

V

Fisheries Partnerships

ACP-EU Economic Partnership Agreements: Fisheries

CFFA – Coalition for Fair Fisheries Arrangements

Global fisheries issues

In the FAO's *State of World Fisheries and Aquaculture 2004*,¹ issues of key importance in world fisheries include:

- **Depletion of fish resources** In early 2000, about 25% of the world's fish stocks were overexploited and depleted, and another 50% considered fully exploited.
To face the challenge of the sustainable exploitation of fish resources, it is to be noted that many Regional Fisheries Management Organisations (RFMOs) are taking innovative and co-operative action to implement international fisheries instruments, in an effort to rebuild depleted stocks and prevent further decline and to combat illegal, unreported and unregulated (IUU) fishing.
- **Contribution of fisheries to food security** Global production from capture fisheries and aquaculture supplied about 101 million tonnes of food fish in 2002. Overall, fish provided more than 2.6 billion people with at least 20% of their average per capita animal protein intake. Given the highly perishable nature of fish, the contribution of fisheries to food security in developing countries is constrained by the lack of infrastructure, particularly for meeting conservation and trade requirements.
- **Growing international fish trade** Globally fishery products are amongst the most highly traded food commodities, with some 38% of the fish catch traded internationally. Total world trade of fish and fishery products increased to US\$58.2 billion in 2002, showing a 45% increase since 1992.
- **Fisheries as a source of employment** In 2002,

about 38 million people were earning an income from employment in fisheries and aquaculture. Of particular note for developing countries is the important number of women working in the fisheries sector, mainly in processing and trade.

Fisheries in the context of international trade

Fish and fisheries products have become the most important foreign exchange earner among all agriculture products traded by developing countries. Net foreign exchange receipts² in developing countries for fishery products increased from \$3.7 billion in 1980 to \$18 billion in 2000 – a 2.5-fold increase in real terms.

Developed countries account for more than 80% of the value of the total fishery product imports. The main international markets for fishery products are the European Union, where about 76% of the import value is concentrated, the USA and Japan. In 2003 the EU, the world's main market for fishery products, imported more than €12 billion worth of fish and fishery products.

But whilst the developed countries markets may offer the best prices, fish exporters in developing countries face an increasing number of trade barriers (both tariff and non-tariff) to enter those markets.

Tariff barriers tend to be higher for processed products than for unprocessed fish. Developed countries tend to encourage trade in raw material rather than in processed products, although the greatest economic returns for developing countries are achievable through value-added processing. Non-tariff barriers are those relating to hygiene and food safety, in particular sanitary, traceability and quality control aspects.

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Fisheries and international agreements

The United Nations³ and the World Trade Organization (WTO) are responsible for the international legal and policy frameworks that define how fisheries may be exploited and fishery products may be traded. While the WTO provides the institutional structure and legal basis for international trade liberalisation, the United Nations provides the legal basis for the sustainable development and management of fisheries resources, and for responsible fisheries production.

This potentially brings the conservation instruments of the United Nations and the trade liberalisation processes of the WTO into conflict.⁴ Further trade liberalisation as promoted by the WTO (the reduction and elimination of tariffs and non-tariff barriers, particularly on products of interest to developing countries) has implications for the sustainability of fish stocks.

Fisheries current status in the WTO and the Doha Round

During the Uruguay Round of negotiations of the General Agreement on Tariffs and Trade (GATT), fisheries and fish products were left out of the Agreement on Agriculture. They are treated as an industrial sector and industrial products respectively by the WTO.

Fisheries are currently dealt with by the WTO at four different levels:

- market access for non-agricultural products (reduction and elimination of tariffs and non-tariff barriers, particularly on products of interest to developing countries);

- agreement on subsidies and countervailing measures. The Doha Round called for negotiations to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries;
- trade and the environment, particularly as regards multilateral environmental agreements; and
- dispute settlement procedures.

The Doha Agenda includes a number of issues of particular importance to international trade in fish and fishery products, including improved market access, fisheries subsidies, environmental labelling, the relationship between WTO trade rules and environmental agreements, as well as technical assistance and capacity building.

Provisions on fisheries in the Cotonou Agreement

The Cotonou Agreement deals with fisheries under the trade provisions of the Cotonou Agreement and under the provisions dealing with fisheries agreements.

The trade provisions of the Cotonou Agreement

The terms and conditions for the export of ACP fish and fishery products to EU markets are determined in the main by the provisions of the Cotonou Agreement, assuming that the rules of origin can be met. The market-access provisions of the Cotonou Agreement are based on the non-reciprocal trade preferences extended to ACP countries under the earlier Lomé Convention. These allow ACP coun-

Box 1. Multilateral agreements on trade relevant to fisheries

The multilateral agreements on trade relevant to fisheries are:

- Marrakech Protocol to the General Agreement on Tariffs and Trade (1994)
- Agreements on Non-Tariff Barriers
- Agreement on Sanitary and Phyto-sanitary Measures
- Agreement on Technical Barriers to Trade
- Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade (1994) – Anti-dumping
- Agreement on Import Licensing Procedures
- Agreement on Subsidies and Countervailing Measures
- Agreement on Safeguards

tries to export their fish products to the EU without having to pay the import taxes applied to fisheries exports from other countries. The margins of preference enjoyed by ACP exporters under Cotonou depend on the trade regime applied to fishery products from competing countries.⁵

These ACP tariff preferences will continue until the end of 2007. The EU is seeking to replace the current non-reciprocal preferences with WTO-compatible Economic Partnership Agreements (EPAs) that would begin in January 2008.

Cotonou and provisions dealing with fisheries agreements

Fisheries agreements are dealt with in Part 3 of the Cotonou Convention, under Title II: Economic and Trade Co-operation, Chapter 6: Co-operation in other areas. Article 53 on Fishery Agreements stipulates that:

- *'The Parties declare their willingness to negotiate fishery agreements aimed at guaranteeing sustainable and mutually satisfactory conditions for fishing activities in ACP States.*
- *In the conclusion or implementation of such agreements, the ACP States shall not discriminate against the Community or among the Member States, without prejudice to special arrangements between developing States within the same geographical area, including reciprocal fishing arrangements, nor shall the Community discriminate against ACP States.'*

ACP-EU Fisheries (Partnership) Agreements and their influence on ACP-EU fish trade

ACP states have netted considerable financial benefits from EU compensation payments made through bilateral fisheries access agreements. This is far in excess of the financial value of aid disbursements to the fishing sector made through development cooperation programmes. Fisheries agreement negotiations therefore dominate in EU-ACP fisheries relations.

However, questions have been raised about the sustainability of such agreements signed with countries where resources are already fully or over-exploited and where there is therefore no surplus of resources to be offered. In such cases, the signing of access agreements has tended to exacerbate problems of over-exploitation and has generated competition with the national fisheries sector of the ACP country concerned. In certain cases, it has also generated competition for markets.

To address these issues, in June 2004, the EU Council adopted conclusions on an Integrated Framework for Fisheries Partnership Agreements (FPAs) with Third Countries. Through FPAs, the EU is proposing to change the approach it adopts in its bilateral fisheries access agreements, particularly those signed with ACP countries, in order to contribute to responsible fishing in the mutual interest of the parties concerned. FPAs aim both to ensure that the interests of the EU distant-water fleet are protected and to strengthen conditions necessary to achieve sustainable fisheries in the waters of the partner country concerned.

Box 2. What are ACP-EU fisheries access agreements?

In the mid-1970s an increasing number of coastal states established exclusive economic zones⁶ (EEZ) by extending their jurisdiction out to sea from 3–12 to 200 nautical miles. This brought almost 90% of the world's exploitable fish resources under the control of coastal states. The fleets of the EU member states, which had traditionally fished in the waters of other countries, suddenly found themselves barred. To ensure continuity of access for their fleets, fisheries agree-

ments were concluded between the EU and the third countries concerned.

Currently, the EU has 18 fisheries access agreements with ACP countries. In exchange for financial compensation provided by the EU, ACP states allow EU fleets access to their surplus resources (in theory those that are not exploited by the coastal state). Since 1994,⁷ and as part of the compensation payments, provisions were included in the fisheries access agreements to address such development issues as fishery management and regulation, support to the small-scale fisheries sector, local landings, etc.

