

EU CFP reform: Towards Sustainable EU-ACP Fisheries relations

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At present the EU has 15 FPAs in force, 11 are tuna FPAs and four are multi-species FPAs (Mauritania, Guinea-Bissau, Morocco and Greenland). But only half of the 700 EU vessels active in developing countries waters are fishing under FPAs; the other half is fishing under private licenses arrangements. Moreover, around 400 vessels of EU origin¹ operate under joint ventures established in third countries with a European partner and with European capital.

It needs also to be recalled that European markets depend for more than 60% on imports, including imports from developing countries (for example, imports from ACP countries represent around 10% of EU fish imports).

In order to promote sustainable fisheries in its fisheries relations with developing countries, as stated in the EC proposals for the future CFP, the EU needs to go further than proposing the replacement of FPAs by SFAs (Sustainable Fisheries Agreements), and having these as the main basis for fisheries relations with developing countries.

The EU needs to address, in a clear and coherent manner, the complexity of EU-developing countries fisheries relations (access to resources, access to markets, investments, etc). It needs to develop a framework which will ensure that all the components of fisheries relations with developing countries contribute to sustainable fisheries.

To this end, the EU should develop **Sustainable fisheries development partnerships**, which sole objective should be to create a favorable environment, in the third developing country concerned, for environmentally, socially and economically sustainable operations, in line with the objectives of the FAO Code of Conduct for Responsible fisheries.

¹ In most cases, joint ventures companies involving EU vessels are officially composed of 51% local capital.

This should be achieved through the establishment of a **participative and transparent dialogue**² on how the EU can contribute to fulfill the developing country's priorities for the sustainable development of its fisheries sector, in terms of fisheries management, but also in terms of transparency and participation of stakeholders, support for integrated coastal communities development, adding value processing, regional / international trade operations, etc.

As a basis for such dialogue, **an assessment** should be made of the economic, social and environmental impacts of all EU policies that affect fisheries development in the third country concerned.

This would also suppose setting in place a **mechanism of collaboration between the EU administrations and between these administrations and EU MS** administrations intervening in developing countries fisheries sector: Development Cooperation,, Investments protection, Trade, Fisheries in particular. This should also facilitate the mobilisation of necessary support (funds, technical support, etc) to achieve the jointly agreed goals.

In the particular case where EU flagged and EU owned vessels are fishing in developing countries waters, **good governance agreements** should be signed between the EU and the coastal country concerned. This good governance agreement should be the tool by which the EU undertakes its responsibility as flag state and state of beneficial ownership³. Such agreement will stipulate the conditions under which EU operators can undertake fishing activities in the third countries concerned, ensuring these activities are in line with the third countries initiatives and efforts undertaken through the sustainable fisheries partnerships.

Access costs to third countries waters within these governance frameworks should be fully paid by EU boat owners. It should be considered that EU boat owners are sufficiently supported through the creation, in the third country concerned, of a favorable environment for responsible fishing activities (providing legal certainty, reinforcement of MCS, research, building of necessary infrastructures, etc) through the Sustainable Fisheries Development Partnerships.

To ensure EU operators are fully able to comply with good governance agreements⁴, conditions for access should also be stricter: access for EU vessels should be restricted to those operators who can demonstrate that their operations fit with sustainable fisheries development criteria (use of selective

² *Transparency and stakeholders' participation are recognised as two crucial aspects of responsible and sustainable fisheries by the FAO Code of Conduct for Responsible fisheries, and should be addressed throughout the process of dialogue*

³ *The concept of the state of beneficial ownership has been developed in the FAO International Plan of Action against IUU fishing*

See <http://www.fao.org/docrep/003/y1224e/y1224e00.htm> and <http://www.fao.org/DOCREP/005/Y3274E/y3274e0d.htm>

⁴ *The current experience of FPAs shows that some EU operators do not comply with the conditions set up in FPAs: massive under reporting of tuna catches (Indian ocean, etc), much higher levels of juveniles catches than what is allowed (Mauritania), use of locally forbidden gears (Mauritania), etc*

gears, record of compliance by vessels both inside and outside EU waters, number and quality of jobs created, etc) and where there is no competition (for resources, fishing zones, markets, etc) with the local sector, in particular small scale fishing communities.

