFP;
- A legislative proposal for a Common Market Organisation and Policy;
- A communication on the external dimension.

These proposals have a direct bearing on ACP–EU fisheries relations.

The legislative proposal for a basic regulation on the CFP

The proposal for the basic regulation for the CFP states that it covers not only activities in EU waters but also ‘activities by European fishing vessels outside Union waters or by nationals of member states’. The scope of the CFP extends to ‘conservation, management and exploitation of marine biological resources ... market measures and financial measures

to support its objectives, as well as to the processing and marketing of fishery and aquaculture products’. It also details that the general objective of the future CFP is to ensure ‘long-term sustainable environmental, economic and social conditions’.

The sustainable exploitation of marine biological resources should be based on ‘the precautionary approach’, and ‘an ecosystem based approach to fisheries management’: therefore, ‘environmental impacts of fishing activities should be limited and unwanted catches should be minimised and progressively eliminated’. The regulation establishes ‘an obligation to land all catches of managed stocks caught during fishing activities in Union waters or by Union fishing vessels’ with this being ‘gradually implemented’. These include species caught in developing-country waters, such as sardinella, horse mackerel, swordfish, albacore tuna, big-eye tuna and hake.

The proposal also recognises ‘the importance that the management of the CFP is guided by principles of good governance, including decisions based on the best scientific advice, broad stakeholders’ involvement’. The proposed regulation calls on the EU to ‘promote the objectives of the CFP internationally’ and to ‘improve the performance of regional and international organisations in conservation and management of international fish stocks’. It further calls for improved science-based decision-making, increased transparency and greater efforts to combat IUU fishing. The regulation also proposes ‘respect for democratic principles and human rights’, as an ‘essential element of sustainable fisheries agreements’.

Part VII of the proposed regulation deals specifically with the external policy, both through international fisheries organisations (IFOs) (Title I) and sustainable fisheries agreements (Title 2). Specific objectives are detailed for EU participation in IFOs with EU participation being

‘in line with international obligations and policy objectives, and consistent with CFP general objectives’, including in regard to science-based resource management. The proposed regulation seeks to commit the EU to cooperating internationally so as to ‘strengthen compliance’ with measures adopted by RFMOs.

Part of the proposal concerns sustainable fisheries agreements (SFAs), the term for the new generation of fisheries agreements that is being proposed as a replacement for FPAs, subject to agreement from the Council and European Parliament. The proposal spells out that ‘SFAs with third countries shall establish a legal, economic and environmental governance framework for fishing activities carried out by Union fishing vessels in third-country waters; Union fishing vessels shall catch only surplus of the allowable catch determined by the third country as referred to in article 62 of the UNCLOS, and identified on the basis of the best scientific advice and relevant information exchanged between the Union and the third country concerned about the total fishing effort on the affected stocks, in order to ensure that fishery resources remain above levels capable of producing maximum sustainable yield’.

Under the proposed regulation financial assistance shall be provided to third countries through SFAs in order to ‘support part of the cost of access to the fisheries resources in third-country waters and establish the governance framework, including the development and maintenance of the necessary scientific and research institutions, monitoring, control and surveillance capability, and other capacity-building items pertaining to the development of a sustainable fisheries policy driven by the third country. Such financial assistance shall be conditioned upon the achievement of specific results’.

Part IX of the proposed regulation deals with the CMO, with specific proposals being tabled (See *Agritrade*, ‘ACP–EU

fisheries: Market access and trade', Executive brief: Update, 2011).

Overall the proposed regulation seeks to link EU financial instruments to vessel operators to ensure 'compliance with the rules of the Common Fisheries Policy'.

Different EU fleets will face different futures

The impact assessment of the CFP, undertaken to prepare the CFP reform proposals, highlights the challenges facing different components of the EU fishing fleet operating under fisheries agreements.