Box 3. Sources of information on ACP-EU fisheries agreements

Websites

- Europa – Fisheries and Maritime Affairs – Bilateral agreements
http://europa.eu.int/comm/fisheries/doc_et_publ/factsheets/facts/en/pcp4_2.htm
- Agritrade web portal: ACP-EU fisheries relations
<http://agritrade.cta.int/fisheries/agreements/index.htm>
- Coalition for Fair Fisheries Arrangements
<http://www.cape-cffa.org/>

Studies, reports

- Evaluation of the fisheries agreements concluded by the European Community', Ifremer, 1999
- http://europa.eu.int/comm/fisheries/doc_et_publ/liste_publici/studies/rsen.pdf
- 'Adoption of Council conclusions on an integrated framework for fisheries partnership agreements with third countries'
- <http://register.consilium.eu.int/pdf/en/04/st11/st11485-re01.en04.pdf>
- 'ACP-EU Fisheries relations: Towards greater sustainability, summary report', CTA, 2003
<http://www.cta.int/events2003/fisheries/General%20report-EN.pdf>

However, as exemplified by the latest EU–Morocco fisheries partnership agreement, signed in July 2005, EU compensation will also help create a favourable environment (resources management, research, control, etc.) for the EU fishing fleet's activities, which may increasingly take place under joint ventures with local partners.

Relevance of fisheries to the ACP countries

The EU provides ACP states with their most lucrative markets for fish, accounting for around 75% of

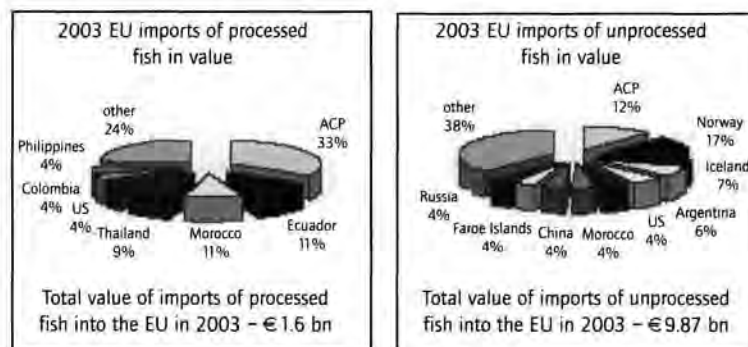
ACP fishery exports by value.

Fisheries products are one of the few areas where ACP countries have seen their participation in world trade increase. In 2003, the value of ACP fish exports to the EU exceeded €1.74 billion, with some €1.21 billion worth of unprocessed fish and €0.53 billion worth of processed fish.

The main ACP fish exports are:

- Fresh, chilled and frozen fishery products – these account for about 60% by volume and about 50% by value of ACP fish exports.

Figure 1. EU imports of processed and unprocessed fish in value (2003)



Source: 'Overview of Economic Partnership Agreements (EPAs) and related fisheries issues', Lisa Mackie, DG Trade, presented at the expert meeting 'ACP EU Fisheries relations – Maximising socio-economic benefits for the ACP fisheries communities' organised by ACP sec/COMSEC/CTA December 2004

- Canned fish, which accounts for about 20% by volume and 18% by value of ACP fish exports.
- Canned or frozen shellfish (crustaceans and molluscs), which account for about 11% by volume and 30% by value of ACP fish exports.
- Dried, salted or smoked fish, which accounts for some 4% by volume and 3% by value of ACP fish exports.

Key fisheries issues for ACP countries

At ACP level, there is considerable scope for improving the contribution of fisheries to poverty reduction strategies. An important aspect to be noted is the central role that the ACP's artisanal fisheries sector's activities play in food security, job creation and, increasingly, foreign exchange earnings.

ACP countries are therefore faced with a double challenge: the sustainable management of their fisheries resources and increasing and redistributing the benefits derived from these resources.

Sustainable management of fisheries resources

The key issue in fisheries for ACP countries today is declining fish catches due to over-fishing by both national and foreign fleets.

Over-fishing has various causes: the non-existence of ACP national policies and the lack of clearly defined resource access rights; the increasing use of unselective and destructive fishing methods (such as trawling and dynamite fishing); and general over-capacity of the fishing fleets, both in the industrial (national and foreign) and artisanal sectors. It must be noted that over-capacity in the fishing fleets of the (foreign) developed countries' fleets that fish within ACP EEZs, as in the case of the EU, has been fuelled by massive subsidies.

Many ACP countries also suffer from 'IUU' (illegal, unregulated and unreported) fishing activities. IUU fishing has important ecological as well as socio-economic impacts. A recent report,⁸ based on case studies from 10 ACP coastal countries, estimates that the average value of IUU catches in these countries is 23% of the value of declared catches.

Creation and redistribution of benefits from fisheries resources

To be able to draw benefits from fish resources, provided they are managed in a sustainable way, ACP countries are also faced with issues concerning value adding and market access.

Value adding: In the case of ACP small-scale processing activities, adding value operations also serve to increase the shelf life of the fish products, making it more transportable and therefore more accessible to, for example, inland populations.

In most ACP countries there is a need for investment in infrastructure – basic infrastructure (water, electricity) as well as fish processing infrastructure – in order to increase the value derived from fishery resources. Improving the returns from value-adding fish processing demands an understanding of the markets and their dynamics at both regional and international levels, as well as the facilitation of regional integration in ACP states.

Market access: Market-access issues arise for ACP countries both at regional and international level, notably with regard to EU market access.

• Issues for regional market access

The potential of regional fish trade in ACP countries is yet to be fully realised. It should be encouraged with a gradual dismantling of existing barriers to trade. These include the lack of transport infrastructure, import tariffs and burdensome bureaucratic measures.

• Issues for EU market access

Tariffs elimination – Erosion of ACP margins of preference

Although no consensus has been reached, it is likely that under WTO rules, import duties on fish and fishery products will be further reduced. As a consequence, ACP countries margins of preference will be eroded.

In the case of the EU, the main ACP trading partner for fisheries products, trade negotiations may provide longer implementation times for the liberalisation of fish trade or mechanisms for compensation. Reducing tariff escalation between raw fish and processed fish products is also needed. This is particularly important when ACP fish products

can't meet the rules of origin requirements, and must pay high tariffs.

Technical barriers – Sanitary and phytosanitary issues

Non-tariff barriers, particularly sanitary and phytosanitary standards, increasingly present obstacles to ACP exports. Such non-tariff barriers are frequently linked to technical standards or procedures.

Two WTO agreements are of particular relevance: one on 'Technical Barriers to Trade' and another on 'Sanitary and Phytosanitary issues'.

Rules of origin (ROO) requirements

Duty-free access for fishery products is qualified by the rules of origin applied to fishery products under the Cotonou Agreement (Protocol I, Annex V). To obtain duty-free access, ACP fishery products must be 'wholly obtained' in the ACP state concerned, as defined by Article 3. The main criteria for defining 'originating products' are registration and flag, ownership and crewing arrangements on the fishing vessels and factory ships, which basically must be either European or ACP, therefore discriminating against third countries.

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 EU high-priced 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.

This limits the expansion of ACP processing activities by restricting their possible source markets for raw products and creates an incentive for ACP states to grant EU vessels preferential access to their EEZs so as to ensure that their tuna canneries are supplied with 'originating tuna'. The preferential margin offered to the ACP states for originating canned tuna (and the relatively high price they pay for the raw material) could therefore be considered as a form of upstream subsidies to EU vessels via fishery access agreements rather than a trade concession to ACP states. The ACP countries have demanded that all catches done in their waters (i.e. within their national jurisdiction) should enjoy originating status regardless of ownership of the vessel. To date, however, the EU has failed to respond to these ACP requests.

Impact/relevance for specific ACP sub-groups

In order to define pertinent ACP sub-groups, it is useful to consider various issues:

Nature and extent of fisheries resources This will often vary according to the geographical area. The main ACP commercial fisheries resources include demersal⁹ species – in particular shrimp and cephalo-

Box 4. Sources of information

On Sustainable Management of Fisheries resources

FAO Code of Conduct for Responsible Fisheries
www.fao.org/fi/agreem/codecond/codecon.asp

FAO database on capture fisheries, aquaculture and trade
www.fao.org/fi/statist/FISOFT/FISHPLUS.asp

Fishbase
www.fishbase.org/home.htm

UNEP – Impacts of Trade-Related Policies on Fisheries and Measures Required for their Sustainable Management

www.unep.ch/etu/etp/events/upcming/15March_fisheries.htm

On Trade aspects, value adding, etc.

