

Fisheries market access: tariff and non-tariff aspects

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1. Key fisheries market access issues for ACP countries

Almost 40% of total world fisheries production, from both aquaculture and capture fisheries, enters international trade. The contribution of aquaculture to fisheries production and to the international trade in fishery products has grown rapidly in recent years. In a context of declining catches in wild fisheries, increasing attention, including in ACP countries, is being given to the potential of aquaculture to meet the gap in fish supplies for both local consumption and export markets.

The EU as a bloc is the world's largest market for fish and provides ACP countries with their most lucrative market for fish. Since 1975 ACP exports to the EU have benefited from special, non-reciprocal, tariff-free arrangements; first under the successive Lomé Conventions (Lomé I - IV), and since 2000, under the Cotonou Agreement. These non-reciprocal trade-aid arrangements are being replaced by fully reciprocal, WTO-compatible economic partnership agreements (EPAs).

For those ACP countries which have not signed or initialled an EPA before 31 December 2007, they benefit from the General System of Preferences (GSP) that offers preferential access to imports into the EU market from developing countries. Following the approval of the Council Regulation on July 22nd 2008, a new scheme of generalised tariff preferences will apply for the period from January 1st 2009 to December 31st 2011. In response to the desire expressed by users of GSP to ensure continued stability, predictability and transparency, the scheme remains broadly unchanged, and comprises three different arrangements:

- the general arrangements (GSP);
- the special arrangements for LDCs, the so-called 'Everything but arms' arrangement (EBA) which since 2001 provides duty free access for almost all products from LDCs;
- the special incentive arrangement for sustainable development and good governance (also known as GSP+).

In terms of market access, the EBA regime and the EPAs are both providing duty-free, quota-free access for fisheries products and therefore are more advantageous than the GSP. This explains why some non-LDC ACP countries decided to 'break ranks' with their regional group and initial an EPA in December 2007 in order to maintain their preferential access to the EU market (Papua New Guinea, Ghana, Côte d'Ivoire, Seychelles, etc).

The main benefits enjoyed by ACP fish exporters under the EBA initiative and/or the interim EPAs are the margins of preference provided over their competitors. These are gradually but inexorably being eroded due to two main factors:

- international trade liberalisation under the WTO, where tariff and non-tariff barriers to trade are to be lifted. Already the advantages enjoyed by ACP countries in the EU have been successfully challenged by two ASEAN countries in the case of canned tuna.
- the new special GSP provisions for LDCs and the special incentive arrangement for sustainable development and good governance under which a number of Latin American and Asian fish-exporting countries benefit from tariff reductions on fish and fishery products.

Restrictions imposed by rules of origin have for long been a source of contention in EU-ACP fisheries relations, in particular with respect to the valuable tuna fishery. The way 'originating fish' is defined effectively forces ACP processors to purchase from high-priced EU suppliers (as they do not have their own tuna fleets, and fish from third-country vessels is not 'originating'), in order to produce originating-tuna products. By thus restricting their possible sources of raw material, this limits the development of ACP processing activities. It also creates an incentive for ACP countries to grant EU vessels preferential access to their EEZs so as to ensure that their tuna canneries are supplied with 'originating tuna'. Currently, the rules of origin applicable under the protocols deriving from a new market-access regulation include a series of changes from the situation under the Cotonou Agreement.

While ACP fish exporters enjoy duty-free, quota-free access to the EU market for their fisheries products, they however are facing increasing quality-related standards. Issues of food safety (SPS standards), product identification (species, origin, etc), traceability (from catch to consumption), and private eco-labels (for sustainability of fish stocks and organic aquaculture) are becoming increasingly important issues facing ACP fish exporters in accessing the EU market. Sanitary and phytosanitary (SPS) standards in fish-processing plants and throughout the chain of custody (from vessel through to consumer) must be complied with. It is also important to note the growing power of international retailers who have been able, sometimes more efficiently than governments, to impose increasingly stringent safety and quality standards for fish imports, but also requirements related to eco-labels on producers.