Positive steps have been taken in the past within FPAs, to make them more in line with sustainable development and these should remain part of the governance agreements. The ***clause of exclusivity*** should remain so to ensure that EU-flagged boats fishing in the zone should operate under the FA. Concerning ***the social clause***, there should be an evaluation of the implementation of this clause, in order to assess whether the objective of fair treatment for third countries workers on board EU vessels has been achieved, and, if not, how it could be improved.

Some specific issues

1. The case of tuna

Most current FPAs are tuna agreements. These tuna agreements can not be reformed without looking at Regional Fisheries Management organisations (RFMOs) which cover fishing in the high seas, and how the EU intervenes in these.

The main challenge for RFMOs will be to establish a new basis for the equitable allocation of access to diminishing fish (tuna) resources. Increasingly, developing States claim their right to exploit fish stocks under the management responsibility of RFMOs, while many fish stocks are showing signs of overexploitation. The fact is that no new entrants can be accommodated, and overcapacity cannot be solved, without current fishing players giving up part of their share and down sizing their fleets' capacity.

The best way to develop sustainable tuna fisheries would be to set up and implement catch limits, technical measures and criteria for access reflecting environmental and social concerns, and to reserve a share of the access for coastal developing states, in order to give them the space to develop whilst ensuring the sustainability of the exploitation.

In that sense, the Long Distance Regional Advisory Committee position that 'it is necessary to find a balance between all the actors involved', and that 'access to tuna fisheries should be analyzed through a system of transparent and non-discriminatory criteria determining the responsible aspirations of stakeholders such as history of compliance, employment created/working conditions, environmental impact, etc" should be supported.

Some experiences, particularly in the Pacific (Parties to the Nauru agreement, FFA, WCPFC) show that it is possible for developing countries to develop synergies amongst themselves, and with appropriate technical support, to progressively become active and responsible players in RFMOs. The EU should support such regional dynamics, through the various tools at its disposal (EPAs, FPAs, Development cooperation) as a way to improve the efficiency of RFMOs to develop sustainable fisheries.

The discussion about the necessary reduction in fishing capacity within RFMOs in many ways reflects the discussion in the Green Paper and the CFP reform. In the Green paper, for instance, the Commission questions the utility of the continued use of relative stability, considering that it can contribute to over-exploitation. If the EU is to be consistent, this is the position that it will be advocating in international and regional fora.

2. The need for EU investments in developing countries sustainable fisheries⁵

Developing countries need investments in their fisheries to safeguard the future contribution of their fisheries sector to poverty alleviation and food security. Investment is also needed to improve the management of marine resources (research, training, capacity building, etc) and to enhance fish trade in domestic, regional and global markets.

Lessons should be drawn from the past experience of EU private investments, in areas such as investments in fishing capacity (including ***transfer of vessels***, or joint ventures) and onshore processing investments, such as tuna processing facilities.

In the past, investments linked to the transfer of EU fishing capacity have often been a failure – they haven't brought to the receiving developing countries expected social and economic benefits⁶ and they rather aggravated the state of over-exploitation of resources, increasing also the competition with the local small scale fisheries sector (in West Africa for example). As a rule, support to EU investments in developing countries fisheries should exclude the transfer of fishing capacity,

Another area where there have been important EU investments in developing countries fisheries is ***onshore investments for processing facilities***, particularly in the tuna sector. A 2009 briefing⁷ highlights that the rationale behind this was, on the side of the developing country, to create jobs and 'spin-off' economic benefits such as investments in port and transport infrastructure and new businesses related to the tuna processing investments.

Using this rationale, several ACP countries have secured onshore processing facilities in their countries, often by promising valuable fishing licenses in exchange. However, there have been some concerns expressed that onshore investments have been secured without fully assessing the net benefits of the projects relative to the stresses that they stand to place on tuna resources and local communities and environments. There is concern that governments are granting fishing licenses based on promised facilities that might never materialise to the extent promised and that plans do not include comprehensive analyses of resource sustainability or the net socio-economic returns that the plants will gather. The briefing also mentions that conflicts between communities and the processing facilities have arisen (disputes over working conditions, land rights and pollution). Such conflicts not only have the potential to negatively impact the long term success of the investments, but also call into question the overall net benefits of onshore investment without ensuring socio-economic 'returns'.

