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1. Background and key issues

The Common Fisheries Policy (CFP) governs the activities of EU fishing fleets, including their distant-water operations. The CFP is reviewed every 10 years, with the latest reform having been finalised in mid 2013.

"The CFP is reviewed every 10 years – the latest reform was finalised in mid 2013"

The new CFP will be financed through the European Maritime and Fisheries Fund (EMFF), details of which are still under

discussion. The EMFF will cover expenditures related to EU's external fisheries policy, including financial contributions to Fisheries Partnership Agreements (FPAs); participation in tuna regional fisheries management organisations; and, in all probability, funding for temporary cessation of activities when fisheries agreement protocols are not renewed on time. Expenditures under FPAs can be complemented by European Development Funding, particularly for regional monitoring, control and surveillance (MCS) programmes.

Within the CFP, FPAs and EU initiatives in regional fisheries management organisations provide the main framework for ACP–EU fisheries relations. Currently the EU has in force eight FPAs – all tuna related – with ACP countries, and nine other FPAs in place but with no protocol agreed. However, in some cases, notably Mauritania, the negotiated protocol is being provisionally implemented, pending the consent of the European Parliament (EP).

Fewer than half of the EU's 700-vessel external fleet are involved in FPAs, while around 400 vessels operate under joint ventures established in third countries, including many ACP countries. In some cases, an ACP country has both EU vessels fishing under an FPA and vessels of EU origin, but flagged to a non-EU country, fishing under a joint venture.

Reformed bilateral fisheries agreements are in future to be referred to as Sustainable Fisheries Partnership Agreements (SFPAs), to emphasise the new focus placed on the sustainability and good governance of EU fishing activities in third countries' waters.

2. Latest developments

The future CFP basic regulation

The 2013 CFP reform included an increased role for the EP under the co-decision provisions of the Lisbon Treaty. This necessitated the convening of a trilateral dialogue process (or 'trilogue') between the three main EU institutions to get a general agreement on the reformed CFP.

In response to European Commission (EC) proposals at the end of 2012, the EP called for provisions that required EU vessels fishing outside EU waters to comply with the same requirements as vessels fishing inside EU waters, including, for example, with regard to the ban on discards (see [Agritrade article 'European Parliament Fisheries Committee takes a strong position on the future external policy'](#), 24 February 2013).

"The Parliament called for EU vessels fishing outside EU waters to comply with the same requirements as vessels fishing inside EU waters"

The EP rejected EC proposals for the establishment of 'transferable fishing concessions' (TFCs) (a form of individual transferable quotas), including in the operation of tuna regional fisheries management organisations.

Despite this lack of support for TFCs, the European Commission reacted positively to the vote, highlighting that it supported the key elements of the Commission's proposal for a new CFP (see [Agritrade article 'Fisheries Committee calls for end to overfishing and discards'](#), 31 January 2013).

Subsequently, in February 2013, the EP plenary voted by a large majority in favour of an in-depth reform of the CFP, including a requirement that future quotas be set "according to sustainability goals, instead of through yearly haggling between ministers". This would require EU member states to respect the maximum sustainable yield (MSY) from 2015 onwards, by allowing fishermen to catch no more than the annual replenishment of stocks.

The EP also adopted a complete discard ban – rejecting an amendment that would have weakened the discard

ban – by removing a provision to enable a 5% discard of the catches. The Parliament further called for the allocation of fishing rights on a preferential basis to favour those who fish in an environmentally and socially responsible manner.

Part of the CFP reforms endorsed by the EP related to the external fisheries policy, including a new chapter on fishing operations taking place outside the scope of fishing agreements and regional fisheries management organisations (see [Agritrade article 'European Parliament approves reform of the Common Fisheries Policy'](#), 25 March 2013 and the section below).