Tuna fleets

Over the last few years, the EU tuna sector and the purse-seine fleet has been investing in new boats built to replace older smaller boats. The past activities of the EU tuna fleet have created historical access rights that have been translated into the international legal framework through RFMOs. The tuna fleet has an interest in continuing to fly an EU flag because of these traditional access rights and also because of the rules of origin applied to tuna imports. However, the current network of bilateral agreements is not sufficient to secure access for the EU tuna fleet to the migratory tuna stock, especially in the eastern Atlantic and the western Indian Ocean. More tuna access agreements are therefore needed.

Demersal trawlers

For the demersal trawler fleet in West Africa, the situation is different. The status of the coastal stocks fished in the EEZs of West African countries and the negative environmental impacts of trawls means that this fleet must necessarily contract if sustainable fishing is to be restored. If future agreements are terminated or do not cover these categories of vessels anymore, this fleet will be faced with one of the following options:

- negotiating private access arrangements with coastal states;
- accepting payments offered by the EFF to support vessel scrapping;
- taking the risk of investing in a mixed company by leaving the European register to join that of a third country.

For the shrimp trawler fleet, the current strategy of the EU fleet is to target both deep-sea and coastal shrimp stocks. The EU deep-sea shrimp trawler fleet is almost the only one in the world with enough technology and knowledge to exploit these fisheries. It is therefore likely that these vessels will be in a position to negotiate private fishing rights. The cephalopod trawler fleet, coastal shrimp trawlers and demersal trawlers exploit the coastal waters and are in direct competition with local artisanal or industrial fleets. The stocks targeted are in a situation of overexploitation or depletion in West Africa. It can therefore be anticipated that it will be difficult for these vessels to obtain private access rights in the absence of bilateral agreements with the EU covering their activities. The only alternative for many of them may well be scrapping.

Small pelagics

EU pelagic trawlers target resources both inside and outside EU waters. The stocks in EU waters have entered low productivity cycles that are likely to lead to a long-term reduction in fishing opportunities. To maintain profitability, these vessels must consequently step up the use they make of alternative fishing opportunities in West African waters or in the south-east Pacific. The need to gain access to the EEZs of third countries is therefore likely to increase in the near future. These vessels are not interested in changing flag, because such a move would result in them losing access to resources in EU waters, as well as the benefit of preferential rights in other fishing grounds such as the south-east Pacific. Like the tuna fleet, in the absence of a fishing agreement, the EU small pelagic

fleet will lose the legal security provided by a binding bilateral agreement, and predictability of access.

The Communication on the external dimension

The Communication on the external dimension proposes a series of actions to be taken by the EC to address a variety of issues in international forums, RFMOs and in bilateral SFAs. These are described in the following sections.

International Forums

Putting an end to illegal fishing. The EC proposes to launch discussions with other major fish-consuming nations, particularly the USA and Japan (which together with the EU represent two-thirds of the world market in fishery products), to implement a common approach for preventing IUU products from entering these markets by 2013. The EC has also proposed a joint mechanism for information exchange and harmonisation of approaches towards IUU actors.

Addressing overcapacity globally. The EC intends to launch a high-level political initiative to discuss the avenues for capacity reduction on a global level by 2013. Such an initiative would take into account the aspirations of the developing states and be consistent with the CFP reform which will propose rights-based management as one of the main mechanisms to achieve capacity reduction.

Upholding and strengthening the global architecture for fisheries governance. The involvement of the EU in arenas such as the UN, FAO, OECD, etc should be focused and enhanced, including through promoting the establishment of a level playing field for vessels fishing in RFMO and third-country waters. The EC has proposed:

- the tabling of ambitious proposals for a UN General Assembly resolution on sustainable fisheries;

- maintaining support for the development of international instruments for the conservation and management of fish stocks in the context of the FAO;
- the launching of an initiative at UN level for a global certification scheme to eradicate IUU fishing;
- promotion of respect for high sustainability standards by third parties in the high seas and third-country waters.