Whilst some of these, like the SPS standards may be important measures to protect European consumers, they also act as non-tariff barriers (NTBs) to trade, providing considerable constraints on market access for ACP fish producers and exporters, particularly the small- and medium-scale enterprises. Realising the full potential from EU export earnings in ACP countries is therefore severely constrained by NTBs, which, for ACP fishery products include:

- EU standards for SPS measures;
- EU legislation on residue levels and heavy metals in fishery products;
- EU legislation on labelling;
- EU future regulation on the fight against IUU fishing, in particular the catch-certification scheme (to enter into force on January 1st 2010).

An area in which ACP countries are keen to attract European investment is on-shore processing, such as tuna-processing facilities, to provide jobs and create 'spin-off' economic benefits. Another area involving cooperation with ACP fish producers is the EU's IUU catch-certification scheme.

2. Latest developments

2.1 The international context of EU-ACP trade in fishery products

FAO figures show that globally about 40% of total fisheries and aquaculture production are exported, confirming fish as one of the most highly traded food and feed commodities. However, FAO figures for 2009 show that some weakening in demand was registered in early 2008 as turmoil in the financial sector started to affect consumer confidence in major markets.

Many analysts feel that the economic crisis in Europe (and elsewhere) will endure. ACP fish-exporting countries therefore need to integrate this into their marketing strategies, to assess what kinds of products are likely to bring more added value to their fish, and also to ensure that the main barriers to trade – health-and-hygiene regulations, traceability - are properly addressed.

Developing countries account for half of the total value of fish-product exports, with China, being now the world's largest exporter, following an increase of almost 10% in 2008. China's increased imports result partly from out-sourcing, as Chinese processors bring in raw fish material from other regions, including the EU, for reprocessing and export.

Stagnation and decline in fish catches, and concern over the status of stocks has focused attention on the potential of aquaculture to meet the growing needs of international trade and domestic food security. A 2008 Globefish report shows that aquaculture now accounts for 45% of the world's food fish and this proportion is expected to reach 50% in 2015. China is responsible for about 70% of aquaculture production, with the main farmed products exported being shrimps, tilapia and catfish. Some regions lag behind and in ACP countries in particular, aquaculture currently represents less than 2% of total fisheries production. Various schemes are under way, particularly in African countries following the NEPAD 'Fish for all' initiative, to boost aquaculture production. For ACP countries, currently two of the most important species groups for export trade are tilapia and shrimp/prawn, although some are advocating the development of other types of aquaculture (such as molluscs) which require less care, have higher survival rates and where the international competition, particularly from low-cost Asian farmed products, may be less intense.

In 2006 the FAO published technical guidelines on aquaculture development to promote good practice in aquaculture as part of its programme of implementing the code of conduct for responsible fishing. This identifies the main challenges for aquaculture development in developing countries as 'operating fish farms in a more socially and environmentally responsible manner and making a tangible contribution to rural development and poverty alleviation in coastal areas'.

The distribution of profit along the value chain is becoming a crucial issue for ensuring that ACP fisheries sectors benefit from international fish trade. Inputs for ACP fish producers are becoming more expensive, fuel and freight costs in particular. ACP fishers, fish farmers and fish producers, are 'price takers' rather than 'price makers' – they cannot pass higher costs to the fish buyers, particularly when these are large European retailers. To get a better price for fish products is critical if sustainable development, based on the precept 'fish less, earn more', is to occur. Recently several ACP countries have emphasised that developing the processing side can help to realise greater benefits from fish resources.

However this is true only if all conditions are met to produce high-quality products, complying with, in particular, SPS regulations and if mechanisms are in place to ensure sustainable levels of resource exploitation and socio-economic benefits (number and quality of jobs in particular).