Agritrade portal – fisheries (CTA)

Market Access section:
http://agritrade.cta.int/fisheries/market_access/

WTO section:
<http://agritrade.cta.int/fisheries/wto/index.htm>

FAO/NORAD *Fish Trade for the People*
www.tradefoodfish.org

GLOBEFISH
www.globefish.org/entry_infopêche.htm

Pods (octopus and squid); and pelagic¹⁰ species, in particular tuna, sardines, sardinellas, etc.

Rich fishing grounds attract the interest of distant-water fishing fleets, like the European, that will try and get access to them through, for example, the signing of fisheries agreements.

ACP countries with rich fishing grounds are also, in most cases, important partners for fish trade with the EU, as reflected in the shares of EU import from the various EPA regions.

Profile of the national fisheries sector The importance of small-scale and/or large-scale fishing and/or processing sectors varies for different ACP states. On one hand, these ACP fishing/processing sectors will be interested in being able to export to the EU, Asian and other markets. On the other, there may be some conflicts of interest concerning access to fish resources between national fleets and the EU and other foreign distant-water fleets.

Taking note of the above issues, it is possible to categorise ACP states according to the issues they share in their fisheries relations with the EU.¹¹

Countries with an ACP–EU fisheries agreement

Depending on the type of fish resources, two kinds of fisheries access agreements have been signed by the EU with ACP countries: tuna agreements and mixed¹² agreements.

Issues arising for countries having signed a Tuna Agreement with the EU The tuna species of greatest commercial importance are highly migratory,

and move between waters under the national jurisdiction of some coastal ACP states and international waters. This migratory habit provides considerable challenges for ACP states, particularly for small islands with large EEZs, particularly as concerns monitoring and controlling the activities of EU (and other foreign) vessels, and verifying whether the catches of tuna are being made within or outside their respective EEZs. As the compensation payments made through the ACP–EU tuna fisheries agreements are set, *pro rata*, according to the level of catches made, this may create an incentive for vessel operators to under-report their catches.

In this regard, the recent introduction of vessel monitoring, surveillance and control systems (MCS) that use satellite-based positioning systems, is an important development. However, the surveillance information is only of value if it is provided on a continuous and real-time basis. Its effectiveness is also highly dependent on the capacity of the coastal state to back up such systems with patrol vessels and the ability to monitor catches directly. The latter is more readily achieved if there are enforceable compulsory local landing provisions integral to the fisheries agreement.

Generally, the EU tuna fleet operating under ACP–EU tuna fisheries agreements does not compete with local ACP fishing fleets, either on markets or fishing zones. However, some technical developments in the artisanal fishing sector (in Senegal, in the Pacific) allowing small-scale rafts to fish up to the high seas, may increase such competition in the

Table 1. EPA regions and percentage of total EU fish imports (in value, 2003)

EPA regions	% of total EU fish imports (in value, 2003)
ECOWAS + Mauritania	38%
ESA	32%
SADC	25%
Caribbean	3%
Pacific	1%
CEMAC	1%

Source: 'Overview of Economic Partnership Agreements (EPAs) and related fisheries issues', Lisa Mackie, DG Trade, presented at the expert meeting 'ACP EU Fisheries relations – Maximising socio-economic benefits for the ACP fisheries communities' organised by ACP sec/COMSEC/CTA December 2004
www.cta.int/events2004/fish/docs/DG%20Trade-en.pdf

future. In some cases, the sustainability of tuna fishing operations has been questioned, particularly in the case of tuna fishing operations using purse seines¹³ and fish aggregating devices,¹⁴ as these operations tend to take significant levels of by-catch and juvenile tuna.

ACP countries having signed a tuna fisheries agreement with the EU are mainly from two regions:

Indian Ocean

ACP countries in the Indian Ocean like Comoros, Madagascar, Mozambique, and the Seychelles have important (seasonal) tuna resources. The fisheries relations with the EU are based on tuna agreements. In the case of the Comoros and Seychelles, in 2004 each signed an FPA with the EU.

The distance and extent of the Indian Ocean fishing grounds necessitate the use of local ports by the EU fleets for refuelling and other requirements (transshipping, provisioning, maintenance, etc). These agreements are also important for the local export processing sector (tuna canning) that is highly dependent on the supply from EU vessels for exporting to EU market.

Pacific Ocean

There are three tuna fisheries agreements with ACP countries in the Pacific Ocean (Kiribati, the Solomon Islands and the Federated States of Micronesia (FSM)¹⁵). For the countries concerned, the financial compensation provided makes a significant contribution to overall government revenue. It's interesting to note that, unlike other fisheries-rich ACP regions, the Pacific only accounts for 1% of fish imports onto the EU market. This can be partially explained by the fact that EU fleets have only recently started fishing in Pacific waters, and that, with notable exceptions, the Pacific Island States generally lack their own tuna fleets and tuna processing sectors. Other fleets – notably the US and Japan, are active there, supplying their own markets.

Issues arising for ACP countries having signed a mixed agreement with the EU The main ACP region where mixed agreements have been signed is West Africa, including the agreements with Mauritania, Senegal, Guinea Bissau, Guinea, Ivory Coast, and Gabon.

Here EU fishing operations may compete directly with local ACP fishing sectors both for resources and markets. There are a number of issues arising from such competition. These include:

- by-catch and its utilisation;
- access to the EU market; and
- capacity for monitoring, control and surveillance (MCS).

Certain fishing activities, notably prawn trawling, generate significant quantities of by-catch. Such by-catch may consist of both high and low-value non-target species, and of juvenile fish of both target and non-target species. From an economic point of view, by-catch of valuable non-target species by EU vessels represents an economic loss to the ACP states. From a social and economic point of view, compulsory landings of low-value non-target species may disrupt local markets and undermine the economic viability of local artisanal fisheries. From a conservation perspective, high levels of by-catch may damage the ecosystem and undermine fisheries sustainability.

In some cases ACP states fish catching and processing sectors compete directly with EU fishery enterprises for access to lucrative value-added export markets. In such cases, particularly where there is resource scarcity and over-fishing, ACP states may find the costs of compliance with EU hygiene and food safety regulations too high. They may therefore have no choice but to enter into fisheries agreements.

Effective monitoring, control and surveillance programmes are also highly important for providing good information for fisheries management, and to regulate fishing activities. There are various methods that can be used to verify both catch size and location where catches were made, including on-board observer programmes, compulsory landing provisions, vessel monitoring systems (VMS), and log books. However, often ACP states lack the capacity to implement such programmes, and lack access to log books and 'real time' full information from VMS.

Many West African statesj have important small-scale fisheries, providing an important source

of livelihood and food security. There is evidence¹⁶ that EU and other foreign fishing activities compete both directly (for space and resources) and indirectly (for markets) with these ACP industries.

The West African fishing grounds provide the basis of the so-called 'pay, fish and go' EU-ACP fisheries agreements¹⁷ that are, with notable exceptions (Cape Verde has a tuna agreement with the EU), mixed agreements. The proximity of the EU (notably the port of Las Palmas in the Canary Islands) means that EU fishing fleets prefer not to land their fish locally. This in turn means that local landing provisions set up in the access agreements¹⁸ are either not respected, or that only lower quality fish is landed.

ACP countries with no access agreements The reason why some ACP coastal countries have no fisheries access agreements with the EU is that there is not sufficient mutual interest for establishing EU vessels access to these ACP states' resources. Either, as in the case of South Africa, Namibia or Angola, the ACP State has refused to sign a fisheries agreement, preferring to have another basis for its relations with the EU. Or, as in the case of the Caribbean, the limited extent of fishery resources means that EU vessels have little interest in fisheries access agreements.