Regional Fisheries Management Organisations

Enhancing the effectiveness of RFMOs: The EC has proposed to encourage a review of the performance of RFMOs' by the end of 2013, with subsequent regular assessments being undertaken (every three to five years). The EC has also proposed to establish a regime involving payment for access for RFMO-authorized vessels listed in a limited number of RFMOs. It has further proposed to promote more coherent action to ensure that RFMOs can deliver on their mandates to ensure sustainable fishing within maximum sustainable yields.

Sustainable fisheries agreements

Although almost half of the EU external fleets operate outside the framework of fisheries agreements, the Communication on the external dimension states that 'International agreements between the EU and individual third countries should remain the framework for fishing activities of the EU fleet in third-country waters'.

It is proposed that under future fisheries agreements the EU should:

- better promote long-term resource conservation and sustainability;
- reinforce the governance of bilateral fisheries agreements;
- provide effective support for sustainable fisheries in partner countries;
- ensure greater coherence with other policies.

With regard to conservation and sustainability the EU has proposed to base fishing access requests on systematic scientific audits of fish stock levels. It has further proposed strengthening compliance of member states with catch-reporting rules and the full implementation of legal powers established under the new IUU regulation. The EC furthermore proposes to promote greater transparency of the global fishing effort being deployed through increased collaboration with third parties and the inclusion of specific clauses in bilateral agreements.

Under bilateral fisheries agreements the EC is proposing to make the respect of human rights a necessary condition for the conclusion of SFAs and for maintaining fisheries cooperation with third countries. It is also proposing to introduce provisions to prevent abusive reflagging. Finally it is proposing to increase the contribution of ship-owners to the costs of access to third-country waters.

In terms of strengthening sustainable fisheries management the EC is proposing to decouple sectoral support from payments for access rights and to define the former in the light of the needs and absorption capacity of partner countries in fisheries governance. The EC is also seeking to introduce stronger conditionality into the payment of sectoral support, so that no payment will be made without a guarantee of results.

Coherence with other policies

In terms of promoting greater coherence with other policies the EC is proposing that the external dimension of the CFP should recognise the aspirations of developing countries to build up their own fishery sector, but with this being linked to increasing their awareness of their duties to ensure sustainable management of fisheries resources.

Synergies between future fisheries agreements and development policies and instruments, in particular the European Development Fund (EDF) and other poli-

cies such as research and innovation policy will be pursued. In the context of the EU's external policy, it will continue to support fisheries-related strategies and programmes, such as maritime security and the fight against piracy, under its overall partnership and cooperation strategies. The EC will develop and implement ocean- and sea-based regional strategies for sustainable fisheries, e.g. in the Pacific and Indian Oceans.

The EC proposes that the EU's trade policy should also contribute to ensuring sustainable fishing worldwide through promoting adherence to the relevant international conventions and agreements relating to fisheries governance in the framework of preferential trade agreements. By the end of 2011 the EC is proposing to adopt a proposal for a legal framework, including trade-related measures in trade agreements with the aim of ensuring more sustainable management of fisheries resources.

Finally the EC proposes to continuously integrate environmental standards agreed at the international level into the CFP.

3. Implications of CFP reform for the ACP

The way that the CFP external policy will be reformed has crucial implications for ACP countries, which are summarised in the following sections.

The need to make SFAs more attractive to ACP countries

The EU depends less and less on fisheries agreements for ensuring adequate fish supplies – fish caught under current FPAs accounts for a relatively small proportion of the total. Moreover, fisheries agree-

ments now cover less than 0.5% of the activities of EU fleets, with half of the EU's external fleet being active outside FPAs. This is partly a result of the non-renewal of important agreement protocols, as with Senegal and Angola. This means that FPAs are becoming less important in securing fish supplies for the EU market and fishing possibilities for EU fleets.

What is gaining in importance is the use of FPAs as a platform for dialogue with ACP countries, in order to improve fisheries management, in particular by fighting IUU fishing, improving stock research and strengthening MCS capacities.

