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The post-reform EU Common Fisheries Policy: Key issues for ACP countries

1. Background and key issues

The Common Fisheries Policy (CFP) is reviewed every 10 years. The latest reform agreed between the European Commission, European Council and European Parliament in November 2013 came into force on 1 January 2014.

The main goals of the reformed CFP include:

- bringing fish stocks back to sustainable levels, by setting fishing limits at maximum sustainable yields, for all fish stocks, by 2020 at the latest;

- putting an end to wasteful fishing practices that generate vast amounts of discards;

- creating opportunities for jobs and growth in coastal, fishing-dependent zones.

A new set of measures have been agreed to accomplish this, including:

- a ban on discards, to be achieved mainly through an obligation to land all catches (starting with pelagic fisheries), and efforts to promote selectivity;

- the decentralisation of the decision making process;
- the empowering of the stakeholders through the reinforcement of the Regional Advisory Committees – in particular, a new Markets Advisory Committee is being set up;
- focused support for aquaculture, especially small-scale fisheries.

The reformed CFP is also to be guided by principles of good governance, including:

- the reinforcement of scientific knowledge;
- decision making based on best available scientific advice;
- stakeholders' involvement;
- promoting coherence between the internal and external dimensions of the CFP.

"The promotion of coherence requires applying similar sustainability conditions to fleets fishing outside EU waters to those fishing inside"

The promotion of coherence requires applying similar sustainability conditions to fleets fishing outside EU waters to those fishing inside. This has resulted in the inclusion of a specific chapter in the CFP dealing with external fishing activities. This chapter provides the basis for EU positions and initiatives in regional fisheries management organisations (RFMOs), the bilateral Sustainable Fisheries Partnership Agreements, as well as some measures reaching out to the EU fleets that fish outside fishing agreements, discouraging, for example, abusive reflagging of EU vessels to third countries.

The European Maritime and Fisheries Fund (EMFF) was adopted in 2014 and

will support the implementation of the reformed CFP.

Last, the EU's illegal, unreported and unregulated (IUU) fishing regulation remains an essential part of the EU fisheries legislation, and although it was not covered by the reform, several of its elements will help its implementation, such as measures for the establishment of an effective system of monitoring, control and surveillance.

The reformed CFP also promotes the consumption of fish resources that are sustainably managed and fished. In this context the Common Market Organisation (CMO) for fish and aquaculture products includes new rules that aim to ensure the traceability, safety and quality of fish products marketed in the EU.

2. Latest developments

Evolutions regarding the CFP external dimension

A whole chapter in the CFP basic regulation is devoted to the EU's external policy, dealing with both RFMOs and bilateral agreements. These bilateral agreements (former Fisheries Partnership Agreements – FPAs) have been renamed Sustainable Fisheries Partnership Agreements (SFPAs), to emphasise the new focus placed on the sustainability and good governance of EU fishing activities in third countries' waters.

EC proposals on access agreement transparency were agreed by UN members, and incorporated in the 2013 resolution of the United Nation General Assembly (UNGA) Resolution on sustainable fisheries. The UNGA resolution section on "sub-regional and regional cooperation" (paragraph 134) now recognises the

importance of transparency when reporting fishing activities within RFMOs and arrangements in order to facilitate efforts to combat IUU fishing, as well as the need to respect the reporting obligations within those organisations and arrangements (*Agritrade* article '[Proposals on access agreement transparency inserted in UNGA resolution on sustainable fisheries](#)', 9 March 2014).

"EC proposals on access agreement transparency were incorporated in the 2013 UN General Assembly Resolution on sustainable fisheries"

A conference held in January 2014 discussed the implications of the CFP external dimension reform, with participants stressing the need for transparency in the allocation of resources and in the sector's governance. The conference highlighted the challenges of protecting biodiversity, both within exclusive economic zones (EEZs) and in international waters, through EU fisheries relations with third countries. Participants maintained that necessary measures must be taken to safeguard the fish stocks' potential to contribute to long-term food security (*Agritrade* article '[An international conference analyses the external dimension of the reformed CFP](#)', 23 June 2014).