The case of the Southern African region

There are two key ACP states in the Southern African region with rich fishery resources, but with no fisheries agreement with the EU. These are Namibia and the Republic of South Africa (RSA). Namibia and RSA are the top two ACP exporters of fishery products to the EU (by both volume and value) and are key players in the regional SADC grouping, with important export-oriented catching and processing sectors. In both countries, the national fisheries policies favour foreign involvement in their fisheries through private joint-venture arrangements, but not through formal bilateral fisheries agreements. In the case of RSA, though, bilateral fisheries agreements with Portugal and Spain are still in place, that pre-date these countries' EU accession.

In the case of RSA, the recent free trade agreement (the Trade Development and Co-operation Agreement (TDCA), signed in 1999) with the EU ties trade liberalisation in fishery products to the signing of a mutually beneficial fisheries agreement. To date RSA has declined to sign such an agreement, with implications for market access to the EU for its fisheries products. This means that either South Africa will need to explore alternative markets, find alternative (e.g. regional) avenues to the EU market, or yield to EC pressure to sign an agreement if it wants tariff-free access to the EU market.

Box 5. Tanzania: The 'discovery' of a tuna fishery promotes the negotiation of a fisheries partnership agreement with the EU

Until recently, Tanzanian waters were considered poor in tuna resources. But, over the past three years, the training of Tanzanian fisheries inspectors, thanks to the Monitoring, Control and Surveillance (MCS) programme, funded by the SADC and the EU, has revealed the existence of tuna resources that could be worth as much as 200 million US\$.

Already, the highly visible patrols have resulted in a massive increase in licensing revenues. In 2002, 12 foreign tuna boats were licensed to fish off Tanzania.

That number jumped to 84 when the foreign fishing fleets realised that Tanzanian authorities have regular patrols in their EEZ. One of the key interventions of the MCS programme has been to persuade the EU registered purse-seiner fleet to report its catches to the Tanzanian fisheries authorities. This has revealed that, during the peak fishing season, up to 10,000 tons of tuna is being caught in Tanzania's EEZ weekly.

The revealed existence of such rich tuna resources and the fact that EU fishing boats are highly active in Tanzanian waters have probably been instrumental factors in the negotiations that are now ongoing for the signing of a Fisheries Partnership Agreement between the EU and Tanzania.

The case of the Caribbean

In the case of the Caribbean, the limited extent of their fishery resources and the geographical proximity of the USA restrict the importance of their fishery relations with the EU. To date there is no fisheries agreement between a Caribbean country and the EU. However, the Bahamas and Surinam have significant annual export earnings from their trade in fishery products with the EU, placing them in the league of the top twenty fish exporting ACP states to the EU.

Key issues where broad all-ACP consensus could be built

Areas where broad all-ACP consensus could be built in fisheries have been explored on various recent occasions.¹⁹ They include:

A. The need for improved fisheries management:

Two particular aspects where consensus could be reached are:

- **Fisheries research for sustainable management of resources** Given the scarcity of human and financial resources in ACP countries, fisheries research needs to focus on providing information to be used for fisheries management, both at ACP national and regional level. This practically oriented fisheries research must contribute to formulating the regulatory mechanisms necessary for adjusting fishing capacity in line with available resources and stock productivity. It should also help address policy issues arising for the sector, such as the allocation of access rights to resources and the integration of artisanal fisheries into national economy.

Common challenges facing ACP fisheries research include: primary data collection (qualitative and quantitative aspects); the development of an understanding of marine eco-systems, and an ecosystems approach to fisheries management; harmonisation of systems for data analysis at regional level and the capacity to disseminate the research results on a regular basis; the incorporation of social, environmental and economic data into fisheries analysis and management decision taking; and the setting up of structures

and mechanisms to enable dialogue between researchers, fishery managers and the professionals (in particular the men and women from coastal fishing communities).

- **Monitoring, control and surveillance** Many coastal ACP countries have sizeable EEZs to police, particularly island states. But they often lack the capacity to do so in an efficient way. This leads to IUU (Illegal, Unreported, Unregulated) fishing. It also creates difficulties for ACP states to assess the quantities and value of the fish caught by local and distant-water fishing fleets in its EEZ.

The harmonisation of measures to fight IUU fishing at regional level is a priority for most ACP coastal countries, including: agreement on the right to pursue,²⁰ joint surveillance missions (at sea and aerial surveillance), regional register of offending fishing vessels, and the harmonisation of legislation on technical measures (prohibited fishing gears, infractions and sanctions).

B. The need to create an enabling environment for maximising benefits from the fisheries sector:

Particular attention needs to be given to small and medium-scale enterprises (SMEs), including the artisanal sector,²¹ both in the catching and processing sub-sectors, as these SMEs form the vast majority of ACP enterprises in the fisheries sector.

Two aspects deserve special attention:

- **Improvement of value adding operations** In general, ACP countries have an interest in developing joint ventures with European operators in fish processing, in order to create a local added value, rather than develop projects in the catching sector. Through joint ventures Europeans can bring capital and know-how, which is needed to create new processing plants or rehabilitate existing ones for the processing of fisheries products.
- **Improving access for ACP fish products to EU markets** There is a general ACP concern that, as preferences are eroded:
 - Some EU tuna fleets may be replaced by other fleets with low running costs and poor labour

conditions, which tranship on the high seas, and therefore do not land in ACP harbours.

- ACP states, especially small island states, would be the net losers as they will not be able to compete, and the value adding will be done elsewhere.

Key issues where divergences are likely to exist between ACP countries

Key areas of divergence between ACP countries will depend on:

- the extent to which ACP populations depend on fishery resources for food and livelihood, and the extent to which ACP states depend on the foreign exchange earnings from the fishery. For example, although Mauritania is not a large fish-consuming country, an important export-oriented artisanal fishery for octopus has developed. It also depends to a large extent on revenues from fisheries agreements and fish exports for debt service. Neighbouring Senegal is highly dependent on fish as a source of food and needs to balance its requirement for foreign exchange from fish exports and fishery access agreements

with the requirements of its population for fish as food and livelihood;

- the nature of the fishery resources. Some countries, like Cape Verde, have rich tuna resources. Others, like Senegal, have a rich variety of other resources. The nature of the resource and the state of stocks will determine the level of interest in the EU for having a fisheries agreement (or not), thus necessitating different approaches to negotiating with the EU;
- the policy decisions of the ACP state with regard to the development of the local fisheries sector, and in particular the attitude on value-added processing. Several ACP states have invested in tuna canning and other export-oriented processing operations. Yet other ACP states have formed joint-venture arrangements.
- the response of ACP states to the ROO established by the EU. In many ACP states the local fishing sectors are either not capable of catching fish to the specifications required by export markets, or are not geared up to process it. These countries, particularly those with tuna-canning industries, have to rely on EU vessels to catch the

Box 6. In short ...

In their fisheries relations with the EU, ACP countries are faced with a double challenge: managing their fisheries resources sustainably and increasing/redistributing the benefits derived from these resources.

ACP countries have an opportunity to address such challenges through their fisheries relations with the EU. Issues to be resolved in that context include: organisation of the access to ACP fish resources for the various users, fight against IUU fishing, the improvement of regional market access for fisheries products, sanitary and phyto-sanitary issues, rules of origin requirements, etc.

The high diversity of ACP fisheries profiles (nature and extent of their resources, development of the national fisheries sector, political priorities) have

resulted in a variety of fisheries relations with the EU, often depending on the interests of EU fleets to access ACP resources through fisheries agreements.

Taking into account this diversity of relations, it's however possible to define key issues where all-ACP consensus could be built, such as the need for improved fisheries management (research, Monitoring, Surveillance and Control) and the need to create a favourable environment for the profitable exploitation of their resources (improvement of value adding operations, improvement of ACP fish products' access to EU markets).

One needs also to recognise that divergences may arise between ACP countries, on issues such as the signing of access agreements with the EU, the choice of development model for their national fisheries, the review of the ROO.

fish and EU-based companies to process the catch ashore. Such countries may take a laissez-faire approach to negotiations on ROO. Others, who want to develop their fleets and the fisheries within their EEZs, may want to re-negotiate ROO so that any locally processed fish that is caught within their EEZs (and not just that caught by EU member states or ACP state vessels) qualifies for originating status.