"For the CFP reform, the EP included a new chapter on fishing operations taking place outside fisheries agreements and RFMOs"

For its part, the EU Fisheries Council adopted its final negotiating position on the CFP in February 2013. This position was at variance with the position adopted by the EP – including on the treatment of discards – with the EU Council favouring to allow a certain percentage of discards under specified circumstances (see [Agritrade article 'EU anti-discards policy'](#), 3 June 2013). A timeline was also proposed for the implementation of the discard ban. Tuna and small pelagic fisheries will be the first to have a discard ban implemented from January 2014, and a discard ban for fisheries in third-country waters will be fully in place by the beginning of 2017. Spain and France declared their satisfaction with the results. The EU Council's conclusions on the external dimension of the CFP from earlier in 2012 were also endorsed at this time (see [Agritrade article 'Fisheries Council adopts conclusions on the external dimension of the CFP'](#), 23 April 2012).

In response to the Council's position, the EC Fisheries Commissioner emphasised the need to fish more selectively, maintaining that "this is the most important element of the whole policy." The Commissioner asserted that there would be enough money to finance accompanying measures designed to facilitate the implementation of the proposed changes, in particular technological changes such as the introduction of improved net design to filter out fish that would otherwise be discarded as too small or above quota (see *Agritrade* article '[Discard ban adopted by the Fisheries Council of Ministers](#)', 25 March 2013).

Up to mid 2013, seven 'trilogue' negotiating sessions took place, giving rise to an agreement on a final text of the basic regulation, which will enter into force on 1 January 2014.

European Parliament debate on the future external dimension of the CFP

A whole chapter in the CFP basic regulation is devoted to the EU's external policy. Guidance on how this chapter was to be dealt with in the basic regulation was provided by a stand-alone parliamentary report on the future "EU external dimension".

The EP called for future EU involvement in tuna regional fisheries management organisations to be based on "transparent and equitable" resource allocation, using "incentives based on environmental and social criteria, as well as historical catches", and not "transferable fishing concessions systems".

On bilateral agreements, the EP insisted that fishing access should be limited to "resources that are scientifically demonstrated to be surplus for the coastal State in line with the pro-

visions of UNCLOS". The exclusivity clause – which allows vessels to fish under FPAs only if they are flagged in the EU – should be strengthened so that, in the absence of an agreement protocol, EU vessels would not be able to fish by taking private licences not covered by the FPA conditions.

The EP also called for the decoupling of financial compensation for access to fisheries resources from the part of the FPA financial compensation allocated for sectoral support – mainly for reinforcing the coastal state fisheries policy, by supporting fisheries research, MCS, compliance with illegal, unreported and unregulated (IUU) and sanitary and phytosanitary (SPS) regulations – and insisted that operators pay a "fair and market-based portion of the costs" when using fishing possibilities in the framework of a bilateral fisheries agreement, etc.

"The EP insisted that operators should pay a fair and market-based portion of the costs when fishing under a fisheries agreement"

To avoid abusive reflagging – where vessels change flag to get more fishing possibilities in the waters of an ACP state once the possibilities negotiated by the EU under an FPA with that state are exhausted – the EP called for vessels engaging in reflagging to be banned from returning to the EU register for 24 months, and to be prohibited from benefiting from EU opportunities once they have reflagged to a non-EU country.

The EP proposed that European private investments in the fisheries sector should be included as a third component in the external dimension of the CFP, something that was not dealt with in the EC proposals. The CFP would then serve to encourage sustainable

external fisheries investment. In this context, the EP Fisheries Committee requested that information on private agreements between EU ship owners and third countries, as well as on joint ventures in third countries, should be made publicly available. This would include the number and type of vessel operating under such schemes, as well as the catches made (see *Agritrade* article '[EP Fisheries Committee votes on the future CFP external dimension report](#)', 4 November 2012).

In November 2012, the EP voted by an overwhelming majority (94%) to endorse the proposals contained in the guidance report. The EC Fisheries Commissioner described the EP's proposals as "a major and timely contribution", paving the way for a more detailed description of the external policy dimension of the future CFP basic regulation (see *Agritrade* article '[European Parliament wants fishing investments in third countries to be covered by the future CFP](#)', 30 December 2012).