These trends are partly linked to the planned reduction of public payments for fisheries access and partly linked to a genuine EU concern to improve global fisheries management. However, the strengthened dialogue with ACP states over fisheries management issues is also linked to EU concerns over establishing a more 'level playing field' in competition with third-country distant-water fishing fleets, which, it is maintained, do not currently abide by the same level of environmental and social requirements.

It will be important for ACP countries to ensure that such a dialogue adequately captures ACP concerns to ensure the sustainable exploitation of their marine eco-systems, while maximising long-term social and economic benefits for their populations. Only under this condition will SFAs become attractive to ACP countries. Indeed, in the last few years, the number of FPAs signed by ACP countries has steadily decreased, showing the declining interest of ACP countries in such agreements.

There is nevertheless a need for the ACP as a group to remain engaged with the CFP reform process by ensuring that their views are heard on the specific proposals tabled by the EC on both the external and the market policy aspects of the CFP reform.

It needs to be noted that as from Sep-

tember 2011, the EC proposals will be discussed by the EU Parliament and then by the Council of Ministers. Various hearings will be organised in the European Parliament, including on the external aspects of the CFP reform. Parliamentary votes on the proposals are expected to take place in the first half of 2012. The Council will act after the first reading of the EC proposals by the Parliament. In case of major changes requested by the Council, conciliation will be organised between the two bodies. In this context the ACP needs to strengthen its dialogue not only with the EC, but also with the EU Parliament and member states, including through the work of the ACP-EU Joint Parliamentary Assembly (JPA).

Putting good governance at the heart of ACP-EU fisheries relations

The EC proposals emphasise the need to place good governance at the heart of the proposed SFAs. This echoes the ACP contribution to the Green Paper which highlighted the shared responsibilities of the ACP and the EU for past failures, and the need for joint concerted actions in order to make good governance and sustainability the basis of future partnerships.

EU fishing vessels now operate in ACP waters under a multiplicity of arrangements. While many of these arrangements are opaque, in a country like Namibia a clear and transparent framework for joint ventures has been established. Significantly this has been accompanied by important investments in MCS, as well as robust research programmes.

This highlights the importance of political leadership in ACP countries in promoting sustainable fisheries management. On this basis the necessary human and financial capacities can then be built up, within a framework of transparent

and public accountability for sustainable fisheries management.

In this context SFAs may provide an important means of helping to build ACP MCS and research capacities and ensure transparency of the total fishing effort being deployed. One of the EC's proposals for reforming FPAs, communicated ahead of the reform package, was the need to include a transparency clause in SFAs, to ensure that the cumulated fishing effort (by local and all foreign fleets active in a respective EEZ is known. Such a clause, together with improved data collection and research, will help in the evaluation of the level of surplus stock available. However there is also a need for greater transparency in the operation of SFAs, for example, with regard to the value of the catches made by EU fleets in ACP waters. Currently this data is not publicly available.

However if good governance is to be promoted in ACP-EU fisheries relations, then this will have to reach beyond SFAs, with other available platforms for ACP-EU dialogue being utilised to ensure that governance issues are addressed in a coherent manner.

Priority to the fight against IUU fishing

Like many developing countries, ACP countries suffer the most from IUU fishing. Moreover, the fact that some ACP countries' flags are used by IUU fishing operators undermines these countries' credibility on the international scene. Addressing IUU issues is thus a critical area in ACP-EU fisheries relations. This requires appropriate support to be provided to ACP countries in combating IUU fishing. In particular, the contribution of participative surveillance to combat IUU fishing in coastal waters needs to be recognised and supported.

The launch of an initiative at UN level for a global certification scheme to eradicate IUU fishing is also something to be closely

monitored by ACP countries. On the one side, it will certainly help ACP countries to address IUU activities in their waters. However the administrative burden and difficulties that ACP countries may face in complying with future requirements of a global certification scheme need to be recognised and lessons learned from the evolving EU experience.