"More than half of the EU's external fleet operates outside SFPAs and RFMOs – the EU only has limited capacity to monitor that these vessels are complying with CFP legislation"

The issue of the coherence between the CFP external dimension and food security was also explored in a paper by the European Centre for Development Policy Management (ECDPM). ECDPM recognised that, from a development and food security point of view, the reformed CFP external dimension is a consider-

able improvement compared to previous legislation. Nevertheless, it was noted more than half of the EU's external fleet operates outside SFPAs and RFMOs, through privately negotiated agreements, joint ventures or under non-EU flags, with the EU only having limited capacity to monitor that these vessels are complying with CFP legislation (see *Agritrade* article '[Strengthening EU fisheries policy coherence with food security](#)', 3 March 2014).

The ECDPM report recommended that a clear set of guidelines should be established on how to promote policy coherence for development through the specific objectives integrated into the CFP related to issues of food security, and that appropriate indicators should be established for measuring progress in this area.

The need to avoid reflagging, as a means of circumventing evolving EU controls designed to promote the deployment of sustainable levels of fishing efforts in ACP waters, has been under discussion for some time. Indeed, this concern was taken into account in the reformed CFP basic regulation under article 41 (see *Agritrade* article '[EP Fisheries Committee votes on the future CFP external dimension report](#)', 4 November 2012).

Non-governmental organisations (NGOs) take the view that article 41 could best be implemented through the EC's proposed revision of the Fishing Authorisations Regulation (FAR). In the course of an EC consultation on the topic, NGOs and trade unions made joint comments and proposals to address, in the FAR review process, specific issues such as:

- abusive reflagging;
- the lack of transparency in private arrangements;

- the need to ensure that social legislation is properly applied;
- the need to ensure coherence and compliance with Control Regulation, IUU Regulation and Regulation on countries allowing unsustainable fishing.

(See *Agritrade* article '[Civil society organisations comment on access conditions for EU fleets fishing outside FPAs](#)', 19 August 2013.)

In their response to the EC consultation process, the Spanish fisheries administration highlighted pioneering action taken by the Spanish authorities to ensure that Spanish vessels fishing outside an FPA fulfil the same requirements as vessels operating under EU agreements. Under this initiative, apart from the mandatory licensing of the third country, all Spanish vessels fishing outside EU waters must obtain a temporary fishing permit issued by the Spanish administration, which includes the requirement for the application of all relevant EU and RFMO legislation, as well as the relevant national regulations. The Spanish administration also applies a system of verification of licences allocated by third countries through the network of Spanish embassies and EU delegations, demanding proof of payment to the treasury of the country concerned. In this way, it verifies the authenticity and validity of the licence and the transfer to the Treasury (see *Agritrade* article '[Spain takes the lead in the EU for fighting IUU fishing](#)', 28 April 2014).

The EU private sector shared similar objectives of ensuring that similar sustainability standards are applied to all distant water fleets, in order to create a level playing field.

Two initiatives are noticeable in that context. First is the agreement between

the European Trade Union (ETF) and the European fishing boat owners' associations (Europêche/Cogeca), on a revised social clause that may be inserted in SFPAs with third countries, linking it to the International Labour Organization (ILO) "Work in Fishing Convention 188". The aim is that this provision should promote ratification of the ILO Convention by the EU, helping it to enter into force at the international level, providing the basis for improved working conditions on board all vessels, including all distant water fleets active in ACP waters, therefore contributing to the establishment of a level playing field (see *Agritrade* article '[EU partners adopt social clause for fishing agreements](#)', 16 June 2014)

The second initiative was the agreement between the Spanish government and tuna fishing associations under which tuna vessels owned by Spanish nationals but flagged in third countries will voluntarily commit to facilitate satellite monitoring of their activities and submit their positions in real time by using tracking systems. In addition, owners will provide a copy of the available fishing licences in third countries' waters, logbooks, and landing or transshipment declarations. This will provide for a similar level of control between foreign-flagged vessels owned by Spanish nationals and Spanish-flagged vessels (see *Agritrade* article '[Third-country flagged, Spanish-owned tuna vessels to abide by CFP standards for control](#)', 16 June 2014).