When the CFP basic regulation was voted on by the EP beginning of 2013, these various elements on the "external fisheries policy" were included. In response to pressure from EU fishing fleet representatives, however, the EP voted for additional provisions dealing with non-discrimination "to ensure that the different fleets fishing in third-country waters abide by the same rules", and weakened proposals dealing with reflagging, limiting the sanctions to those vessels that cannot prove that they have been fishing sustainably in third-country waters when they were flagging a non-EU flag (see *Agritrade* article '[European Parliament Fisheries Committee to vote on the CFP basic regulation](#)', 30 December 2012).

Fisheries Partnership Agreements

Over the course of 2012–11, three various FPA protocols were renewed. Although the reformed CFP is not yet being implemented, many of the principles of the reform, proposed by the EC and endorsed by the co-legislators, have already been introduced.

Developments in West Africa

The most discussed FPA in the last 12 months has been the EU–Mauritania FPA, which is the biggest and most complex.

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The main changes in the protocol include:

- access to cephalopod fisheries exclusively granted to the Mauritanian national fleets, as no surplus is available;
- changes regarding the fishing zones accessible to EU trawlers, with the aim of protecting overexploited stocks of sardinella;
- a substantial increase in contributions by boat owners to access costs;
- a requirement for payments to be made according to quantities of fish caught;
- the introduction of a ‘non-discrimination’ clause in the proposed protocol, so that other distant-water fleets, such as those of Russia, Ukraine and China, operate under the same

technical and financial conditions as the EU fleets.

As soon as the text was published, the European fishing sector operating in Mauritania expressed its strong opposition to the new protocol, asking for it to be renegotiated (see [Agritrade article ‘EU Fisheries Commissioner promises the sector to evaluate the possibilities to redirect the FPA with Mauritania’](#), 11 November 2012)

In October 2012, a Mauritanian civil society roundtable on the agreement protocol was held in Nouakchott. The participants welcomed the new protocol, asking for it to be implemented without delay. The welcome provisions included: limiting access to octopus to the national fleet; and requiring mandatory landing of all products resulting from EU fishing operations in the Mauritanian exclusive economic zone (EEZ).

On 3 December 2012, the European Council voted positively for the provisional application of the new EU–Mauritania FPA protocol, which covers a 2-year period, thereby allowing some 40 EU vessels to commence fishing operations in Mauritania’s EEZ (see [Agritrade article ‘Council gives green light for the EU–Mauritania FPA’](#), 30 December 2012).

The debate on the new protocol marked a distinct shift in the basis for criticism of the agreement. Previously, northern European states had criticised EU FPAs with West African states for being unsustainable. Under the new protocol, southern European nations criticised the protocol because it restricted European fishing (see [Agritrade article ‘€12.5 million is to be allocated for idle fishing fleets affected by fishing agreements’](#), 4 November 2012).

In January 2013, the EP organised a hearing to discuss issues arising from

the new EU–Mauritanian protocol, against the background of calls from the Spanish rapporteur to reject the protocol and start new negotiations. While European fleet representatives made a similar call, scientific submissions emphasised the contribution of technical conditions contained in the protocol to the better protection of ecosystems and the avoidance of conflicts with local fleets.

“Spanish interests are calling for the agreement to be rejected – but others claim that the new protocol protects ecosystems and local fleets better”

The president of the Mauritanian small-scale fishers, for his part, supported the protocol requiring EU trawler operations to be based further away from the coast, as a positive development. This view was echoed by the EP Development Committee, which also supported the protocol (see [Agritrade article ‘European Parliament rapporteur rejects EU–Mauritania FPA, while Mauritanian fishers and Development Committee support it’](#), 24 February 2013).

Different parts of the sector affected by the EU–Mauritanian FPA protocol continued to express their concerns, mainly in Spain. The Galician and Canary Islands’ octopus fleets – no longer permitted to fish in Mauritania – wanted the protocol to be rejected, describing their struggle as “the final battle” for their fleet (see [Agritrade article ‘Various European fisheries sectors express their views about the EU–Mauritania FPA’](#), 24 February 2013).