2.2 The significance of the EU market for ACP exporters of fish and fishery products

A 2009 EC study shows that the EU represents a market for fisheries and aquaculture products of 12 million tonnes worth €55 billion annually. It is both the world's largest fish exporter with 26% of total exports and also the largest importer with 43.5% of total imports. It imported US\$20.75 billion worth of fish and fisheries products from non-EU suppliers in 2007, an increase of 11% over the previous year. Six EU countries are amongst the world top ten fish importers: Spain, with imports

from non-EU suppliers worth US\$4.37 billion in 2007, followed by the UK (US\$2.2 billion), Denmark (US\$2 billion), Germany (US\$1.9 billion), Italy (US\$1.8 billion), and France (US\$1.77 billion).

The study also shows the EU's declining self-sufficiency from catches in its own waters, estimated to be only just over 30% in 2007. Overall EU fish supplies depend on imports to a level of 69%, but for some categories the dependency on imports is as high as 90%, as for white fish in 2007.

This situation, together with the enlargement of the EU from 15 to 25 and 27 member states in 2005 and 2007, provides ACP exporters with significant opportunities, so long as they can comply with the rules of origin and the non-tariff barriers represented by the EU's hygiene and other relevant standards.

A 2007 study shows that, while the nominal value and the overall volume of developing-country fish exports have increased in recent years, their relative value has declined: in 1984 a tonne of developing-country fish exports was worth 28.4% more than the value of developed-country exports; in 2004, they were worth 10.4% less per tonne. This highlights the fact that ACP and other developing countries have the opportunity to significantly increase their export earnings from fish and fishery products through adding value and raising quality.

But there is also a need for caution. The rapid growth in international trade to meet market demands is putting pressure on fishery resources. This can cause over-fishing where fishery management is weak, and where the use of fish-catching technologies that damage the environment is permitted. There are also concerns that international trade in fishery products may have negative consequences for local food security. A 2009 OECD analysis shows that these concerns are not substantiated, but also reveals that no demonstrable relationship exists between fish trade and economic growth or poverty alleviation. The authors argue that this is due to the poor 'trickle-down mechanisms' that fail to redistribute the revenues generated by fish exports to the poorest segments of the population.

The importance of the EU markets for ACP fish exports

ACP regions	ACP fish exports to the EU27 (ave. value 2004-2006, in US\$ '000s)	Total ACP fish exports (ave. value 2004-2006, in US\$ '000s)	Relative importance of EU market %
Africa	1,241,172	2,178,036	57
Caribbean	100,783	204,526	49
Pacific	42,654	188,425	23

Source: FAO statistics, fish trade flows by region, 2008

For all ACP regions, the EU is the most important export market for their fisheries products. Other main markets for ACP fish products include the USA, south-east Asia and regional markets.

2.3 The significance of ACP fish and fishery products for the EU market

As a group, the ACP is an important fish-trading partner for the EU. EU trade statistics Eurostat show that in 2006, the value of EU imports of fish from ACP countries was around €1.4 billion, i.e. about 12% of the total value of extra-EU fish imports (€13.3 billion). The following table shows the top ten ACP fish exporters to the EU (by value), the value and quantities of fish exported, the type of products exported, and the average value per tonne for 2008.

Country	Value of fish exports (€ '000s)	Volume of fish exports ('000 kg)	Main fish products exported (by order of importance)	Average value per tonne (€ '000)
Namibia	232,168	71,213	White fish fillets/ frozen white fish	3.4
South Africa	215,725	58,593	Fresh white fish/frozen white fish/white fish fillets	4.0
Senegal	142,596	35,096	Fresh white fish/white fish filets/frozen white fish	4.1
Tanzania	111,083	28,013	White fish fillets (frozen)	3.6
Uganda	79,572	19,695	White fish fillets (fresh)	3.9
Madagascar	95,146	12,930	Crustaceans (shrimps and prawns)	8.0
Mauritania	94,708	20,454	Molluscs (octopus)/fresh fish/frozen fish	4.1
Mozambique	44,270	6,562	Crustaceans (shrimps and prawns)	7.2
Nigeria	35,822	4,509	Crustaceans (shrimps and prawns)	7.1
Seychelles	14,633	7,871	Canned tuna	1.6

Source: EU Export helpdesk, statistics 2008.

