

# Baseline study on the CFP external dimension and global fisheries governance

## Technical Report

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The following independent report was commissioned by DEFRA from external experts in order to gather information on fisheries management issues. The report is intended to help inform the policy development process on reform of the Common Fisheries Policy (CFP). Although the report raises a number of important issues and contributes to the body of background evidence feeding into the reform process, the content of the report contained does not necessarily reflect UK government policy.

## ACRONYMS

ACP	African, Caribbean and Pacific States
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CECAF	Fishery Committee for the Eastern Central Atlantic
CFCA	Community Fisheries Control Agency
CFFA	Coalition for Fair Fisheries Agreements
CFP	Common Fisheries Policy
CSRP	Commission Sous-Régionale des Pêches
CTA	The Technical Centre for Agricultural and Rural Cooperation (ACP-EU Working Institution)
DEFRA	Department for Environment, Food and Rural Affairs
DFID	Department for International Development
DG Mare	Directorate General of Maritime Affairs and Fisheries
DWF	Distant Water Fleet
EAC	East African Community
EBA	Everything But Arms Initiative
ECA	European Court of Auditors
EDF	European Development Fund
EEZ	Exclusive Economic Zone
EFF	European Fisheries Fund
EPA	Economic Partnership Agreement
ERS	Electronic Reporting System
EU	European Union
FAO	UN Food and Agriculture Organisation
FLEGT	Forest Law Enforcement, Governance and Trade
FPA	Fisheries Partnership Agreement
FPI	Fisheries Performance Index
GSP	Generalised System of Preferences
GT	Gross Tonnage
ICCAT	International Commission for the Conservation of Atlantic Tunas
IMP	Integrated Maritime Policy
IMROP	Mauritanian Institute for Oceanographic Research and Fisheries
IOTC	Indian Ocean Tuna Commission
ITQ	Individual Tradable Quotas
IUU	Illegal Unreported and Unregulated Fishing
LDC	Least Developed Countries
LDRAC	Long Distance Regional Advisory Committee
MCS	Monitoring Control and Surveillance
MDG	Millennium Development Goals
MRAG	Marine Resources Assessment Group
MSC	Marine Stewardship Council
MSY	Maximum Sustainable Yield
NAFO	Northwest Atlantic Fisheries Organisation

NEAFC	Northeast Atlantic Fisheries Commission
NGO	Non Governmental Organisation
PCD	Policy Coherence for Development
PRSP	Poverty Reduction Strategy Paper
RBFM	Rights Based Fisheries Management
RFMO	Regional Fisheries Management Organisations
RoO	Rules of Origin
SADC	Southern African Development Community
SEAFO	South East Atlantic Fisheries Organisation
SPS	Sanitary and Phyto-Sanitary
TAC	Total Allowable Catch
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
VMS	Vessel Monitoring System
VPA	Voluntary Partnership Agreements
WBFM	Wealth Based Fisheries Management
WCPFC	Western Central Pacific Fisheries Commission
WTO	World Trade Organisation
WWF	World Wildlife Foundation

## EXECUTIVE SUMMARY

The EU Common Fisheries Policy (CFP) is currently undergoing a reform process with changes due in 2012. The consultation process for the reform began with the publication of a Green Paper in 2009 and invited a range of stakeholders to provide contributions. The Department for Food and Rural Affairs (DEFRA) commissioned this study to consider the main issues for reform of the 'external dimension' of the CFP.

This study has focused on the interactions of the CFP on developing countries and the contribution that a reformed CFP could make to international fisheries governance. It therefore reviews elements of the external dimension such as: Fisheries Partnership Agreements (FPAs), the EU's engagement with Regional Fisheries Management Organisations (RFMOs) and engagement with international fisheries governance bodies (e.g. UN, FAO). It also assesses some of the internal policies of the CFP that affect global fisheries governance and wider policies that have a significant impact, such as trade. The EU currently imports 65% of fisheries products available on the market and the EU external fleet contributes 21% of the total community catches for human consumption (equivalent to 12% of fisheries products available on the market.) This highlights the importance of good fisheries governance for long-term EU food security as well as for the activity of its external fleet.