In light of these discussions, the EP rapporteur decided to postpone the vote on his report. Meanwhile, the Spanish Minister of Foreign Affairs met the Mauritanian president to assess the FPA protocol. The president of Mauri-

tania offered to help Spanish fishing companies to relocate to Mauritania, to create jobs and participate from a local base in the fisheries export trade. Spanish operators rejected the proposal, citing a lack of legal protection for their investments (see *Agritrade* article '[Mauritania proposes EU companies to relocate their business in Mauritania](#)', 29 April 2013). The government of Mauritania, however, is committed to developing its national trawler fleet (see *Agritrade* article '[Mauritania to renew its national trawler fleet: Will EU vessels move back in?](#)', 1 July 2013).

In February 2013, the EU and Côte d'Ivoire agreed on a new 5-year protocol to implement the EU–Côte d'Ivoire FPA. The protocol provides fishing opportunities for EU tuna fleets from Spain and France. The sectoral support has been increased to take into account the situation of the fisheries administration in Côte d'Ivoire after the civil war, and to assist it in taking on its international obligations in terms of port state control.

The published FPA evaluation highlighted the importance of provisions in the agreement, which allows purse seine fishing to take place while en route to Abidjan, the chief landing port in the region for EU tuna vessels. EU vessels are the main suppliers for the three Abidjan tuna canneries, providing them with around 70% of their raw material. They also account for half of the transhipped catches, and provide about 11,000 tonnes of fish to the national market. The presence of EU vessels in the port of Abidjan generates significant economic benefits (see *Agritrade* article '[New protocol to EU–Côte d'Ivoire Fisheries Partnership Agreement](#)', 24 February 2013).

Formal negotiations for a new fisheries protocol with Morocco restarted mid 2012. Negotiations had stalled in

December 2011 following the rejection by the EP of a proposed protocol over the controversial issue of the agreement's coverage of Western Sahara waters (see *Agritrade* article '[Negotiations restart for new EU–Morocco agreement](#)', 4 January 2013). After several months of negotiations, the Spanish fisheries minister stressed that all technical issues had been resolved and that both parties were close to an agreement. However, two aspects are still pending: the so-called political clauses (human rights and international law) and the financial contribution from the EU side. Morocco is also said to be reluctant to accept the European Commission's demand for detailed reporting on the use of the funds earmarked for sectoral support under the FPA, as well as the inclusion of a clause regarding the respect of human rights.

Meanwhile, in a joint letter, over 60 MEPs from all political groups expressed concerns over the inclusion of the Western Sahara waters under the agreement, stressing that the mere inclusion of a human rights clause in a fisheries protocol does not make the agreement compliant with international law (see *Agritrade* article '[Western Sahara slows down EU–Morocco fish talks](#)', 29 April 2013). An FPA protocol was finally agreed between the EU and Morocco in July 2013. However, the government of Morocco refused to allow the provisional application of the provisions prior to the consent of the EP being received.

Developments in the Indian Ocean and East Africa

Under the EU–Mozambique FPA a new protocol was signed in June 2012. The new protocol provides fishing opportunities to 75 EU tuna vessels from Spain, France, Portugal, Italy and the UK. Monies for access and for supporting national fisheries policy development

are clearly decoupled, as proposed in the CFP reform, and an electronic logbook system will be introduced for transmitting catch data (see *Agritrade* article '[MEPs back EU–Mozambique FPA](#)', 16 July 2012).

Funding for a new tuna fishing quay has been provided for under the EU–Seychelles FPA, with the intention of making a logistics base available for the industrial tuna purse seiner fleet to land their catches, as well as for loading and unloading fishing nets and salt. In the future, the quay will also be used for transshipments. The minister stressed that, at a time when countries of the region are promoting their ports, it was important to undertake such an initiative so that Seychelles "maintains its position as the main tuna landing/trans-shipment port in the Indian Ocean" (see *Agritrade* article '[FPA funds used for new port infrastructure for the tuna fleet in the Seychelles](#)', 9 September 2012).