Although other factors, such as the fish species concerned or the level of integration between EU and ACP operators, may play a role, this table seems to indicate that export earnings may be increased if certain products, like high-quality fresh fish, are given priority. Contrary to the common belief that processing always adds value to fish, this table shows that for some processing, like the canning of tuna, the value of fishery products may be reduced. In a context where many ACP fish stocks are either fully exploited or over-exploited (which means that it will be difficult to increase benefits by increasing production), the way in which resources are exploited and processed has a bearing on the extent to which ACP countries can maximise the benefits from them.

2.4 Prospects for ACP fisheries exports to the EU market

2.4.1 Investment

In August 2005, African governments meeting around the 'Fish for all' initiative organised by NEPAD stated that: 'Strategic investments are needed urgently to safeguard the future contribution of Africa's fish sector to poverty alleviation and regional economic development. Broadly, investment is needed to:

- improve the management of natural fish stocks;
- develop aquaculture production;
- enhance fish trade in domestic, regional and global markets'.

IEPAs and EPAs include provisions on investment that could help meet these objectives, whilst improving ACP competitiveness, which is crucial in countering the consequences of preference erosion. ACP countries should use this opportunity to secure EU investment and development support to improve their fish-landing, transport, and processing infrastructures, and improve the capacity of their fish-processing-and-export sector to comply with international traceability and sanitary standards. At the same time there is a need for caution: improving competitiveness through the promotion of EU investments should not be at the expense of local enterprise, labour standards, quality of life, and the local environment.

An area in which ACP countries are keen to attract European investment is on-shore processing, such as tuna-processing facilities, to provide jobs and create 'spin-off' economic benefits such as investments in port and transport infrastructure and new businesses related to tuna-processing. 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 are likely 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 not materialise to the extent promised. In the case of tuna processing in the Pacific, unexpected conflicts between coastal communities and the processing facilities have arisen (disputes over working conditions, land rights and pollution). Such conflicts not only negatively impact on the long-term success of the investments, but also call into question the overall net benefits of on-shore investment without ensuring socio-economic ‘returns’. ACP countries need to develop a strategy for fully benefiting from such projects. This should include:

- developing a methodology for avoiding overcapacity in the fishing sector;
- developing accountability measures for investors to ensure that facilities deliver the promised benefits;
- calculating net foreign-exchange benefits,;
- assessing how such developments will impact on local communities, and developing mechanisms to avoid and mitigate conflicts before they arise;
- assessing the levels of benefits to workers in the processing facilities.

As investment is also a key component of the fisheries partnership agreements (see the executive brief on FPAs), a coherent approach should be developed by the ACP and the EU to ensure that there is synergy between investments promoted through FPAs and EPAs, and that they are in line with sustainable fisheries development in ACP countries.

2.4.2 The IUU catch-certification scheme

In July 2008, EU fisheries ministers found political agreement on a new regulation to fight IUU fishing. It includes a catch-certification scheme for certifying the legal origin of the product. This scheme, which is likely to be based on the model used for ensuring compliance with SPS standards, raises several issues.

The system proposed will not work if it is not supported by or based on at-sea observations. Where certification of catches is not supported by efficient and appropriate monitoring, control and surveillance (MCS) systems in countries where catches are made, there is a high risk that such certificates will be tampered with, negating any impact on the fight against IUU fishing. On the other hand, the catch-certification scheme, by imposing an additional burden on ACP authorities, producers and exporters, may become an obstacle to legal ACP fish imports.

Issues arising from the implementation of the IUU catch-certification scheme have been explored in a series of country case studies (including Namibia, Senegal and Mauritania) published in July 2009.

Based on these, the EC has already expressed its wish to introduce some degree of flexibility in certification requirements for artisanal fishing vessels, where the catch certificate would lie in the hands of the exporter, who will be required to provide information on supplies from individual vessels to the validating authorities. In the absence of an internationally agreed definition of small-scale fisheries, the implementing rules would be based upon the main cumulative characteristics: maximum length or no superstructure, landing in the flag state, short fishing trip, export consignments built up from supplies from several vessels, etc.

