

The future of Fisheries Partnership Agreements in the context of the Common Fisheries Policy reform

Coalition for Fair Fisheries Arrangements (CFFA), June 2010

Introduction

Almost since their inception, at the end of the 70's, fisheries "cash for access"¹ agreements, and later on, fisheries partnership agreements (FPAs), have attracted criticism. If some attempts have been made to address such criticisms through the Fisheries Partnership Agreements (FPAs), the basis for the agreements have remained the same for the EU: the need to secure long term access to third countries' fish resources and to maintain its fleet presence in third countries and international waters.

Although FPAs have been a unique experience at the global level, to try and reconcile sometimes conflicting interests between the EU and the third countries, there is a need for a fundamental change of the guiding principles and framework for EU fisheries relations with developing countries, which would give priority to good governance and environmental sustainability whilst providing an enabling environment for developing countries' fishing sector operations, particularly the small scale fishing communities.

FPAs are failing to deliver sustainable fisheries. Why?

There are currently 15 Fisheries Partnership Agreements in force between the EU and ACP countries.

With notable exceptions, such as Mauritania – the biggest FPA - they are primarily tuna agreements, and their duration is generally between four and six years.

To be noted here is the fact that, compared to the number of past access agreements, the number of FPAs has decreased, and several important partners, such as Senegal or Angola, have declined the EU offer to renew a Fisheries Partnership Agreement.

This raises questions: contrary to fisheries access agreements, FPAs are supposed to promote responsible and sustainable fisheries, aims shared by most developing coastal countries. So, why are some of these countries declining the EU offer of working together towards a joint objective?

Part of the answer may be the lack of trust.

Despite the EC's best efforts to improve the content of the agreements (introducing exclusivity and social clauses, increasing support to research, surveillance activities, etc), the basis of the Fisheries Partnership Agreements has remained the same as for the former

¹ Often referred to as 'pay, fish and go' agreements

access agreements: trying to secure long term access to third countries' fish resources and maintain the European fleet's presence in third countries' and international waters.

In the implementation of the agreements, this is shown particularly by the fact that the main determining factor of the financial contribution provided by the EU remains the level and conditions of EU fleets access² to developing countries' resources , - rather than the developmental needs of the third countries. In some cases, this has led to third countries, in dire need of foreign currencies for the national budget, to grant unsustainable levels of fishing possibilities to EU fleets.

Problems also arose from the misspending of the financial compensation. The capacity of third countries institutions to absorb important amounts of monies is limited. In as much as the amounts devoted to targeted actions in the FA financial compensation do not correspond to any identified needs, this has led to a situation where it happened in the past that the amount received by local fisheries institutions (for research, MCS, etc) exceeded by far the budget of these institutions. Without clear plan or initiative to spend the fisheries agreement monies,

This linkage between 'access to resources' and 'support to sustainable fisheries' will always be an obstacle to a real partnership, and to achieving responsible and sustainable fisheries.

Another part of the answer may be an issue of credibility of the EU. The EU is often perceived as *'not doing what it says, and not saying what it does'*.

In particular, the fact that the EU has not addressed some crucial issues internally, such as the over-capacity of its own fleets or the lack of compliance by some EU operators (including with the terms of FPAs), and yet advocates for sustainable fisheries elsewhere, is often referred to. Efforts have been made in the last years to correct such perceptions, namely through the new regulation on IUU fishing and the Control regulation, which apply to EU fleets and EU nationals. Some efforts have also been made to improve access to information, like making available to the public the proceedings of the Fisheries Agreements' joint committees. But a lot remains to be done to improve EU's credibility on the international scene.

Finally, the fact that Fisheries Partnership Agreements negotiations are still surrounded by secrecy may be one reason why FPAs continue to attract an important dose of criticism from developing countries and EU civil society and the fishing sector.

Evaluations of FPAs, costs and benefits of FPAs for the EU tax payers, are information that still remains unavailable to the public. The participation of EU and developing countries' civil society in the negotiation is nil, and the participation of the developing country fishing sector is cosmetic.

This also raises issues about the general lack of transparency afflicting the management of developing countries' fisheries, particularly the way access to resources is allocated, both within the national fleets of the coastal country as well as to other distant water fleets such as Asians, Russians etc., and the lack of space given to public debate. In the absence of

² *This linkage is a condition imposed by the Court of Auditors, if they are commercial agreements, to ensure "value for money". Re-defining the objective of FPAs would remove this condition.*

freedom of expression and public debate on how fisheries should be managed and developed, it's hard to conceive any partnership for sustainable development can take place.

How could these issues be addressed through the Common Fisheries Policy reform?

The process of reform of the Common Fisheries Policy (CFP), to be achieved by the end of 2012, will also address the external dimension of the CFP, including fisheries partnership agreements. There is therefore an opportunity for EU stakeholders, and the European Parliament, to open up a debate and voice their ideas about how our future relations with developing countries should change, in order for the EU to contribute meaningfully to sustainable fisheries.

The first step should be to **change the objective of the external dimension of the CFP**, including FPAs: the objective should be to contribute to the establishment of responsible and sustainable fisheries and to the improvement of global good governance, NOT to maintain the European fleet's presence in third countries' and international waters.