Relevance of fisheries to the EU and its likely position

Key issues for the EU (and its member states) in fisheries

The two main features of EU fisheries of relevance for ACP states are:

- resource depletion in EU waters, where there has been a failure to achieve a sustainable balance between resources and their productivity on the one hand and fishing effort on the other; and

- increasing EU dependence on external fish supplies to meet the demands of both its market (processing and consumption) and fishing sectors (employment and investment).

The declining stock levels in EU waters, and the growing supply deficit in the marketplace are the main forces driving EU external fishing policy. Its fishing policy for ACP countries is therefore driven by the need to gain access to ACP fishery resources (both fishing grounds and fishery products). The fishery situation in the EU today (over-capacity, depleted resources, supply deficit, etc.) is both potentially promising and perilous for ACP states.

Today about 60% of fish consumed or processed in the EU comes from outside EU waters. The growing demand for fish is for both quantity and quality. Food safety standards have been established, and strict controls are applied to ensure compliance with sanitary and phytosanitary standards. These standards provide a strong check on the potential for

Box 7. EU communications in relation to fisheries relations with ACP countries

Communication from The Commission to the Council and The European Parliament on Fisheries and Poverty Reduction Brussels, 8.11.2000 COM(2000) 724 final
http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2000/com2000_0724en01.pdf

Council Resolution on Fisheries and Poverty Reduction. Brussels, November 2001.
<http://register.consilium.eu.int/pdf/en/04/st11/st11485-re01.en04.pdf>

Green Paper on The Future of The Common Fisheries Policy. Brussels, 20.3.2001 COM(2001) 135 final
http://europa.eu.int/comm/fisheries/greenpaper/green/volume1_en.pdf

Communication from The Commission on the reform of the Common Fisheries Policy ('Roadmap') Brussels, 28.5.2002 COM(2002) 181 final
http://europa.eu.int/comm/fisheries/doc_et_

[publ/factsheets/legal_texts/docscm/en/com_02_181_en.pdf](http://europa.eu.int/comm/fisheries/doc_et_public/factsheets/legal_texts/docscm/en/com_02_181_en.pdf)

Communication from the Commission. Community Action Plan for the Eradication of Illegal, Unreported and Unregulated Fishing, COM(2002) 180 final,
http://europa.eu.int/comm/fisheries/doc_et_public/factsheets/legal_texts/docscm/en/com_02_180_en.pdf

Communication from the Commission on an Integrated Framework for Fisheries Partnership Agreements with Third Countries. Brussels, 23.12.2002. COM(2002) 637 final. Commission of the European Communities.
http://europa.eu.int/comm/fisheries/doc_et_public/factsheets/legal_texts/docscm/en/com_02_637_en.pdf

Council Conclusions on an Integrated Framework for Fisheries Partnership Agreements with Third Countries. Brussels, 19.07.04, final (see page 22)
http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/agricult/81505.pdf

ACP states to benefit from any value addition to its fishery products. These standards may also encourage the export of fish in a raw or semi-processed form, where, given the reduced number of fish handling operations, it may be less costly for ACP producers to ensure compliance with SPS standards.

Key fisheries provisions in existing EU agreements²²

Existing EU agreements address three main issues:

1. fishery access for EU vessels (as in the case of all bilateral fisheries agreements/fisheries partnership agreements);
2. market access for third country products on the EU market (as in the case of the EU–RSA TDCA agreement, and the EU–Mexico and EU–Chile agreements); and
3. reciprocal arrangements for investment in fishery enterprises (as in the case of the Chile Association Agreement).

Until recently, there was no direct or otherwise overt linkage between agreements negotiated for fisheries access and agreements governing trade relations. Whilst successive Lomé Conventions and the Cotonou Agreement contain provisions on fisheries agreements, these are not tied to market-access conditions for ACP states. However, in its most recent free trade agreements with countries that have important fisheries resources (RSA and Chile), the liberalisation of trade in fisheries products is linked to the opening up of third-country waters to EU fleet access (through fisheries agreements and/or investment).

Bilateral fisheries agreements

As part of the compensation payment negotiated under bilateral fisheries agreements, a certain proportion may be set against mutually agreed ‘targeted actions’. These often include a number of important management and research provisions, and also occasionally provisions for fishery development (artisanal fisheries, upgrading fish processing to comply with EU standards, etc.). However, there is no

obligation on the part of the ACP state to report on how these funds are spent. This lack of transparency is a major constraint to promoting good governance and to ensuring that fishery development objectives are met. To date no bilateral fisheries agreement has included provisions for trade in fishery products.

The Euro–Mediterranean Association (MED) Agreements

Since the first Euro–Mediterranean Conference held in November 1995, the EU and 12 Mediterranean countries have been involved in talks on ‘Association Agreements’. To date, ten bilateral Association Agreements have been concluded with ten countries: Turkey (1995), Tunisia (1995), Israel (1995), Morocco (1996), Jordan (1997), the Palestinian Authority (1997), Algeria (2001), Lebanon (2002), Egypt (2004), and Syria (initialled 2004, pending Council signature).

In those agreements where fisheries form a part (Algeria, Morocco and Tunisia), the main provisions are included under the broader area of Agricultural and Fishery Products or under Agricultural, Fisheries and Processed Agricultural Products. These cover two main areas:²³

- liberalisation of trade in agricultural, fisheries and processed agricultural products (tariff concessions and tariff rate quota concessions) and
- co-operation in agriculture and fisheries.

The fishery products to be imported to the EU free of customs duties include salmon, herring, tuna, and various shellfish (crab, shrimp and prawns, lobster, mussels, etc.).

The main aims of the co-operation aspects of the agreements are the modernisation of agriculture and fisheries, the development of sea fishing and aquaculture, diversification of output, promotion of environmentally friendly forms of fishing, evaluation and rational management of fish stocks, modernisation of infrastructure and equipment, co-operation on sanitary and phytosanitary techniques, development of packaging and storage techniques, and the improvement of private distribution and marketing chains.

The EU–Mexico Economic Partnership, Political Coordination and Cooperation Agreement (Global Agreement)

The Economic Partnership, Political Coordination and Cooperation Agreement, also known as the Global Agreement, between the EU and Mexico was signed on 8 December, 1997 and came into force in October 2000.

For Mexican fishery products imported into the EU, and with the notable exception of tuna loins, tuna steaks and canned tuna, trade is to be fully liberalised by 2010. Four schedules of timetables establish the periods over which tariff concessions are to be implemented (3–10 years). Special conditions apply to tuna loins and tuna steaks/canned tuna (tariff-quota concessions). Likewise, tariff concessions and timetables are set for the import of fishery products from the EU to Mexico.

The Global Agreement states that: ‘In view of the socio-economic importance of their respective fisheries sectors, the Parties undertake to develop closer co-operation in this field in particular through the conclusion of a sectoral fisheries agreement, in accordance with their respective legislation, if deemed appropriate.’ To date (September 2005) no such agreement has been concluded.

The TDCA with RSA

In the EU–RSA TDCA there is an explicit link between liberalisation of trade in fisheries products and the signing of a fisheries access agreement. Article 62 on Fisheries states that: ‘*Co-operation in this area shall aim at promoting sustainable management and use of fisheries resources... This will be achieved by exchange of information... These arrangements will be set out in a mutually beneficial fisheries agreement which the Parties undertake to... complete as soon as possible*’. In Title II and Annex V it is made clear that the elimination of EU tariffs on South African fisheries exports will only come into effect once a fisheries agreement with the EU has been concluded.

Even then tariffs are not immediately removed. Schedules are established for the progressive removal of tariffs on South African fisheries exports over a 10-year period, with the future of tariffs on the most valuable South African fisheries exports,

hake, monkfish and anchovy, being determined ‘in the light of the content and continuity of the fisheries agreement’. Thus South African fish exporters will continue to face tariffs of between 8% and 15% on products exported to the EU, **unless South Africa concludes a fisheries agreement that is wholly acceptable to EU fishing interests.**

The EU–Chile Association Agreement

The FTA with Chile, signed in November 2002, is one of the most recent free trade agreements concluded by the EU. The agreement contains reciprocal provisions for the liberalisation of trade in fishery products. In the case of Chile, for most fishery products, with the notable exception of hake and some salmon and tuna products, tariff barriers are reduced to zero within four years, with a maximum transitional period of 10 years for 95% of fisheries products exported from Chile to the EU. For the rest (hake, salmon and tuna products), a system of tariff quotas applies.