2.4.3 Rules-of-origin issues

Since January 2008, the preferential origin for ACP exports is established by Annex II to Council Regulation 1528/2007 (Market Access Regulation – MAR – applicable to 35 ACP states that have initialled WTO-compatible agreements with the EC) and by Articles 66-97 of Commission Regulation 2454/1993 (GSP/EBA scheme applicable to the 43 remaining ACP countries).

The MAR has been introduced as a transition measure and will be replaced by the origin protocols annexed to the EPA agreements as soon as they provisionally start to apply.

The restrictions imposed by the rules of origin have for long been a source of contention in EU-ACP fisheries relations, in particular with respect to the valuable tuna fishery. The way ‘originating fish’ is defined effectively forces ACP processors to purchase from high-priced EU suppliers (as they do not have their own tuna fleets, and fish from third-country vessels is not ‘originating’), in order to produce originating-tuna products.

By thus restricting their possible sources of raw material, this limits the development of ACP processing activities. It also creates an incentive for ACP countries to grant EU vessels preferential access to their EEZs so as to ensure that their tuna canneries are supplied with ‘originating tuna’.

A 2007 EC-commissioned study states that the RoO provide the EU tuna fleets with a captive market able and willing to pay the premium required by the EU fleets to operate viably. That the higher exploitation costs of EU fleets are passed on to ACP tuna buyers raises questions about their capacity to compete in such a highly competitive global market as that for canned tuna. According to some observers, the preferential margin offered to the ACP countries for originating canned tuna could therefore be considered as a form of upstream subsidy to EU vessels via fishery-access agreements rather than as a trade concession to ACP countries.

Currently, the rules of origin applicable under the protocols deriving from the MAR include a series of changes from the situation under the Cotonou Agreement:

- deletion of the crew, masters and official requirements from the ‘vessels rules’;
- simplification and redrafting of the ownership requirement;
- change of the main rule for several products of Chapters 3 and 16. Instead of the wholly obtained requirement with regard to materials of Chapter 3, now 15% of non-originating input is allowed.

There is a specific derogation for Pacific ACP countries (namely Papua New Guinea and Fiji) in the context of the EPA signed/initialled with them in July 2009. This offers these countries ‘the possibility of sourcing their fish raw material for processing globally’. This global sourcing can be applied only under certain conditions, such as the notification by the Pacific country providing concrete information about the species concerned, products to be manufactured and quantities involved under the relaxed rule. For Pacific ACP states, this relaxation of the rules of origin may represent the only way for canneries to remain economically viable. It may already be showing its effects, in terms of job generation and poverty reduction. Although the EU insisted on the fact that this concession was due to the specificities (geographical, etc) of the PACP, it shows how relaxing rules of origin could benefit other ACP groups, provided that other EU conditions (hygiene standards, etc) can be met.

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ATUNA

<http://www.atuned.biz>

L aunched by CTA (Technical Centre for Agricultural and Rural Cooperation EC-ACP) in 2001, the Agritrade website (<http://agritrade.cta.int>) is devoted to agricultural trade issues in the context of ACP (Africa, Caribbean and Pacific) – EU (European Union) relations. Its main objective is to better equip ACP stakeholders to deal with multilateral (World Trade Organization - WTO) and bilateral (Economic Partnership Agreement – EPA) negotiations. Thus it provides regular and updated information and analysis on technical aspects of the trade negotiations, developments in the CAP and their implications on ACP-EU trade, as well as on major commodities (bananas, cereals, sugar, fisheries, etc).

CTA was created in 1983 in the framework of the Lomé Convention between ACP (Africa, Caribbean, Pacific) and EU (European Union) countries. Since 2000, the Centre has been operating under the ACP-EU Cotonou Agreement. CTA's tasks are to develop and provide services that improve access to ever-changing information for agricultural and rural development, and to strengthen the capacity of ACP countries to produce, acquire, exchange and use information in this area.

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