In practice, such change could manifest itself by replacing existing agreements by a combination of two different tools:

- **partnerships for sustainable fisheries**
- **fisheries access agreement**

1. **Partnership for Sustainable Fisheries** - the sole objective should be to create a favourable environment, in the third developing country concerned, for sustainable fishing operations, in line with the objectives of the FAO Code of Conduct for Responsible fisheries, and with the EU legal obligation of Coherence for Development, ie coherence of the CFP with EU Development Cooperation objectives..

This should be achieved through the establishment of a dialogue on how the EU can contribute to fulfil 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, value-adding processing, regional / international trade operations, etc³.

On the EU side, this would suppose setting in place a mechanism of collaboration between the EU and MS administrations dealing with developing countries fisheries issues: Aid, Trade, Bilateral cooperation, Fisheries, etc. This should also facilitate the mobilisation of necessary support (funds, technical support, etc) to achieve the jointly agreed goals.

³ *The resolution of the first meeting of ACP Ministers in charge of Fisheries, held in Brussels from June 2 -5 2009, provides some indications about what ACP priorities are for the development of their fishing sector*

http://www.acpsec.org/en/fisheries/resolution_fisheries_16-06-09_e.pdf

Through this partnership, the EU should promote **transparency and stakeholders' participation**, recognised as two crucial aspects of responsible and sustainable fisheries by the FAO Code of Conduct for Responsible fisheries.

It should be noted here that developing countries' stakeholders, particularly fishing communities and NGOs, have been demanding full transparency about the way access is allocated to the various users of their country's fish resources, including to foreign fishing fleets such as the EU, China, Korea, etc.

2. **Fisheries Agreement.** In case there are clear indications of the existence of a surplus of resources that cannot be caught by local fleets, **A Fisheries agreement** stipulating the conditions under which EU operators can undertake activities (fishing, processing activities, investments, etc) in the third countries concerned, ensuring these activities are in line with the third country's initiatives and efforts undertaken through the sustainable fisheries partnerships. This agreement should be the tool by which the EU undertakes its responsibilities as flag state.

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 favourable environment for responsible fishing activities (legal certainty, reinforcement of control capacity, research, infrastructures, etc) through the sustainable fisheries partnerships.

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. The argument often put forward by these operators is that, otherwise, their operations wouldn't be profitable. Therefore, in a context where no more subsidies for access will be available to EU fleets, it's crucial to ensure EU operators are required to fully comply with good governance agreements. Conditions for EU operators to access third countries waters should 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 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 as 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, in line with ILO conventions, has been achieved, and, if not, how it could be improved. The possibilities offered by a more systematic use of new information technologies, such as electronic logbooks, should be extended

Some specific issues

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 on 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 and many fleets already suffer from over-capacity. The fact is that no new entrants can be accommodated, and overcapacity cannot be solved, without current fishing players, such as the EU, giving up part of their share and down-sizing their fleets' capacity.

The best way to develop high seas sustainable 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 catches for coastal developing States, in order to give them the space to develop whilst ensuring the sustainability of the exploitation.

In that sense, we agree with the Long Distance RAC 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".

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 as a way to improve the efficiency of RFMOs to develop sustainable fisheries.

The necessary reduction in fishing capacity in many fisheries 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. That will lead to obvious implications for the reduction of EU fleets in certain fisheries managed by RFMOs.

The need for EU investments in developing countries sustainable fisheries⁴

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 natural fish stocks (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 investments, in areas such as 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 been a failure – they haven't brought to the receiving developing countries expected social and economic benefits⁵ 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 briefing⁶ 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 realise. 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'.

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 (Brian is a Brit, don't spell like a Yankee!!!! standards, quality of life, and the local environment. That's a reason why all provisions related to fisheries should be under a

⁴ See *Trade Negotiations insights, Vol 5, Nr 4, ACP-EU Fisheries relations: Who will pay, who will benefit?*

http://ictsd.net/downloads/tmi/tmi_en_5-4.pdf

⁵ *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>

⁶ FFA *Fisheries Trade News*, July 2009 http://www.ffa.int/trade_news

specific chapter, to ensure coherence between resource conservation, labour conditions, etc and investments criteria.

Therefore, even for investments that, *a priori*, correspond to the needs of developing countries (job creation in particular) there is a need to set up mechanisms to fully assess the net costs and benefits of such projects. This includes:

- developing a methodology for avoiding overcapacity in the fishing and processing sectors,
- developing accountability measures for investors to ensure that facilities deliver promised benefits,
- assessing how such developments will impact local coastal communities,
- developing mechanisms to avoid and mitigate conflicts before they arise and assessing levels of benefits to processing facility workers

Processing fish is not always adding value to it

Fish is highly perishable by nature: as soon as it comes out of the water, it starts losing value. The best strategy to preserve its economic value and its desirability on international markets, particularly if the fish caught is of high quality, will not always be through processing, where even the smallest handling operation represents a risk of spoiling it. Rather, it is wise to deal with it rapidly whilst maintaining the cold chain as long as possible. The perishable nature of fish has therefore implications for how fishery benefits are generated from international fish trade and how they are distributed to the developing countries society.

For more information

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