In the case of the EU, customs duties for all listed fishery products are reduced to zero on the entry into force of the agreement. There is also a similar schedule of tariff quotas established for various fresh hake products, processed salmon products (dried, salted, smoked), and processed tuna (excluding loins) and hake products of EU origin for import to Chile.

In addition to these provisions, there is a separate Protocol on Fishing Enterprises. This establishes conditions for European investment in the Chilean fisheries sector. It sets out provisions under which the European owners of Chilean companies may register their vessels, buy licenses and quotas, and transfer vessels to Chile. The conditions are fully reciprocal, according to the national laws of member states.

The Protocol on Fishing Enterprises has four main components:

- Conditions governing ownership and control, which on the one hand authorise EU companies to own a major stake in, and to control and manage new or existing fishery enterprises in Chile; and on the other authorise reciprocal rights for Chilean companies in EU member states.

- Conditions governing registration and operation of fishing vessels. These entitle EU companies owning Chilean companies to apply for, register and operate fishing vessels in Chile, under the same conditions as Chilean companies. Reciprocal rights apply to Chilean companies owning companies registered in EU member states.
- Conditions governing fishing permits, which entitle EU companies to obtain fishing permits and their corresponding individual quotas (with reciprocal rights for Chileans).
- Conditions governing the transfer of licences and vessels, which entitles EU companies to receive, by means of transfer, fishing authorisations and vessels under the same conditions as Chilean companies. Reciprocal rights apply for Chilean companies (provided they comply with the capacity management objectives of the Common Fisheries policy).

Likely EU strategy in EPA negotiations

It should first be noted that there is significant institutional complexity for dealing with international fisheries issues in European institutions. In the context of EPA negotiations, unlike general issues regarding trade in goods, DG Trade has no unique competence on fisheries matters; DG Fish is also involved.

From a fisheries point of view, the EU is increasingly dependent on external fish supplies to meet

both its market (processing and consumption) and fishing sector (employment and investment) demands.

Therefore, in the context of EPAs, EU fisheries concerns that are likely to have an influence are:

- the interests of the EU catching sector for direct resource access (including investment in local fishing enterprises); and
- the interests of EU processing and trade sectors for tariff-free access to EU markets for both raw fish and certain value-added fish products.

The European Commission did not include fisheries in its 'Directives for the negotiations of Economic Partnership Agreements with ACP countries and regions', adopted in June 2002.²⁴ However, some key elements of the EU position for dealing with fisheries matters in EPAs were presented in December 2004.²⁵ DG Trade reiterated that general EPA objectives will also apply to fisheries: reciprocal market access, South-South integration, gradual integration of the ACP countries into the global economy, using trade policy as an instrument for development (carefully managed reciprocal liberalisation, services and trade-related areas – e.g. SPS).

Specifically, in EPAs the focus on supporting the ACP countries' fisheries development will be:

- competitiveness (to manage erosion of preference) and improvements in overall trade performance;

Box 8. EU FTA and related documents

CFFA-CAPE (2005) Comparing EU Free Trade Agreements : Fisheries. ECDPM InBrief 6J.
Maastricht : ECDPM with CTA – the Technical Centre for Agriculture and Rural Cooperation ACP-EU. www.ecdpm.org/ftainbriefs and <http://agritrade.cta.int>

EU-MED Agreements:
http://europa.eu.int/comm/external_relations/euromed/med_ass_agreemnts.htm

EU-Mexico Agreement:
http://europa.eu.int/comm/trade/issues/bilateral/countries/mexico/fta_en.htm

EU-Chile Agreement:

http://europa.eu.int/comm/external_relations/chile/assoc_agr/text.htm

EU-South Africa TDCA:

<http://europa.eu.int/scadplus/leg/en/lvb/r12201.htm>

EU-CPA:

http://europa.eu.int/comm/development/body/cotonou/index_en.htm

EU-ACP Fisheries Agreements:

http://europa.eu.int/comm/fisheries/doc_et_publ/factsheets/facts/en/pcp4_1.htm

- improvement in supply-side capacity (issues like SPS should be addressed);
- duty-free access for fisheries products will be maintained and there will be an opportunity to look again at rules of origin; and
- development of regional markets and regional trade (trade facilitation, customs, integrated markets).

In terms of broader EU–ACP fisheries relations, it is therefore likely that the EU will adopt a two-pronged approach. On the one hand the EPA framework agreements will set out the broad conditions under which trade, development, and investment may take place. On the other the EU will negotiate separate bilateral Fishery Partnership Agreements (FPAs), which include the possibilities for public support to the transfer of technologies and vessels to the ACP countries involved. The signing of FPA may, like in the case of RSA, be part of the deal for the ACP to benefit from free access to EU markets.

Other elements will also condition the ‘free access’ to the EU market, such as the compliance with the ROO and SPS measures. Given the importance of both catching and processing activities for certain European countries and the EU policy choices on consumers’ safety, it is unlikely that the EU will agree to a substantial revision of the existing ROO and SPS conditions, though these clearly place significant constraints on the access of ACP fishery products to the EU market.

Negotiation options for the ACP countries

The following general recommendations and specific issues should be considered.

General recommendations

These recommendations will apply differently in different ACP contexts according to the diversity of characteristics and existing fisheries relations between ACP countries and the EU.

- **The need for ACP to have a national/regional fisheries policy**

A prerequisite for ACP countries to enter into fisheries negotiations with the EU is to have a well-defined fisheries policy, with clear priorities within their national fisheries development plans, taking into account the long-term needs of the local (catching and processing) sectors. If not, then past experience shows that the local fisheries sector development will always be afforded second priority to the signing of a fisheries partnership with the EU, and short-term benefits (‘cash for access’ arrangements) will be privileged over long-term sustainable development.

Improved fisheries management in ACP countries should lead to more sustainable and equitable use of its fish resources, guaranteeing future supplies of fish to both local populations and to regional and international markets. In the future, funds paid by the EU for access to ACP fishing grounds through FPAs should also increasingly be allocated for such purposes.

- **The importance of developing an understanding of the fisheries sector and promoting fishery sector participation in the negotiating processes**

ACP states should develop their fisheries based on an understanding of the fragile nature of their tropical fishery ecosystems; the existing fishing sector and the social structure of the coastal communities

Box 9. In short ...

Recent experience in South Africa and Chile suggest that the EU's negotiating strategy for fisheries in the context of EPAs will be to:

make EU market access for ACP fishery products conditional on granting the EU access to ACP fishery resources; and

press for favourable conditions for direct EU investment in ACP fisheries sectors.

The EU is also likely to press for the maintenance of the status quo as regards the ROO, as these strongly favour their own domestic processing industries and (as noted below) confer strategic advantages to their distant water tuna fleet.

Box 10. The role of RFMOs

Regional fisheries organisations, particularly the Regional Fishery Management Organisations (RFMOs), have an important role to play in the management of fishery resources, including high-seas resources, resources that migrate between ACP EEZs, shared stocks, and straddling stocks.

There are more than twenty regional and sub-regional fishery bodies worldwide. Some have full regulatory powers while others play an advisory role on management issues. The functions of these bodies vary from dealing with a single species or group of closely related species, to those based more on a region and covering a whole range of species within

their areas of competence. The activities of these organisations have important implications for both ACP coastal states and EU distant-water fishing fleets.

RFMOs of importance for ACP states include:

- for West Africa: the International Commission for the Conservation of Atlantic Tunas (ICCAT);
- for Indian Ocean: the Indian Ocean Tuna Commission (IOTC); and
- for Pacific: the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) and the Western and Central Pacific Tuna Commission (WCPTC).

that depend on fishing; the natural capital that fisheries represent; and the potential long-term benefits to be realised from sustainable fisheries resource exploitation. ACP countries should therefore build up, through appropriate independent research, an in-depth understanding of their fisheries sector.

Full transparency, provision of appropriate information, and well-prepared participation of the local ACP fisheries sector to the negotiating process are important in promoting the sustainable development of ACP fisheries.

• Pursue the development of a regional approach

A number of regional groupings of ACP countries,²⁶ are developing a regional approach for bilateral dealings with distant-water fishing nations and access to markets for fish like the EU. These include the SADC (Southern African Development Community), the Common Market for Eastern and Southern Africa (COMESA), SRFC (Sub Regional Fisheries Committee-West Africa), and the FFA (Forum Fisheries Agency – Pacific).