Under the EU–Madagascar FPA, a scientific paper reviewing the evolution of EU fishing agreements with Madagascar since 1986 has highlighted the existence of non-transparent private agreements. There is no publicly available information on licences issued or fees paid to individuals or the state under these private agreements. The EU has expressed its disapproval of such "side agreements", but lacks the powers to prevent them from being concluded. Nevertheless, the EU Ambassador to Madagascar has underlined the overall transparency of EU FPAs in contrast to "certain foreign fleets operating in the waters of the Indian Ocean, including the Malagasy EEZ", which operate "in full opacity and most perfect impunity" (see *Agritrade* article '[Does the EU underpay Madagascar for access to fish?](#)' 9 September 2012).

“The transparency of EU FPAs has been highlighted, in contrast to certain foreign fleets operating opaquely in Indian Ocean”

During September 2012, the EU–Madagascar Joint Committee for the implementation of the FPA met to adopt specific management measures governing the fishing activities of the EU longline fleet targeting tuna and tuna-like species. To effectively implement the relevant Indian Ocean Tuna Commission (IOTC) recommendations, the Joint Committee focused particularly on shark by-catches. The new measures therefore include the regular embarking of observers on-board EU longliners; the prohibition of fishing for the most vulnerable species of sharks; and a 200-tonne maximum quota for other sharks caught as associated species – this is lower than the previous 5-year recorded average. The new measures were criticised by EU longliner fleets (see *Agritrade* article ‘[Madagascar and the EU address the issue of sharks caught as associated species through their ‘tuna-FPA’](#)’, 11 November 2012).

Under the EU–Mauritius FPA, criticisms have arisen over the lack of transparency and consultation in the negotiation of the new protocol. This issue was taken up by the EP rapporteur for the EU–Mauritius FPA, who called for more transparency and broader consultations, in order not to undermine the EU’s image and credibility (see *Agritrade* article ‘<http://agritrade.cta.int/Fisheries/Topics/ACP-EU-relations-FPAs/EU-Mauritius-Concerns-about-transparency-and-stakeholders-are-discussed>’, 4 January 2013).

Calls have been made in Mauritius for the minutes of the Joint Committee meetings and the annual FPA evaluations to be published. This resulted in

the Mauritian authorities organising a number of meetings with representatives of the fishers’ unions and civil society interests. A proposal was put forward to establish a Mauritian “consultative committee on fisheries and maritime issues”. This reflects civil society concerns over the need to ensure that the activities of all foreign fishing vessels are undertaken on a sustainable basis (see *Agritrade* interview, ‘[A transparent, sustainable and equitable agreement with the EU will have repercussions for Asian fishing fleets active in Mauritian waters](#)’, 10 March 2013).

In April 2013, the EP gave its consent to the FPA with Mauritius, calling on the EC to facilitate the participation of MEPs as observers in the Joint Committee meetings, and to provide them “within the last year of application of the new Protocol and before the opening of negotiations for its renewal, a full evaluation report on its implementation, without unnecessary restrictions on access to this document”. The EP also insists that EU vessels will be allowed to fish only beyond 15 nautical miles from the coast to avoid adverse effects on small-scale artisanal fisheries in Mauritius (see *Agritrade* article ‘[European Parliament fisheries committee approves EU–Mauritius FPA](#)’, 29 April 2013).

Developments in the Pacific

Under the EU–Kiribati FPA, a proposal for a new protocol was finalised between the EC and Kiribati in mid 2012. The reference tonnage agreed in the protocol is 15,000 tonnes (four purse seiners and six longliners from Spain, France and Portugal). According to data released earlier by the Spanish ‘Cluster of Fishing Enterprises in Third Countries’ another 11,500 tonnes of tuna is caught by vessels under joint ventures in Kiribati (see *Agritrade* article ‘[New protocol for the Kiribati–EU FPA](#)’, 16 July 2012).