ACP countries need to assess whether the new framework will ensure that EU operators are not involved in IUU fishing. The use of VMS (satellite-based vessel-monitoring systems), now to be systematically introduced under SFAs, partly addresses this issue of reporting by locating where fishing boats are and whether they are fishing or not. The effectiveness of the system is highly dependent on the capacity of the coastal state to back up such systems with patrol vessels and the ability to monitor catches directly. In this context considerable efforts still need to be made to improve ACP countries' capacities in terms of MCS. The EC commitment to ensuring 'compliance of member states with catch-reporting rules applying in the waters of partner countries, including through full use of existing legal instruments such as the IUU Regulation' provides a useful starting point for cooperation in this areas.

Regional considerations

In the past some ACP groups of countries (in the Pacific, the Indian Ocean or West Africa) have proposed to negotiate fisheries access agreements on a regional basis. The EC however has traditionally favoured bilateral agreements. In the current proposal, this remains the case, although some steps are proposed to establish greater consistency between the regional and bilateral approaches of EU external policy, by 'linking together EU bilateral interests in a given region under an integrated regional approach'.

It will be important for ACP countries to monitor this process carefully, in particular, the development and implementation of ocean- and sea-based regional strategies for sustainable fisheries in the Pacific and Indian Oceans, as proposed by the Commission.

The future CFP external dimension should promote ACP regional integration, by harmonising measures undertaken under SFAs, supporting regional scientific cooperation, and increasing support for ACP countries to participate in RFMOs, particularly tuna RFMOs. This last point is particularly important, as, together with a more transparent decision-making process and improved scientific advice, a greater involvement of ACP countries in these regional bodies is crucial for enabling ACP countries to take more control over their tuna resources and exert their rights in a responsible manner. These are also bodies in which ACP coastal countries will have the opportunity to stake their claim for tuna access for their local fleets, while showing by appropriate fisheries development plans, their commitment to the sustainable exploitation of tuna resources.

It needs to be noted, however, that tuna RFMOs include coastal countries as well as distant-water fishing nations, parties that do not always have the same interests. Some new initiatives, like the Parties to the Nauru Agreement (PNA), bringing together small Pacific islands, may provide a more suitable basis for establishing a regional body in which civil society, scientists, operators and administrations can maintain an ongoing dialogue. Finding ways to support such forums would seem to be a key element in the strengthening of a multi-stakeholder dialogue on those issues.

'Solidifying a regional approach' through ACP-EU partnerships is not the sole responsibility of the EU. A strong ACP commitment is also needed. There are

cases where some ACP countries have broken ranks with their regional partners in taking initiatives to promote conservation and sustainable exploitation of the resources, particularly when it comes to reflagging fishing vessels involved in IUU fishing, or the selling of fishing licences in excess of sustainable fishing levels.

Decoupling sectoral support from access rights

In current fisheries agreements, the proportionality between fishing capacities negotiated and the amount of sector support extended, has led ACP governments to grant unsustainable levels of fishing access EU vessels. It has also led to some ACP countries receiving more funding that they are able to absorb, or not enough funding compared to their needs. The EC proposal to decouple sector support from payments for access rights and to define the former in the light of the needs and absorption capacity of partner countries is therefore welcome, and will undoubtedly change the basis of ACP-EU fisheries partnerships profoundly. As the level of sector support will be disconnected from the fishing possibilities, available assistance should become more predictable and hence assist in the long-term planning of fisheries management.

Increasing access costs

The proposal for boat owners to increasingly bear the costs of fishing access needs to be seen in the light of the historically high price that the EU has paid for fishing access. Under tuna agreements the price paid was equivalent to over 13% of the value of the reported catches, compared to 5 to 6% for non-EU vessels. For tuna vessels, it is likely that the EU ship-owners will not be in a position to pay similar levels as the ones currently paid through EU fisheries agreements, if

they wish to maintain the competitiveness of their fleet.