Such efforts should be strengthened, taking particular account of the importance of participating in Regional Fisheries Management Organisations (RFMOs). It should be noted that all ACP coastal countries are not members of their relevant RFMOs. This is a major constraint for developing a regional approach to negotiations with the EU. In the short

term, it should be a priority of all ACP coastal states to become active members in these RFMOs.²⁷

Joint approaches for the negotiation of EPAs and FPAs could be developed through such regional frameworks, based on the work and recommendations of RFMOs with the following objectives:

- the harmonisation of minimum terms and conditions for access for third-country vessels to their EEZ (level of access, joint initiatives for fisheries management, research, monitoring and control, etc.);
- the development of a common set of standards and criteria to guide the setting up of joint ventures and investments in the ACP fisheries sector. This is important because EPAs may include provisions for EU enterprises to become registered in ACP states (for both catching and processing fish), and for the transfer of EU vessels to these enterprises. The drawing up of a common code of conduct and criteria for joint ventures and vessel transfers could greatly assist ACP states in avoiding the problems of stock depletion and fleet over-capacity, problems that beset the fisheries in the community waters of the EU.
- the elaboration of joint negotiating positions on such issues as ROO, where current arrangements discriminate against ACP states; and
- resources conservation issues.

Specific elements to consider when negotiating fisheries aspects of EPAs

The need to achieve coherence between the provisions of EPAs and those of bilateral Fisheries Partnership Agreements

The signing of an FPA can have important repercussions on the trading capacity of an ACP country, and therefore on the implementation of an EPA. The following aspects in particular need to be given careful consideration by ACP states in order to achieve coherence between regional EPAs and bilateral FPAs, and to secure long-term benefits for the ACP coastal communities and fisheries sectors.

- The main fisheries issue facing ACP countries today is declining fish catches due to over-fishing by both national and foreign fleets. If an FPA provides access to resources and/or ecosystems that are already fully exploited or over-exploited, it will hamper the long-term prospects for resources renewal and will undermine the basis for developing sustainable trade in fish and fisheries products.
- As mentioned above, the restrictions imposed by ROO force ACP tuna processors to purchase from EU suppliers in order to produce originating products. Some ACP states are therefore encouraged to grant EU vessels preferential access to their EEZs so as to ensure that their tuna canneries are supplied with 'originating tuna'.
- The financial compensation of an FPA can be used to address trade-related issues such as SPS. Support to fight IUU fishing, provided through an FPA, can also promote fish trade, in as much as it can help avoid trade sanctions against fishing products coming from IUU sources.

The basis for bilateral Fisheries Partnership Agreements

Whilst it may be possible to define some minimum general conditions for EU fisheries access to ACP fishing grounds, ACP states as a group may be better advised to negotiate the fisheries components of EPAs on a bilateral/regional basis and not a multi-lateral basis, given the diversity of situations.

Some common essential elements for future bilateral ACP–EU partnership agreements could be defined at regional level. Consulted on that topic,²⁸ ACP stakeholders mentioned the following:

- Sustainable exploitation of eco-systems, where the strengthening of institutional capacity for research, management, control and surveillance are particularly important.
- A more effective contribution to be provided by the EU fisheries sector for the social and economic development of ACP countries, through the creation of joint ventures, mainly for value adding activities.
- Better education and training of people involved in the sector (catching and processing), on various aspects: catching techniques, hygienic handling of fish, management of micro-enterprises, but also on the importance of preserving marine environment (avoiding behaviour that causes marine pollution, like servicing engines at sea), basic health education (HIV prevention, etc).
- Transparency and good governance.

The main aspect highlighted in the discussion was the importance of stakeholder participation in the decision-making process of ACP–EU FPA negotiations, and several proposals were made to improve this, including:

- Consultation mechanisms need to be set up that improve linkages between ACP administrations, researchers, the fishing sector and civil society. FPAs should support the establishment of consultative bodies for fisheries management and development. Contacts should also be established with EU consultative committees to facilitate co-operation in the area of fisheries management.
- Meetings need to be organised between the ACP and EU fisheries sectors to prepare for the signing up of an FPA. The ACP sector development constraints, the access of ACP fish products to the EU markets, and possible collaboration for adding value activities in ACP countries should be discussed in such forums. Such discussions need to take into account the level of develop-

ment of local ACP enterprises, and recommendations arising from them should feed into official FPA negotiations. Final agreements for an FPA should be reached with the full participation of the private sector on both sides.

Investment/establishment of fishery joint ventures

ACP states should carefully consider what is being proposed by the EU, in both EPAs or FPAs, for promoting fisheries sector investment and setting up joint enterprises.

From the ACP point of view, joint ventures should be promoted, 'particularly in the processing sector where they offer the most potential benefits for ACP countries'.²⁹

For what concerns joint ventures in the catching sector, 'the primary issue is conservation of fisheries resources and joint ventures should only be concluded when there is scientific data showing that these will not contribute to over-fishing or disrupt local harvesting, marketing and processing activities'.³⁰

However, on the EU side, the strong EU fishing industry lobby, mainly from the catching sector,³¹ wants to secure support for establishing fishery enterprises in ACP countries in order to secure access to ACP fish resources for its vessels.

This was confirmed by the European Parliament last July, when it asked for the reintroduction of subsidies for joint ventures, to be provided only for the catching sector, and the transfer of boats.

In ACP countries, investments are particularly needed in infrastructure – basic infrastructure (roads, water, electricity) as well as fish processing infrastructure – in order to increase the value ACP countries can derive from their fishery resources. The improvement of value-adding operations for fish requires an understanding of the dynamics of markets, at regional and international level, and improving ACP regional integration.

The promotion of sustainable ACP–EU fisheries relations requires particular investment in:

- improving infrastructures and services to be used by EU fleets (harbour, landings, transporting the fish to the processing plants, etc.)

- enhancing ACP capacity to address EU sanitary and phytosanitary measures (SPS) and traceability requirements; and
- developing ACP regional markets for fisheries products, and other alternatives to the European market, so that ACP exporters will be less dependent on EU markets for selling their products.

In cases where EU investment is promoted in ACP fisheries sector, it is important to develop a policy framework for the working environment and for environmental regulations (for discharges, use of toxic chemicals, antibiotics, etc.) in the enterprises set up. In that context ACP should look at the OECD guidelines for multinational enterprises.³² These guidelines provide recommendations from governments to multinational enterprises operating in OECD member or adhering countries, such as the EU. They provide voluntary principles and standards for responsible business conduct in a variety of areas including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation.

Market access for fishery products under EPAs

ACP countries have to deal with market-access issues both at regional and international level, in particular to access the EU market.

• Issues for regional market access

Regional fish trade in ACP countries has not yet realised its full potential. It should be encouraged with a gradual dismantling of existing barriers to trade, including the lack of transport infrastructure, import tariffs and burdensome bureaucratic measures.

• Issues for EU Market access

Tariffs elimination – Erosion of preferences

ACP should negotiate for longer implementation periods for the liberalisation of fish trade or for compensation mechanisms. There is also a need to negotiate a reduction of the tariff escalation structure between raw fish and processed fish products, in order to lessen the impacts of the ROO on ACP fish-trade capacity. This is particularly important for

Box 11. Information sources

www.acp-eu-trade.org

Agritrade portal – fisheries (CTA):

<http://agritrade.cta.int/fisheries/index.htm>

Market Access section:

http://agritrade.cta.int/fisheries/market_access/

WTO section:

<http://agritrade.cta.int/fisheries/wto/index.htm>

ACP-EU Fisheries relations

<http://agritrade.cta.int/fisheries/agreements/index.htm>

EU Common Fisheries Policy

<http://agritrade.cta.int/fisheries/cfp/index.htm>

FAO SOFIA 2004:

www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/007/y5600e/y5600e00.htm

FAO GLOBEFISH website

www.globefish.org/entry_infopeche.htm

Detailed fish trade regulations (health and safety) for the EU market can be found on the Globefish website

www.globefish.org/presentations/rulesandregs/health%20and%20safety/regional/Europe/eu/hseu.htm

The Codex Alimentarius and the international food trade

www.fao.org/docrep/W9114e06.htm#TopOfPage

EU trade issues

http://europa.eu.int/comm/trade/issues/index_en.htm

Publications

Report of the study on the impact of international trade in fishery products on food security
www.globefish.org/index.php?id=2168

EC Green Paper on the future of the common fisheries policy, Brussels, 20.3.2001 COM (2001)
http://europa.eu.int/comm/fisheries/greenpaper/green/volume1_en.pdf

Communication from the EC on an integrated framework for FPAs with third countries
http://europa.eu.int/comm/fisheries/doc_et_publications/factsheets/legal_texts/doccom/en/com_02_637_en.pdf

EC submission to WTO negotiating group on rules (public document)
http://trade-info.cec.eu.int/doclib/docs/2003/april/tradoc_113000.pd

ACP fish products like tuna, that can't meet the rules of origin requirements, and then have to pay high tariffs.