The FPA evaluation showed that for every euro invested each year by the EU and fleet owners, €4 of additional value was generated, 75% accruing to the EU and 25% to Kiribati. The cost of access for vessel owners represents about 4% of the average sales prices received for catches made under the protocol. A key issue highlighted by the evaluation is that the protocol is a tonnage-based protocol, while the national Kiribati policy, in line with regional initiatives, is now to negotiate and provide access based on vessel days (according to the Vessel Days Scheme – VDS).

“The EU–Kiribati protocol is based on tonnage, not on the Vessel Days Scheme, as set up by the region”

It further recommends that the EU should continue to engage actively with the regional fleet management organisation, the Western Central Pacific Fisheries Committee, in order to ensure responsible fisheries. It is proposed that as “part of this process, given some of the weaknesses identified in the evolving VDS system, the EU should support the establishing of target and limit reference points for tuna stocks, so as to ensure the integrity of the scheme by linking stock status to the management system” (see *Agritrade* article ‘[Evaluation of the EU–Kiribati FPA highlights issues for the future protocol](#)’, 9 September 2012).

Increasing difficulties in negotiating highlighted FPAs

A study published by the EP provided information on China’s fleet and catches, the activities of the distant-water Chinese fishing fleets and China’s role in the global fish trade. China’s fisheries agreements vary from state-to-state bilateral agreements to non-governmental arrangements between

parastatal/public–private partnerships and third countries.

China's fisheries agreements are characterised by a lack of transparency. EU stakeholders have expressed concerns over China's approach to securing fisheries access agreements. It is maintained that this approach is essentially based on offering the third party whatever it requests to secure access. However, this is impeding the EU in its negotiation of fisheries agreements in countries that have the alternative of concluding an agreement with China, without any of the difficult EU conditions (see *Agritrade* article '[Increasing presence of China in distant-water fishing may affect FPAs](#)', 9 September 2012).

Negotiating the future European Maritime and Fisheries Fund (EMFF)

In parallel with the negotiation of the CFP basic regulation, EU co-legislators were negotiating the financing of the EMFF. The discussion on EMFF started in mid 2012, when eight countries, led by Spain and France, stressed the need to maintain subsidies for scrapping and modernisation from 2014 to 2020. It is argued that the funding could focus on measures that do not increase fishing capacity, for example, reducing the environmental impact of fisheries; improving a vessel's energy efficiency, and on-board conservation facilities; and improving safety on board.

"Future funding should focus on measures that do not increase fishing capacity"

Calls were also made by Spain and France to continue with aid for scrapping vessels, as well as aid for temporary cessation of activities, "in order to adjust the fishing effort" (see *Agritrade*

article '[Eight EU member states call for scrapping aid to be maintained](#)', 27 August 2012).

NGO representatives, however, maintained the condition that "fleet modernisation shouldn't lead to fishing capacity increase" was purely rhetorical, given the practical difficulties in making this assessment. Indeed, a 2006 EC paper showed that real engine power, a key element in determining capacity, is up to five times the power declared by fishermen. In its replies to the Council, the EC emphasised that member states cannot have both modernisation and scrapping subsidies (see *Agritrade* article '[The EU Fisheries Council meets on future European Maritime and Fisheries Fund](#)', 22 October 2012).

At their October 2012 meeting, the Council of Fisheries Ministers reached an agreement on a "partial general approach" for the EMFF, including on support to modernisation, scrapping and temporary cessation of fishing activities. The latter measures have mostly been used in cases where FPA protocols were not renewed on time, with some 15% of the EMFF (i.e. €975 million) being allocated for such purposes during 2014–2020.

However, ministers insisted on the inclusion of new conditions for the deployment of scrapping funds, including an obligation on member state governments to make assessments of fleet capacity, whereby scrapping subsidies can only be granted if overcapacity is demonstrated. In addition, operators who benefit from scrapping funds will lose their fishing licences and will not receive any funding if they have broken CFP rules. The Spanish fisheries minister said that "everything the Spanish fishing sector wanted has been accepted", mainly thanks to the strong alliance built with France, Portugal and Poland.