For demersal trawlers, the economic data indicates that this segment is already in a very difficult situation and will not be in a position to sustain increased access fees. This means that West African coastal states having a bilateral agreement may lose a significant part of the income generated by the agreement, while having to accept comparable EU fishing capacities.

Generally, it is important for ACP governments to reflect on what is a 'fair access fee', i.e. a fee which reflects both the value of the resources caught, as well as the additional costs incurred to manage the foreign fleets catching these resources.

Stronger conditionality for sectoral support

The EC is also proposing to introduce stronger conditionality into the payment of sector support, so that no payment will be made without a guaranteed result being identified in the various areas where support is allocated: MCS, research, etc. This will lead to increased ear-marking of CFP funds.

Coherence with development and trade policies

It is vital, though difficult, to improve the consistency of the external dimension of the CFP with wider ACP development objectives and aspirations. This needs to bring together a number of aspects of EU fisheries relations with ACP countries, such as access to resources, trade, access to markets, SPS and development cooperation. However this needs to be seen in the context of all fishing activities taking place in ACP waters. There is little point in limiting EU fishing access in the interests of local ACP fishing fleets unless other distant-water fishing nations adopt the same approach. It is therefore

crucial to address how this commitment to coherence will be operationalised. From an ACP perspective another critical issue which remains unaddressed is the contribution of the CFP to creating a favourable environment for private investment in sustainable fisheries operations in ACP countries, which create jobs and value locally. Until now, private EU investments in ACP partner countries have been limited, and almost solely focused on transferring fishing capacity. In many cases, it is argued that this has contributed to fishing over-capacity and over-fishing, while bringing little local benefit.

In the future, creating such a favourable environment in ACP partner countries will require support for the following measures targeted at sustainable fisheries production:

- improving research and scientific advice;
- improving compliance;
- promoting participation of fisheries stakeholders in policy discussions;
- strengthening legal protection;
- focusing particularly on investments that can result in local value addition.

The starting point for European investment in ACP fisheries should be based on the developmental needs of ACP countries: job creation, food security, export revenue, etc. The ACP small-and-medium-sized fishing enterprises (SMEs), particularly small-scale fisheries, processing and exporting businesses, are effectively addressing many of these needs explicitly, and a priority for EU investments should therefore be to support SME development in the fisheries sector, wherever possible.

Given that the EU is a major market for ACP fish products, future EU fish market and trade policy will play an important role in contributing to sustainable fishing, by linking compliance with international conventions and agreements relating to social and environmental issues, to mar-

ket access. In this context, compliance with EU standards related to sustainable fishing, environmental protection, labour standards and respect for human rights, may well become pre-requisites for gaining access to the EU market for fisheries products. ACP countries should ensure that a structured dialogue is set up with the EU on these issues to ensure that efforts to promote more sustainable fishing practices are not used for purely protectionist purposes or to tilt the playing field in favour of EU vessel operators.

The risks of rights-based management systems

Some proposals related to internal EU waters may also have implications for future ACP-EU fisheries relations, in particular the emphasis, in the EC proposal, on the use of rights-based management, such as individual transferable quotas (ITQs), to manage access to fisheries and reduce over-capacity in EU waters. In its communication on the external dimension, the EC states that it will 'launch a high-level political initiative to discuss the avenues for capacity reduction on a global level by 2013. Such an initiative would take into account the aspirations of the developing states and be consistent with the CFP reform which will propose rights-based management as one of the main mechanisms to achieve capacity reduction'.

Experiences in several developing countries, such as South Africa and Chile, show that applying rights-based management such as ITQs have a consequence of concentrating fishing rights in the hands of a handful of operators who have the financial means to buy up these rights, to the detriment of local ACP small-scale fishing sectors. This can create social tensions and undermine the economic and social development of coastal communities. ACP governments will need to carefully analyse the potential consequences of introducing such ITQ systems to their fisheries management regimes.