Technical barriers – Sanitary and phytosanitary issues

ACP countries and exporters should seek support for effectively implementing WTO agreements on Technical Barriers to Trade and on Sanitary and Phytosanitary issues.

Appropriate support should be sought from the EU, through the variety of instruments available (Development Cooperation, Centre for the Development of Enterprise and FPAs – provided this support is not linked to unsustainable levels of access to

ACP fishery resources). In particular emphasis should be put on supporting small and medium-scale ACP fisheries enterprises.

Rules of origin (ROO) requirements

There is a need to revise current rules of origin applicable to fisheries products in order to make them less restrictive and more development oriented. In order to be able to negotiate appropriate changes, there is a need for better interaction between ACP administrations and private sectors, and for a more proactive approach in formulating and promoting alternatives.³³

Endnotes

1. *The State of World Fisheries and Aquaculture 2004*, (SOFIA), FAO, Rome www.fao.org/documents/show_cdr.asp?url_file=/docrep/007/y5600e/y5600e00.htm.
2. The difference between the costs of imports and the total value of exports.
3. Through the United Nations Convention on the Law of the Sea (UNCLOS).
4. A recent example of such a conflict was the EU complaint to the WTO against Chile for closing its ports to EU vessels fishing in international waters. Chile responded by challenging the EU under the conservation provisions of the United Nations Convention on the Law of the Sea (UNCLOS).
5. Products from competing countries may benefit from special free trade arrangements (as in the case of fish products from Chile under the 2002 Chile–EU Association Agreement), or other arrangements (including special GSP provisions).
6. The Exclusive Economic Zone (EEZ) is a belt of sea and seabed, of 200 nautical miles, adjacent to the national boundaries where the state claims preferential fishing rights and control over the exploitation of mineral and other natural resources.
7. The first targeted actions were introduced at the signing of the 1994 EU–Senegal fisheries protocol, after strong campaigning by a Senegalese artisanal fishworker's organisation, supported by European NGOs.
8. 'Review of Impacts of Illegal, Unreported and Unregulated Fishing on Developing Countries', MRAG, June 2005. Downloadable at www.dfid.gov.uk/pubs/files/illegal-fishing-mrag-synthesis-report.pdf
9. Demersal fish species are species living close to the sea bed.
10. Pelagic fish species are species living in the open sea, away from the sea bottom. They are often highly migratory and travel between several countries' Exclusive Economic Zones.
11. These groupings do not necessarily coincide with existing trading blocks involved in EPA negotiations, or with UN classifications (Least Developed Countries, Small Islands Developing States). However, these groupings may have a particular relevance for negotiation of fisheries relations with the EU, as these relations need to envisage not only trade and market access issues but also issues arising from the EU fleet's access to ACP fish resources.
12. A mixed fisheries agreement establishes fishing opportunities for a variety of fish stocks, such as crustaceans, small pelagic species, demersal species and tuna.
13. A type of fishing net used to surround and catch large schools of fish, particularly tuna species. The net (or seine) is pulled in a circle to surround the school then drawn shut at top and bottom, much like a purse.
14. A man-made floating object set at sea to attract pelagic fish such as tuna.
15. The main relevance of these agreements is that they provide an opening for the EU to legitimately expand its tuna fishing activities in the Pacific. The EU has recently signed the 'Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western Central Pacific Ocean (WCPTC)', and these agreements will provide it with the necessary catch histories for future quota allocations.
16. See for example OECD publication 'Extracts from the Development Cooperation review series concerning policy coherence', p.48. www.oecd.org/dataoecd/23/16/25497010.pdf
17. Given the proximity of EU landing ports, West African fisheries' access agreements have been described as 'pay, fish and go', in as much as the EU fishing vessels, once the financial compensation is paid to the West African country, come to fish and go away, without landing in the ACP country.
18. Most of the fisheries access agreements have provisions for landings, but very rarely are these landings obligatory since there are also provisions in the agreement that allow EU boat owners to default on their obligations to land fish if they make a compensation payment. The quality of the landings is not stipulated, and EU boats tend to land lower value fish (both in quality and species).
19. These include an electronic consultation on ACP–EU fisheries relations, organised by the CTA in November 2004, and a ACP/COMSEC/CTA meeting on the same subject, organised in December 2004.
20. In this case, the 'right to pursue' refers to the right granted by a government to another to pursue and apprehend vessels engaged in illegal fishing activities if and when they escape into its waters.
21. See FAO paper COFI/2005/5 'Supporting Small-scale Fisheries Through an Enabling Environment' www.fao.org/documents/pub_dett.asp?lang=en&pub_id=168492 and comments in *Samudra Magazine*. http://icsf.net/jsp/publication/samudra/pdf/english/issue_40/art15.pdf
22. For a detailed discussion, see CFFA–CAPE (2005), 'Comparing EU Free Trade Agreements : Fisheries', *ECDPM InBrief 6J*, ECDPM with CTA – the Technical Centre for Agriculture and Rural Cooperation ACP–EU, Maastricht. www.ecdpm.org/ftainbriefs and <http://agritrade.cta.int>
23. Fisheries access to third-country waters in the Mediterranean for European vessels is not an issue. The reason is that there are no 200-mile EEZs in the Mediterranean. Thus there is little need for the EU to enter into fisheries access arrangements with third countries in the Mediterranean
24. Available at www.epawatch.net/general/text.php?itemID=71&menuID=24
25. 'Overview of Economic Partnership Agreements (EPAs) and related fisheries issues', Lisa Mackie, DG Trade, presented at the expert meeting 'ACP EU Fisheries relations – Maximising socio-economic benefits for the ACP fisheries communities' organised by ACP sec/COMSEC/CTA December 2004
26. Either related to EPA configuration or deriving from Regional Fisheries Management Organisations.
27. A proposal was made by ACP participants to an e-consultation organised by CTA in November 2004 on ACP–EU fisheries relations, that all ACP countries that have distant-water fleets active in their EEZ should be automatically made members of the relevant RFMOs.
28. E-consultation on ACP–EU fisheries relations, CTA, November 2004. www.cape-cffa.org/issues/E-report%20ACP-EU%20Fisheries%20Relations%20-%20social%20and%20economic%20benefits%20%28December%202004%29.doc
29. E-consultation on ACP–EU fisheries relations, CTA, November 2004. www.cape-cffa.org/issues/E-report%20ACP-EU%20Fisheries%20Relations%20-%20social%20and%20economic%20benefits%20%28December%202004%29.doc
30. Expert meeting on ACP EU Fisheries relations – Maximising socio-economic benefits for the ACP fisheries communities, Brussels, 13–14th December 2004, Conclusions and Recommendations.
31. Interestingly, the EU's fish-processing and marketing sectors are not very much involved in FPA/EPA negotiations, despite the fact that their interests, in some cases, may be more complementary to the ACP interests than those of the catching sector.
32. www.oecd.org/departement/0,2688,en_2649_34889_1_1_1

_1_1,00.html and Foreign Direct Investment and the Environment, WWF, August 1999 www.oecd.org/dataoecd/9/48/2089912.pdf

33. Expert meeting organised by CTA-ACP Sec and COMSEC on

ACP-EU Fisheries relations – Maximising socio-economic benefits for the ACP fisheries communities, Brussels, 13-14 December 2004, Conclusions and Recommendations.