European Fisheries Commissioner Maria Damanaki said that she hoped that the EP might turn the tables, stressing that the EC's original proposal – which proposed to eliminate these subsidies – was still on the table (see *Agritrade* article '[EU ministers support controversial subsidies](#)', 2 December 2012).

Meanwhile, the recently created European Fisheries Technology Platform, a body comprising both fishing industry operators and researchers, has argued that reducing energy costs should be accorded a high priority under the EMFF.

"The European Fisheries Technology Platform argues that reducing energy costs should be a high priority for the EMFF"

Currently, fuel costs represent, on average, 55% of the total running costs of EU fishing vessels. In response, the EC has indicated that support will be available under the EMFF, as a "resource-efficient Europe" is one of the pillars of the Europe 2020 strategy. Such support will be available provided that the fishing capacity of the vessel is not increased. Engine replacement will be excluded: although this increases the ability to catch fish, it is not the most effective way in terms of improving energy efficiency, and is certainly the most expensive change on a vessel (see *Agritrade* article '[European Fisheries Technology Platform focuses on fishing vessels' energy efficiency](#)', 11 February 2013).

IUU ACP country initiatives

In April 2013, West African countries that are members of the Sub Regional Fisheries Committee – Cape Verde, Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone – took an initiative aimed at clarify-

ing the role of flag states in the fight against IUU fishing, by requesting that the International Tribunal for the Law of the Sea (ITLOS) address several questions, including:

- To what extent shall the flag state be held liable for IUU fishing activities conducted by vessels sailing under its flag, including vessels operating in the framework of international agreements?
- What are the rights and obligations of the coastal state in ensuring the sustainable management of shared stocks and stocks of common interest, especially the small pelagic species and tuna?

The request was triggered by new issues being raised in the FPA negotiations with the EU. It was felt that obligations entered into under EU FPAs could serve as a legal basis for articulating the responsibility of the flag state, including with regard to the management of shared stocks such as small pelagics, and stocks of common interest such as tuna. This needs to be seen against the background of “the collective failure of the coastal states to sustainably regulate fisheries”

“The responsibility of the flag state for the management of shared stocks should be seen against the background of the failure of coastal states to regulate such fisheries”

(see Agritrade article [ITLOS opinion on IUU fishing requested by West African sub-regional fisheries committee](#), 1 July 2013).

3. Implications for the ACP

Creating a transparent and level playing field for all foreign fleets to increase long-term benefits

While ACP governments now have the option of negotiating with third-country fishing nations, such as China and Russia – which apply less strict conditions under their fisheries agreements than the EU, it needs to be recognised that the negotiation of differential access conditions undermines efforts to create “a culture of compliance” of foreign vessel operators. This results in losses for the coastal country in terms of degradation of ecosystems, illegal operations, underreporting of catches, competition with local fleets, etc.

It needs to be recognised that in the long term, ACP countries will only benefit from foreign fleets’ access if the operations of these fleets do not contribute to depreciating the ACP natural resources capital, through over-exploitation and ecosystems’ destruction, and do not constitute an obstacle to coastal fisheries development.

“ACP countries will benefit from foreign fleets access – but only if they don’t over-exploit resources, destroy eco-systems, or constitute an obstacle to coastal fisheries development”

The governments of ACP countries therefore need to consider establishing transparent and fair access rules that apply to all foreign fleets, thereby creating a virtuous cycle of competition between third-country fishing nations. Progress is already

being made in this regard in some ACP countries (e.g. Mauritania), but it needs to become the norm across the ACP region.

This approach also needs to provide the basis for regional management arrangements for shared stocks (small pelagics) and highly migratory species (tuna).

Transparency and stakeholders’ participation: Key ingredients for long-term benefits

The current opacity of most fishing operations in ACP countries – reflagging, joint ventures, chartering and most fishing agreements – makes it difficult for an ACP coastal country to appreciate the long-term costs and benefits of these various operations, and to design and implement appropriate policies applicable to all fleets of foreign origin. Increased attention should be paid to the gathering and dissemination of basic information on the operation of all long-distance fleets operating in ACP waters, in line with the best practices in some ACP countries. The adoption of a “no data–no fish” position across the ACP could lead to immediate benefits in this area.