New European Maritime and Fisheries Fund

Putting an end to the 5-year process to reform the CFP, the EMFF – representing €6.7 billion of subsidies – was finally adopted in April 2014.

In order to respect the rule that fishing should be at maximum sustainable

yield, more funds will be allocated for data collection. Other priorities such as the development of aquaculture, monitoring, control and surveillance, as well as support to the outermost regions, including neighbouring ACP countries (such as Guadeloupe, Martinique, La Réunion and the Canary Islands), will also be funded under the EMFF.

“The EMFF makes it possible to support investments for the removal, replacement or modernisation of engines in order to reduce emissions of pollutants and greenhouse gases and to increase energy efficiency”

The EMFF makes it possible to support investments for the removal, replacement or modernisation of engines (mainly available to small-scale fisheries) to reduce emissions of pollutants and greenhouse gases and to increase energy efficiency. It may also fund measures for the temporary cessation of fishing activities, for up to 6 months, in the event of the non-renewal of a fishing agreement with a third country. Furthermore, part of the final deal was an EP demand to exclude from the scope of application all operations that may increase the vessel's capacity to find fish (see *Agritrade* article ‘[EU institutions agree on European fisheries aid 2014–2020](#)’, 9 March 2014). The EC emphasised that no subsidy will be allocated to the building of new fishing vessels, to avoid contributing to increasing fishing capacity.

While NGOs generally welcomed the EP position, it was noted that environmentally harmful subsidies – such as funding for new engines – were still available under the fund (see *Agritrade* article ‘[The EU financial instrument for fisheries is finally adopted](#)’, 12 May 2014).

Discussions in the WTO showed that the type of subsidies agreed under the EMFF (e.g. vessel construction, replacing old engines with more fuel efficient ones) are likely to be capacity enhancing. The fact that they would be reserved for small-scale fishing may fit with what the WTO terms “special and differential treatment”, provided that the EU clarifies its definition of EU small-scale fishing (see *Agritrade* article ‘[EU decision on fish subsidies may pose risk to global negotiations](#)’, 18 May 2013).

The EMFF, however, will not finance SFPAs or the EU's participation in RFMOs because they are covered by a specific separate fund.

Discard ban

EU data shows that EU fishermen currently discard an average of 25% of their catches; and as much as 70% in some fisheries. The ban on discarding unwanted fish overboard is one of the most contentious new rules agreed in the reformed CFP. The discard ban includes an obligation to land all catches from fishing activities in EU waters or by EU registered fishing vessels, as well as incentives to help fishermen buy new fishing gear to cut the amount of unwanted fish caught in the first place (see *Agritrade* article ‘[CFP reform implementation: Ban on discards raises questions of costs and enforceability](#)’, 29 September 2013).

“The ban on discarding unwanted fish overboard is one of the most contentious new rules agreed in the reformed CFP”

The implementation of the discard ban is, however, facing increasing criticisms, particularly as it will take immediate effect, starting with pelagic fisheries, while the selective fishing methods

will take more time to be introduced. A study has maintained that the elimination of discards will have negative impacts on the environment unless it is implemented alongside more selective fishing methods.

The European Economic and Social Committee (EESC) advocated for a more gradual and proportionate approach, based on progressively reducing discards, promoting and encouraging more selective fishing gear, implementing measures designed to process fisheries products in a manner that offers added value, searching for market outlets and adapting the infrastructure of vessels and fishing ports. These more flexible rules would give fishing operators a transitional adaptation period without facing heavy penalties. It also regretted that there has been no prior impact assessment to study the repercussions of the landing obligation for each fleet. It considers that such a study is particularly necessary for pelagic fisheries outside the EU under the RFMOs (see *Agritrade* article ‘[Discard ban implementation raises increasing criticisms](#)’ 22 July 2014).