Main sources

1. EC webpage on external fisheries relations
http://ec.europa.eu/fisheries/faq/external_relations_en.htm

2. EC Long Distance Regional Advisory Committee website
<http://www.ldrac.eu/content/view/12/29/lang,en/>

3. Website on tuna RFMOs
<http://www.tuna-org.org/>

4. Stop Illegal Fishing website
<http://www.stopillegalfishing.com/>

5. Coalition for Fair Fisheries Arrangements website
<http://www.cape-cffa.org>

6. IUCN West Africa website on fisheries agreements
<http://www.accordsdepeche.com/en/index.php>

Reports

'European Parliament resolution on the Commission communication on an integrated framework for fisheries partnership agreements with third countries', (COM(2002) 637 — 2003/2034(INI))
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2004:081E:0109:0112:EN:PDF>

Study on the European external fleet (2008)
http://ec.europa.eu/fisheries/documentation/studies/study_external_fleet/index_en.htm

EC report on policy coherence for development SEC(2009) 1137 final, September 2009
http://ec.europa.eu/development/icenter/repository/SEC_PDF_2009_1137_F_ACTE_PCD_EN.pdf

Commission Staff Working Document accompanying the 2009 report on policy coherence for development, EC, Brussels, 17.9.2009 SEC(2009) 1137 final
http://ec.europa.eu/development/icenter/repository/SWP_PDF_2009_1137_EN.pdf

The EU rules to combat illegal, unreported and unregulated fishing
http://ec.europa.eu/fisheries/cfp/illegal_fishing/index_en.htm

Report 'Corruption and industrial fishing in Africa', *Anti Corruption Resource Centre*, U4 ISSUE 2008:7, November 2008
<http://www.u4.no/document/publication.cfm?3189=corruption-and-commercial-fisheries-in-africa>

'Sink or Swim? EU investments in ACP fisheries', *ICTSD Trade Negotiations Insights*, September-October 2007
http://www.acp-eu-trade.org/library/files/TNI_EN_6-5.pdf

NGO commentary on the proposal by the EC for measures to combat IUU fishing, 17 October 17 2007
http://www.cape-cffa.org/pub_EU/CFFA%20position%20IUU%20package%20prop.doc

IUCN/World Bank meeting, 'Corruption in fisheries – from bad to worse', January 2008
<http://cms.iucn.org/where/oceans/index.cfm?uNewsID=202>

EC, Commission staff working document, 'Synthesis of the consultation on the reform of the Common Fisheries Policy', Ref. SEC(2010)428 final, 16 April 2010,
[http://ec.europa.eu/fisheries/reform/sec\(2010\)0428_en.pdf](http://ec.europa.eu/fisheries/reform/sec(2010)0428_en.pdf)

.....
ACP group contribution to the EC consultation on the reform of the CFP, ACP/84/103/09 Brussels, 16 December 2009, SEDT/HF/dn

http://ec.europa.eu/fisheries/reform/docs/acp_en.pdf

.....
United Nations University, *Comparative Regional Integration Studies* (UNU-CRIS), 'An Assessment of EU governance in its partnership with ACP states', *UNU-CRIS Working Papers*, W-2010/1, April 2010

http://www.cris.unu.edu/fileadmin/workingpapers/W-2010-1_-_new_version.pdf

Legal sources

.....
Regulation establishing Community financial measures for the implementation of the Common Fisheries Policy and in the area of the Law of the Sea

http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0117en01.pdf

.....
Council Regulation Establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing'

<http://register.consilium.europa.eu/pdf/en/07/st14/st14236.en07.pdf>

.....
FAO model scheme on port-state measures to combat IUU fishing

ftp://ftp.fao.org/FI/DOCUMENT/tc-psm/Reg_Workshop_2006/ModelSchemeTri.pdf

About this update

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This brief was updated in July 2011.

The original executive brief was published in September 2008 and is available on request from agritrade-mail@cta.int

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