Good fisheries governance has been defined in this report as: *Effective policies, institutions and processes that are transparent, accountable to civil society, free of corruption, and backed up by effective legislation and enforcement that lead to successful fisheries outcomes characterised by economic, environmental and social sustainability e.g. sustainable wealth creation, sustainable stocks, ecosystem health and support to food security.*

When referring to international fisheries governance this report considers both the governance of resources within developing countries' Exclusive Economic Zone (EEZs) (where the EU has a fishing interest) and fisheries governance on the high seas. One of the key findings in this report is that the principle constraint on achieving good global fisheries governance is the lack of capacity both at the coastal state level to effectively manage their resources and at the level of RFMOs where most of the responsibility for management of the high seas fisheries resources lies. Distant Water Fleets (DWF) play a role in governance outcomes but it is the existence of an effective framework for fisheries management that determines much of the outcomes of good or poor fisheries governance.

The EU signs FPAs with developing countries to gain access to selected fish resources within their EEZs. However, a lack of fisheries management capacity makes the operation of the EU's external fleet within their waters questionable. In contrast, where there is good fisheries governance i.e. effective catch allocations based on rigorous science and effective control and surveillance to enforce regulations within coastal states waters, the operation of Distant Water Fleets (DWF) – either through fishing agreements, private agreement or through joint ventures – poses less of a concern.

Despite the importance of good fisheries governance within coastal waters of developing countries, EU development funding to the fisheries sector is declining. Countries that have signed an FPA are not always eligible for development support, even though they may be the countries with the weakest fisheries governance. Furthermore, the sector is infrequently highlighted as a priority within development plans such as Poverty Reduction Strategy Papers (PRSPs) making it difficult for the EU to prioritise the sector. The potential wealth contribution of the fisheries sector within developing countries needs to be assessed and recognised. Following this investment in good fisheries management (e.g. adding value to

fish products) and governance (e.g. creating a framework to enhance capacity) is required to realise the significant contribution of the fisheries sector to economic growth. Supporting the drivers of good governance – such as greater transparency and accountability – is also vital to push the sector reform process forward.

FPAAs have attempted to support fisheries sector reform to improve fisheries governance of coastal states. This has been through providing funding that the coastal state can dedicate to fisheries sector reform. However, by its own admission, DG Mare has recognised that there are considerable challenges in achieving this. This is partly owing to FPAAs conflicting objectives (i.e. to secure EU access as well as drive reform) but also owing to the current management framework of FPAAs which does not allow for long-term policy dialogue. EU support to fisheries sector reform would be more effective through long-term development channels where good governance measures could be promoted within those nation states in need of better fisheries management. In order to achieve this funding for good fisheries governance should be ‘de-linked’ from funding for access. Access costs could be subsidised initially (as they currently are) but a clear timeframe given for ship owners to take on full responsibility. Funding for improved fisheries governance would be the key financial contribution from the EU with contributions from both DG Mare and DG Development working closely together. Such funding would be linked to the development needs of the sector but would also be phased out as fisheries wealth creation and governance improves. Challenges remain including limited funding available through EU development channels and the current disconnect between DG Mare and DG Development. It is therefore suggested that the EU undertakes a review of how such a ‘de-linking’ process may take place and how to best coordinate fisheries and development policies going forward.

At the level of the high seas and migratory stocks, improving regional fisheries governance is also considered important for global fisheries governance. There are current gaps within the RFMO network that need to be filled (e.g. West Africa/Central Atlantic) and sharing of lessons-learned is needed across the diverse range of regional organisations. One of the key constraints of RFMOs is the lack of effective developing country participation both in engaging in setting management measures and in ensuring compliance. Related to this, the issue of allocating quotas at the RFMO level is at the centre of the challenge of integrating developing country access aspirations as well as being critical for the long-term sustainability of stocks. Overall, the EU needs to consider what its priority objectives are at the regional level (to promote good governance and sustainable development or secure EU access) and also how it may need to concede access to emerging fishing nations or consider rights-based fisheries management approaches that allow for a share in profits from regional resources without increasing overall fishing capacity.

Another consideration is whether FPAAs should be negotiated at the regional level with linkages to the relevant RFMOs. Even if FPAAs were not negotiated regionally, the EU could agree regional good fisheries governance frameworks (i.e. with developing countries that share a regional distribution of fish stocks for example the Indian Ocean region, Pacific region and West African regions). These could provide support to fisheries management issues that require a regional approach (e.g. MCS, IUU), strengthen RFMO capacity and promote EU policy coherence by providing an overarching framework within which all the EU’s different policies that affect global fisheries governance could fit (i.e. development support, Economic Partnership Agreements, Integrated Maritime Policy). Such a framework could be led by the policy coherence unit within DG Development working closely with DG Mare and DG Environment.