Common Market Organisation and improved labelling of fisheries products

The CFP regulation includes measures for the common organisation of the markets in fish and aquaculture products (article 35). These provisions seek to address:

- the competitiveness of the EU fishery and aquaculture industry;
- transparency and stability of the markets;
- the creation of a level playing field for all products marketed in the EU;

- the need for consumers to have a diverse supply of fishery and aquaculture products;
- the need for verifiable and accurate information regarding the origin of the product and its mode of production.

Regarding labelling of fisheries and aquaculture products, the new CMO includes new measures related to ecolabels and labelling requirements. Given the proliferation of ecolabels for fish products and the difficulty for the consumer to compare what they cover, one of the main issues is to define the minimum standards to be complied with. FAO has already set up guidelines for this purpose but they are rather general and imprecise. As part of the CFP reform, it was decided that, by the end of 2015, a feasibility study should be presented to the Parliament and Council, regarding the possibility of either establishing a European ecolabel for fish products, or to define minimum criteria.

Meanwhile, the French standardisation agency, Afnor (Agence française de normalisation), has suggested that an ISO norm should be created to define an internationally recognised sustainability standard for maritime fisheries products, taking into account a wide variety of criteria (i.e. going further than only environmental sustainability) which could be used as a framework for all the labels relating to sustainable fisheries. The EC feasibility study will have to take into account the potential development of an ISO norm in this area (see *Agritrade* article '[First international standard to be developed for environmentally and socially sustainable fisheries](#)', 5 July 2014)

Changes for fish labelling will also be introduced from December 2014 onwards. Labels will have to indicate

the Latin scientific name as well as the type of gear used to catch the fish: trawlers, purse seine, driftnets, hooks, lines, dredger and traps. Labels can also optionally indicate the date the fish was caught or harvested, the landing date, the port where it was landed, the national flag of the vessel and additional environmental, ethical and social data. Furthermore, the fishing area appearing on the FAO list will have to be displayed, as well as the name of the zone, in understandable terms for the consumers, or a pictogram/map indicating where this zone is located. These new requirements will imply a higher degree of monitoring and reporting on fishing activities (see *Agritrade* article '[Reinforced rules on labelling of fisheries products](#)', 9 March 2014).

IUU regulation implementation and ACP country initiatives

In December 2013, the European Fisheries Commissioner announced that Guinea, Belize and Cambodia had not addressed structural problems and failed to show real commitment to tackling the problem of illegal fishing. An import ban on fish products was therefore implemented for these three countries. EU vessels also had to stop fishing in these countries' waters. Other forms of cooperation, such as joint ventures or fisheries agreements with these countries, were also banned (see *Agritrade* article '[EU IUU regulation: Fish import bans to be proposed against Guinea, Belize and Cambodia](#)', 23 December 2013).

NGOs welcomed the decision but called for greater transparency in the way that the EU evaluates third countries' efforts to fight illegal fishing. In contrast, the EU fishing sector regarded these sanctions as "toothless". The sector points out, for exam-

ple, that the EU fleets are now denied access to Guinean waters, while some other foreign fleets, such as the Korean – often cited in IUU fishing cases – still have access and can export fish caught in Guinean waters to the EU market (see *Agritrade* article '[Legal operators affected by EU blacklisting of Guinea, Belize, Cambodia for non-cooperation against IUU fishing](#)', 28 April 2014).

In mid June 2014, the EC further issued a warning to the Philippines and Papua New Guinea (PNG) that they also risked being identified as non-cooperating countries in the fight against IUU fishing. Both countries were asked to address specific shortcomings, including amending their legal framework to combat IUU fishing, and to improve control and monitoring actions (see *Agritrade* article '[The EU warns PNG and the Philippines that they are not doing enough to combat IUU fishing](#)', 5 July 2014).

"For the first time, an EU member state – Spain – imposed sanctions on Spanish crew members involved in illegal fishing activities while working on board a non-EU flagged vessel"

Some EU member states also took specific actions to combat IUU fishing. Spain is one of the few countries having domestic legislation for marine fisheries sanctions on nationals who serve on foreign-flagged vessels involved in IUU. Based on this legislation, for the first time in the EU, the Spanish ministry in charge of fisheries imposed financial penalties and disqualification on Spanish crew members involved in illegal fishing activities while working on board a non-EU flagged vessel blacklisted by the Convention on the Conservation of Marine Living Resources of Antarctica (CCAMLR) (see *Agritrade*

article ‘[Spain takes the lead in the EU for fighting IUU fishing](#)’, 28 April 2014).