EU–ACP cooperation in identifying the real beneficial owners of distant-water vessels under reflagging arrangements could also usefully be intensified. Recent progress under EU–ACP FPAs on data disclosure and public consultations should be consolidated into permanent public consultations and become generalised across both EU FPAs and beyond EU agreements, with financial assistance being made available under fisheries cooperation arrangements for this purpose.

Determining access conditions for distant-water fleets

Traditional systems of basing access on recorded historical catches are hampering the development of new ACP fishing capacity. Promoting the allocation of access systems that both recognise historical catches and apply environmental and social criteria (including consideration of the impact of fishing gear used, job creation and the right to food), and linking these to ACP fisheries sector development aspirations, could help to promote the sustainable development of local fishing capacities.

The translation of the long-standing obligations under international law (UNCLOS) to limit third-country access to surplus resources into EU fisheries law in 2013 could assist in this regard. However, this still leaves the problem of the basis for determining the surplus. If local fisheries sector development is to be promoted, then there is a need to move away from approaches

that assert that if stocks are not fully exploited according to scientific data available, there is de facto a surplus, since the local fishing sector can only be developed if a “reserve of resources” is retained.

Monitoring CFP reform implementation

With new EU regulations being set in place, the focus will now shift to monitoring their implementation. The first issue that arises for ACP governments is to ensure that their sovereign rights over fisheries management decisions are not undermined by the application of new EU regulations.

“ACP governments should ensure their sovereign rights over fisheries management decision are not undermined by new EU fisheries regulations”

Close monitoring of the application of EU non-discrimination clauses will be required.

Clarity will also be needed on how the ban on discards by EU distant-water fleets is to be enforced. It will be important to ensure that the application of this ban does not lead to local landings of by-catches that then disrupt local ACP fish markets.

There will also be a need to monitor the impact of the future EMFF on the conditions of competition between EU fleets and local ACP fleets. This could in part be addressed by sharing EU-financed research and technological innovations with ACP authorities through some kind of extension of the work of the newly created European Fisheries Technology Platform.

Careful monitoring of the application of EU assistance to scrapping of fishing vessels will also be required, so that it genuinely results in a reduction of the fishing efforts deployed.

Main sources

1. European Commission (EC), ‘The common fisheries policy (CFP)’, home page

http://ec.europa.eu/fisheries/cfp/index_en.htm

2. EC, ‘Fisheries partnership agreements’, home page

http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm

3. EU Long-Distance Fishing Regional Advisory Committee (LDRAC), home page

<http://www.ldr.ac.eu/en/>

4. CFP Reform Watch, home page

<http://cfp-reformwatch.eu/>

5. EC, ‘Illegal fishing (IUU): the EU rules to combat illegal, unreported and unregulated fishing’, home page

http://ec.europa.eu/fisheries/cfp/illegal_fishing/index_en.htm

6. Stop Illegal Fishing, home page

<http://www.stopillegalfishing.com/>

7. Organisation of European Fishing Enterprises – Europêche, home page

<http://europeche.org/>

8. Coalition for Fair Fisheries Arrangements, home page

<http://www.cape-cffa.org>

9. TransparentSea, portal on distant-water fishing nations

http://transparentsea.co/index.php?title=Category:Distant_water_fishing_nations

10. REJOPRAO, media platform for responsible fishing in Africa

<http://www.rejopraro.com>

About this update

This brief was updated in October 2013 to reflect developments since September 2012. Other publications in this series and additional resources on ACP–EU agriculture and fisheries trade issues can be found online at <http://.cta.int/>



The Technical Centre for Agricultural and Rural Cooperation (CTA) is a joint ACP–EU institution active in agricultural and rural development in African, Caribbean and Pacific (ACP) countries. Its mission is to advance food and nutritional security, increase prosperity and encourage sound natural resource management.

It does this by providing access to information and knowledge, facilitating policy dialogue and strengthening the capacity of agricultural and rural development institutions and communities in ACP countries.

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