At an international level, the EU can play a role in improving global governance by prompting international frameworks (e.g. UNCLOS, FAO code of conduct) to consider some of the current governance challenges (e.g. RFMOs, allocation of rights and wealth creation).

Despite the linkages between the CFP external dimension and global fisheries governance, the CFP's impact on promoting good governance is limited, primarily because EU distant water fleets are only one of the actors operating within developing countries' EEZs and the high seas, and because the outcome of global fisheries governance is mainly a factor of fisheries management capacity within coastal states and within RFMOs. There are also a range of other EU policies outside of the CFP that influence global fisheries governance. For example, the EU's international trade, development and environmental policies have important linkages to good international fisheries governance, but currently the contribution of these policies to improved governance is limited by policy incoherence.

During the CFP reform process consideration also needs to be given to internal aspects of the CFP that have an impact on global fisheries governance, in addition to the external dimension. At its most basic the EU reputation for managing its own resources defines its legitimacy for improving fisheries governance on the international stage. At a more detailed level, the EU structural policy defines what subsidies the external fleet can benefit from and the control policy goes a long way towards controlling the activities of the EU external fleet. Member States can play an important role in improving global fisheries governance through their implementation of the control policy and the IUU regulation, their engagement within FPA negotiations and RFMOs (where they have overseas territories) as well as their financial and technical contribution to fisheries development.

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# 1 Background

## 1.1 Objective of study

### 1.1.1 Overall objective

The overall objective of the study is to assess current linkages between the CFP external dimension and international fisheries governance and then to determine how the reform process can promote good governance. This is to inform the UK position on the CFP reform in relation to the external fisheries policy and how the UK can contribute to improve international fisheries governance.

### 1.1.2 Key policy questions

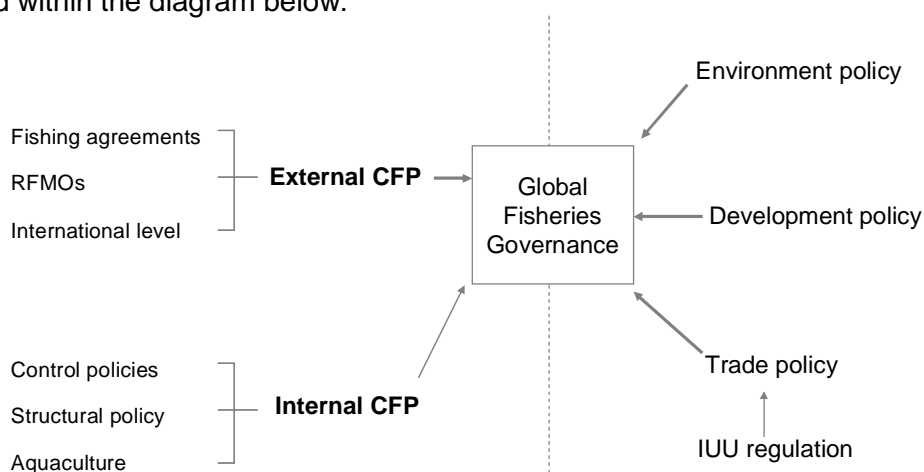
Through this study Defra would like to explore the following key policy questions:

- To what extent does the current CFP influence fisheries governance and fleet management outside EU waters?
- What are the current short-comings and policy incoherence within the CFP in relation to achieving good international fisheries governance?
- What are main barriers in CFP to achieving good governance (i.e. things pertaining to the EC, and things pertaining to third countries which the CFP may have a greater or lesser ability to impact on)?
- How can the CFP reform help to achieve improved global fisheries governance and what is its mandate for doing so?
- What is the UK's role in making a realistic contribution?

### 1.1.3 Scope of study

There is potentially a very large scope to this study. In order to focus the report it has primarily concentrated on the interactions of the CFP on developing countries and the contribution that a reformed CFP can make to international fisheries governance. This is not to say that there are not concerns with fisheries governance outside of developing countries, and these are touched on within the report, but do not provide the focus of the analysis.