⁵ See *Trade Negotiations insights*, Vol 5, Nr 4, *ACP-EU Fisheries relations: Who will pay, who will benefit?*
http://ictsd.net/downloads/tni/tni_en_5-4.pdf

⁶ *Etude de Bilan des sociétés mixtes dans le contexte des interventions structurelles dans le domaine de la pêche*
<http://ec.europa.eu/fisheries/publications/bilansm.pdf>

⁷ FFA *Fisheries Trade News*, July 2009 http://www.ffa.int/trade_news

Economic Partnership Agreements (and interim EPAs) also include provisions on investment that could be used to secure EU investment to improve their fish-landing, hygiene, transport, and processing infrastructures. At the same time there is a need for caution: the promotion of EU investments should not be at the expense of local small and medium scale enterprises, labour standards, quality of life, and the local environment. That's a reason why all provisions related to fisheries should be under a specific chapter, to ensure coherence between resources conservation, labour conditions, etc and investments criteria.

3. Support to Small scale fisheries

Developing countries small scale fishing communities are increasingly recognised for their contribution to the implementation of responsible fisheries:

- ❖ their role as providers of protein rich food for the poor is crucial, particularly in the current context of food scarcity;
- ❖ the fishing methods used, as well as the small size of fishing units, requires comparatively less fossil energy (fuel) than bigger industrial fishing units;
- ❖ Developing countries small scale fishermen tend to use less destructive and unselective fishing gears⁸;
- ❖ small scale fishing communities constitutes the social fabric of coastal populations in many developing countries, providing a way of life and livelihoods for thousands of people, men and women.

Developing countries small scale fisheries organisations voiced specific demands concerning the relations with foreign fishing countries such as the EU, particularly in the Civil Society declaration at the occasion of the FAO Conference on small scale fisheries in Bangkok (2008)⁹. These issues will be taken up in the FAO led process to develop voluntary guidelines on securing sustainable small scale fisheries. The EU should therefore engage in this process, and use it to guide its interventions in support of sustainable small scale fisheries.

⁸ See various papers, including: *Small-scale fisheries perspectives on an eco-system based approach to fisheries management*, S. Mathew 2001 <http://ftp.fao.org/fi/document/reykjavik/pdf/04Mathew.pdf>

and *The Blessing of the Commons: Small scale fisheries, Community property rights and coastal natural assets*, J. Kurien, 2003 http://www.cds.edu/download_files/349.pdf

⁹ See http://www.4ssf.org/docs/Final_report_4ssf.pdf

4. *Improving transparency and accountability*

Lack of transparency in the governance of commercial fisheries in developing countries poses a major threat to sustainable and equitable fisheries management. There are several aspects of fisheries management that tend to lack transparency. These include:

- Information on how many fishing companies are licensed to fish, and the value and contents of private licenses
- The content, implementation and evaluation of bi-lateral fisheries agreements
- The revenues derived from commercial fishing, and how these are used
- The outcomes of arrests and fines for illegal fishing
- Details on donor funding and outcomes.

Lack of information sharing on these aspects of fisheries contributes to corruption, illegal fishing and the marginalization of small-scale fishers in decision-making processes. The negative impacts therefore affect citizens of developing countries, as well as the legitimate interests of the EU in ACP states (achieving sustainable fisheries, improving local management capacity etc.) These are problems that are now recognized by the EU and the international community. However, commitments to improve transparency remain ad-hoc and poorly implemented. There needs to be concerted efforts at reform.

For the EU, improved transparency should be ensured in the implementation of sustainable fisheries agreements. This needs to happen throughout the process of negotiating fishing access, managing fishing activities and evaluating outcomes. At the moment the EU publishes the contents of its agreements with ACP countries, but there is no public participation (including among parliamentarians in host countries) in negotiating or evaluating these agreements, and ex ante and ex post evaluations are kept confidential.

Beyond improving transparency in EU fisheries agreements is the larger challenge of improving transparency in fisheries management in ACP countries. This requires concerted efforts from multiple stakeholders to ensure that key information is shared publically and that local civil society organizations have the capacity and means to use this information and hold their governments accountable for decisions and service delivery.

For more information

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