Improvements have also been made in the EU’s framework for data collection under external fisheries agreements. However, to date, very few governments, including those from ACP countries, have systematically incorporated fish trade data analysis into their monitoring, control and surveillance systems, despite the fact that analysis of fish trade data provides a highly cost-effective and helpful method for accessing information, which can assist in tackling IUU fishing (See *Agritrade* article ‘[Trade data analysis to track IUU fishing activities](#)’, 24 March 2014).

The fight against IUU fishing is also one of the main concerns of ACP countries when negotiating the renewal of protocols or new FPAs. Senegal, for example, has put the fight against IUU fishing at the heart of its negotiations with the EU for a new FPA (see *Agritrade* article ‘[Senegal–EU: Fight against IUU fishing as a basis for renewed relations](#)’, 3 March 2014).

3. Implications for the ACP

Monitoring CFP reform implementation

With the adoption of the new EU fisheries regulations, the focus will now shift to their implementation. The ACP will need to ensure that their sovereign rights over fisheries management decisions are not undermined by the application of some of the new EU regulations. For example, the application of an EU non-discrimination clause introduced in SFPAs must be closely monitored. The non-discrimination clause

should be designed so that it ensures harmonised and transparent access conditions to foreign fleets with this leading to long-term increased benefits for the coastal country concerned.

“ACP states will need to ensure that their sovereign rights over fisheries management decisions are not undermined by the application of some of the new EU regulations”

There should also be careful monitoring of the discard ban, which has been phased in since January 2014. This will require clarification on how it is to be implemented and assessment of its impact on local fish markets in ACP countries. Specific measures may be required to avoid the disruption of local ACP markets as a result of landing poor quality discards. Such matters must be dealt with appropriately either within the framework of fisheries agreements when they exist, or in the framework of private agreements.

The issue of discards will need to be closely linked to the promotion of more selective fishing methods in ACP waters. Although EU–ACP mixed FPAs have included clauses encouraging more selective fishing for more than a decade, implementation challenges remain, which could be addressed using funds available under the EMFF.

There will also be a need to monitor the impact of EMFF funding for engines and gear on the conditions of competition between the EU and local ACP fleets. This could in part be addressed by sharing EU-financed research and technological innovations with ACP authorities, including through the extension of the work of the European Fisheries Technology Platform, which is promoting more selective, less fuel-consuming fishing techniques.

Increased funding for supporting control and data collection should benefit ACP countries. In particular, increased funding for data collection could facilitate requests by ACP countries for more detailed data about EU vessels catches and by-catches made in their EEZ (the EMFF now offers the possibility to fund stocks assessments for resources targeted under SFPAs).

Other measures agreed under the EMFF (e.g. the scrapping subsidies and subsidies for temporary cessation of activities) will also have an impact on EU fleets operating in ACP countries. It is unclear whether this aid will apply to fleets that are excluded from an existing agreement protocol (e.g. the octopus fleet excluded from the EU–Mauritania SFPAs). If this were the case, it would contribute to maintaining a fishing capacity that might not be desirable in the host country waters.

“ACP fish product exports to the EU will need to conform with new labelling legislation, noting fishing gear used and sell-by/expiry dates for fresh fish products”

As a consequence of the reform, labelling requirements for fish products will change. ACP fish product exports to the EU will need to conform with new labelling legislation (e.g. mentioning fishing gear used, and sell-by/expiry dates for fresh fish products). Steps should be taken as soon as possible to clarify what system (and investments) needs to be put in place to ensure compliance with these new labelling requirements.

Diversifying partners with the objective of increasing long-term benefits

With the development of distant water fishing fleets from Asian countries, and

the revival of former USSR companies (Russian and Ukrainian fleets), ACP governments now have increased options of negotiating access arrangements with a variety of distant water fishing nations. Negotiating different technical and financial access conditions for different distant water fishing fleets, as is currently done in most cases, undermines coastal country efforts to create “a culture of compliance” by foreign vessel operators, as there will be a tendency for them to only respect the lowest standard applied, in order to maintain their competitiveness.