In terms of policy areas, this report looks at both policies within the CFP and those outside that are likely to have significant impacts on international fisheries governance. Within the CFP there are the specific 'external fisheries policies' but there are also internal policies that may have linkages with international governance. The areas dealt with in this report are highlighted within the diagram below:



## 1.2 EU external fleet activity

### 1.2.1 Global coverage

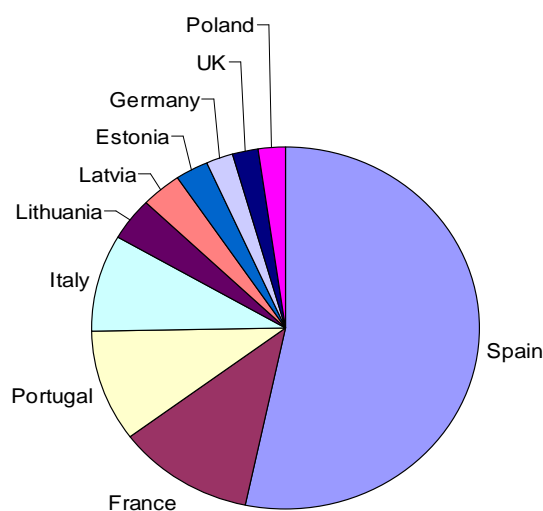
There were 718 EU vessels operating outside of Community waters in 2007<sup>1</sup> and, although this is a relatively small number out of a total of 88,000 units operating within EU waters, vessels have large individual capacities and therefore represent almost 25% of total EU fishing capacity in tonnage. It is estimated that the external fleet contributes 21% of community's total catches for human consumption and is equivalent to 12% of fish products available on the market<sup>2</sup> (EC, 2009d). Just under half of the external fleet use negotiated fishing opportunities (314 vessels between 2004 and 2008).

The EU external fleet operates within all of the world's oceans and major fisheries. The fleet is active both within the EEZs of other coastal states and also on the high seas, some of which are managed by Regional Fisheries Management Organisations (RMFOs), and others that are not. Within the EEZ's of other coastal states EU vessels operate under bilateral fishing agreements negotiated by the EU on their behalf or through private agreements. In addition there are joint ventures where EU companies may own or charter vessels that operate under another national flag or share ownership with coastal state companies. Lastly there are member state vessels that operate from overseas territories within and outside of their EEZs.

### 1.2.2 Member state representation

There are 14 Member States represented within the external fleet, although the majority fly the flag of Spain or France (Figure 1). There is specialisation of these fleets, for instance French vessels concentrate on tuna resources; Netherlands, Lithuania and Latvia on small pelagics; and Greece and Italy on demersal resources. Spain has interest in all fishery types. For certain member states their external vessels can represent a large proportion of their national fleet (37% in Latvia, 30% in Spain and around 20% in France and Lithuania).

**Figure 1 Member State representation of external fleet (top ten countries)**



<sup>1</sup> Defined as spending more than 90% of their time in external waters

<sup>2</sup> However the CFP User Guide (EC, 2009b) suggests that 40% of EU's catches come from both reciprocal and FPA fishing agreements and 20% from high sea catches. It is possible that other estimates quoted in the report do not include the reciprocal agreement with Norway that is highly significant in its contribution to EU catches.

### 1.2.3 Joint ventures & private agreements

Joint ventures exist where a vessel operates under a coastal state flag but there is a high degree of EU ownership. In some cases vessels that were previously EU flagged have 're-flagged' to the coastal state. Different countries have different rules on the % national ownership that is required for joint ventures. There are currently around 400 EU joint-venture vessels (Box 1). These vessels are not required to operate under a FPA and if flagged to another country and also do not need to adhere to EU CFP rules and regulations. Joint ventures are however relevant to the discussion because i) it is a key route through which EU fishing companies have an impact on international fisheries governance and ii) the EU has in the past given financial incentives for joint ventures or 're-flagging' and are considering this again within the next reform. The distribution of vessels under joint ventures is summarised in Box 1. ,

Private agreements are those where EU flagged vessels have private agreements to access a coastal states EEZ because there is no FPA in place for this country. However vessels operating under private agreements are still required to adhere to CFP rules and regulations. Box 2 gives an estimate of current private agreements. There is currently no strict obligation for Member States to inform the Commission of these agreements although this may change under future regulations.

#### Box 1 Joint venture vessels by major geographical area

**West Africa:** 128 vessels mainly registered to Morocco and Senegal

**Southern Africa:** 109 units mainly based in Namibia (46 units); Mozambique (42 units) and Angola (20 units)

**South America:** 123 vessels primarily in Argentina (62 units), Chile (19 units) and the Falkland Islands (18 units)

**Others:** Australia (11 units); Seychelles (7 units); Russia (1)

Source: EC, 2009d

#### Box 2 Private agreements (presumed to have been concluded)

**West Africa:**

Tuna seiners – Benin, Congo, Ghana, Equatorial Guinea, Nigeria, Liberia

Pole & line tuna – Senegal, Guinea, Mauritania, Cape Verde

Trawl – Gambia, Congo, Nigeria, Sierra Leone

**Southern Africa:**

Long-line tuna – Namibia, Angola

Trawlers – Angola

**East Africa:**

Tuna seiners – Somalia, Kenya and Tanzania

**North Africa:**

Mediterranean seiners – Libya

**South America:**

Tuna seiners – Ecuador, Columbia

Long line – Brazil

**Others:**

Trawl – Falklands

Source: EC, 2009d

### 1.2.4 Description of most active fleets

The most active external fleets and their geographic area are described below:

## ***Tropical tuna purse seiners***

The tropical tuna purse seiners represent the largest segment of the fleet in terms of power and represent a quarter of the external fleets' GT. These fleets are mainly targeting yellowfin, skipjack tuna, albacore and big-eyed tuna for the canned fish processing industry either within ACP or EU countries. These fleets operate within the Indian Ocean, Atlantic Ocean (and in a few cases the Eastern & Western Central Pacific Ocean). They fish both within high-seas areas and in the EEZs of coastal states where the EU has fishing agreements or under private agreements. Catches of tuna under the fishing agreements amounts to around 25% of this fleet's catches (EC, 2009d). There is a small pole and line tuna fleet segment operating through FPAs and private agreements in Guinea, Mauritania, Cape Verde and Senegal.

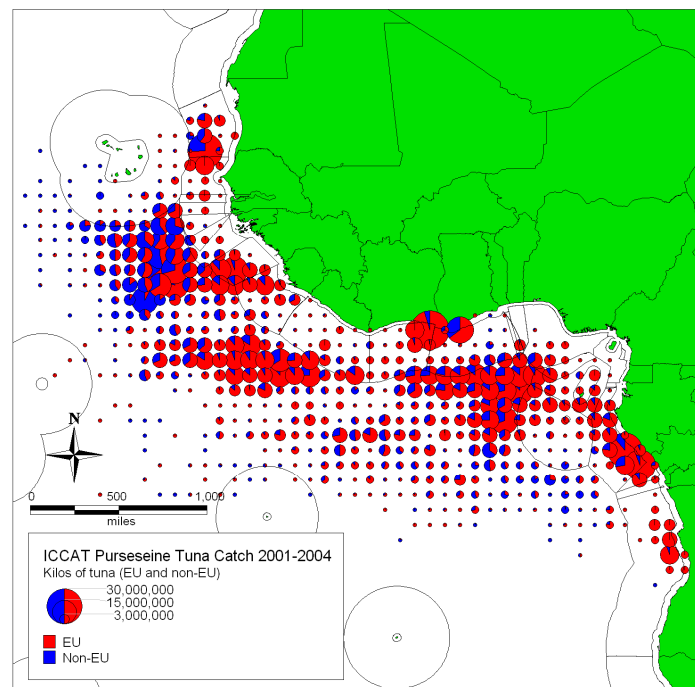
### *Indian Ocean*

According to IOTC data the EU dominates the purse seine tuna fishery in the Indian Ocean targeting catching between 50-75% in most areas (2001-2004 data: MRAG, 2007), but only catch 1%<sup>3</sup> of long-line caught tuna which is dominated by fleets from Japan and Taiwan.

### *Atlantic Ocean*

The EU fleet also takes around 75% of purse seine catches in ICCAT waters (MRAG, 2007) but only 29% of long line catches which again is dominated by Japanese, Taiwanese and Korean fleets.

**Figure 2 ICCAT Purse Seine Tuna Catch 2001–2004**



Source: MRAG, 2007

### *Pacific Ocean*

In contrast to the other two oceans, EU tuna fleets have relatively low levels of activity in the Pacific although a number of FPAs have been signed in this area recently (e.g. Solomon

<sup>3</sup> However long-line tuna fleets operating from La Reunion were known not to report to the IOTC during this period (MRAG, 2007)

Islands, Micronesia, Kiribati), offering the opportunity for expansion of the EU DWF in this area.

### **Trawlers**

Trawlers operating in the North Atlantic Ocean (81 bottom trawlers and 9 pelagic trawlers) also represent over a quarter of GT of the external fleet (27%). This is the only area (excluding Greenland within the Fisheries Partnership Agreement framework) where the EU still has mixed agreements – i.e. those that allow access to demersal and small-pelagic stocks in addition to large pelagic (tuna).