This results in losses for the coastal country in terms of degradation of ecosystems, under-reporting of catches, competition with local fleets, illegal fishing operations, etc.

ACP countries will only benefit from foreign fleets’ access if the condition of operation of these fleets:

- are harmonised and transparent;
- do not contribute to depreciating the ACP natural resources through over-exploitation and ecosystems’ destruction;
- do not constitute an obstacle to local coastal fisheries development.

“The governments of ACP countries need to consider establishing transparent and fair access rules that apply to all foreign fleets, thereby creating a level playing field for third country fishing fleets”

The governments of ACP countries therefore need to consider establishing transparent and fair access rules that apply to all foreign fleets, thereby creating a level playing field for third country fishing fleets. In this respect, progress

is already being made in some ACP regions (e.g. West Africa).

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

Development of a local fishing sector

Developing a local tuna sector

ACP countries will need to get an appropriate share of access to tuna resources in RFMOs to develop a sustainable tuna sector. Traditional systems of basing access to tuna resources on recorded historical catches are hampering the development of ACP fishing capacity, as they have not been traditionally present in high seas fisheries.

“Promoting the allocation of access systems based on historical catches and applying environmental and social criteria could help to promote the sustainable development of local tuna fishing capacities”

Promoting the allocation of access systems that (a) recognise historical catches, and (b) apply environmental and social criteria (including consideration of the impact of fishing gear used, job creation and the right to food) – while linking these to ACP fisheries sector development aspirations – could help to promote the sustainable development of local tuna fishing capacities.

Development of local fisheries within the EEZs

Competition between long-distance fleets and local (artisanal) fleets has

been an obstacle to the development of local fleets.

The translation of the long-standing obligations under international law (UNCLOS) to limit third country access to surplus resources into the new EU CFP could assist in this regard, particularly when the approach is applied to all foreign fleets.

However, it still leaves the problem of the basis for determining the surplus. If local fisheries sector development is to be promoted, there is a need to move away from approaches that assert that if stocks are not fully exploited according to the scientific data available, there is de facto a surplus, since the local fishing sector can only be developed if a “reserve of resources” is retained.

For the development of sustainable small-scale fisheries, the recent adoption of the FAO voluntary guidelines for sustainable small-scale fisheries will provide a useful tool to guide ACP countries, and international donors such as the EU, in taking measures towards the establishment of an enabling environment for sustainable small-scale fisheries.

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

The current opacity of most fishing operations in ACP countries – reflagging, joint ventures, chartering and most access agreements (with agreements between the ACP and EU actually being more transparent than those between ACP governments and third country fishing fleets) – makes it difficult for an ACP coastal country to appreciate the long-term costs and benefits of these various operations, and to design and implement appro-

appropriate policies applicable to all fleets of foreign origin.

Increased attention should be paid to the gathering and dissemination of basic information on all long-distance fleets operating in ACP waters, in line with the best practices in some ACP countries. The adoption of a “no data—no access to fish” approach could lead to immediate benefits in this area.

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

Main sources

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4. CFP Reform Watch

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

5. Stop Illegal Fishing

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

6. Organisation of European Fishing Enterprises – Europepêche

<http://europepeche.org/>

7. Coalition for Fair Fisheries Arrangements

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

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About this update

This brief was updated in December 2014 to reflect developments since October 2013. Other publications in this series and additional resources on ACP–EU agriculture and fisheries trade issues can be found online at <http://agritrade.cta.int/>.



The Technical Centre for Agricultural and Rural Cooperation (CTA) is a joint international institution of the African, Caribbean and Pacific (ACP) Group of States and the European Union (EU). Its mission is to advance food and nutritional security, increase prosperity and encourage sound natural resource management in ACP countries. It provides access to information and knowledge, facilitates policy dialogue and strengthens the capacity of agricultural and rural development institutions and communities.

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