Trawlers operating off the West Africa make up 19% of GT (154 bottom trawlers targeting octopus, prawns and hake plus 12 pelagic trawlers targeting small pelagics such as *sardinella* and horse mackerel). While the pelagic fleet is much smaller it contributes to 82% of catch in terms of volumes. These trawlers mainly operate through Fisheries Partnership Agreements (e.g. Mauritania, Guinea Bissau and Morocco) and also through private agreements for example in the Gambia and Sierra Leone.

The EU bottom trawl fleet is significant within the EEZ's of West African countries, for example in 2004 the EU owned 53% of shrimp trawlers operating in Mauritanian waters. However the EU only represents 15-20% of the pelagic fleet within Mauritania's EEZ which is also made up by vessels operating under Russian and Ukrainian flags.

### **Surface long-lines**

This fleet represents 15% in terms of GT of the external fleets and is made up of 269 vessels targeting sword-fish and sharks and operating within the South Atlantic, Indian and Pacific Oceans. They often operate out of ports within overseas territories.

### **Other fleets**

Other fleets include the Mediterranean blue fin tuna fleet that also operate in community and third country waters (e.g. Libya under private agreements); and the South-West Atlantic trawl fisheries (targeting octopus and hake within water of the Falklands, Argentina and Uruguay).

### **Overseas territories fleets**

In addition to this there are also the fleets owned by overseas territories belonging to member states. For example both France and UK have overseas territories or departments in the Indian Ocean (UK – British Indian Ocean Territory; France – La Reunion). UK, France and Spain also have overseas territories within the Atlantic.

#### **1.2.4.1 Other external fleets**

There are a number of other countries who have external fleets operating both on the high seas and within countries' EEZs with licenses. For example Japan, Taiwan, South Korea and China all have extensive fleets. Unlike the EU these licenses are held between private fishing associations and third countries (although they may also 'invest' in development) (Standing, 2009). There is considerably less public information available on other DWFs.

## 1.3 Common Fisheries Policy: external dimension

### 1.3.1 Common Fisheries Policy

The EU's Common Fisheries Policy (CFP) provides the framework for the management of fisheries both within EU waters ('Community waters'), and of EU vessels outside EU waters ('international waters'). The CFP was formally established in 1983 through Council Regulation (EEC) No 170/83 of 25 January 1983.

The main elements of the CFP, as described within the scope of the new basic regulation of 2002<sup>4</sup>, include:

- **Conservation:** technical measures to control fishing pressure i.e. TAC, effort controls, gear specifications;
- **Environment:** measures to limit environmental impacts e.g. reducing by-catch, discards and destructive fishing techniques;
- **Access/fleet capacity:** conditions of access to waters and resources;
- **Control and enforcement:** coordinate and ensure application of national enforcement;
- **Structural policy:** financial element of the CFP currently provided under the European Fisheries Fund (EFF);
- **Aquaculture:** guided by 'a strategy for the sustainable development of European aquaculture' (2002)
- **Common organisation of the markets:** establishing balance between supply and demand through common marketing measures, production organisations, price support and trade regimes;
- **International relations:** EU relations within international and third-country waters through fishing agreements, regional organisations and international agreements.

Although the majority of the CFP covers the management of EU vessels within community waters, it also covers 'international relations' also known as the external dimension. This covers both EU vessel operations in waters outside community waters (i.e. within third country and international waters) and the EU engagement with international fisheries management (i.e. through international and regional bodies).

### 1.3.2 External policy objectives

The current EU External Fisheries Policy (EC, 2005) that governs the international relations of the CFP has two main objectives:

- To *maintain the presence of the EU fleet in third country waters* (while contributing to sustainable and viable fishing activities in those waters); and
- To *ensure the supply of fisheries products to the community market* while respecting quality and hygiene standards and market rules.

However, since the last reform of the CFP two additional objectives have been added to:

- Improve world *governance* of all matters affecting the fisheries sector (through effective implementation of the existing legal framework and through promotion of regional cooperation mechanisms);
- Implement an approach based on *partnership*, particularly with developing countries that have concluded or are ready to conclude Community bilateral agreements involving a financial contribution.

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<sup>4</sup> Council Regulation (EC) No. 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy

The EU's external fisheries policy has three elements explained in more detail below:

1. **Bilateral level:** fisheries agreements with third countries
2. **International and regional level:** to engage with regional organisations that govern the high seas and at international level through multi-lateral agreements.
3. **Community level:** to ensure coherence of all policies concerned

### 1.3.3 Bilateral level: Fisheries Access Agreements

One of the key tools that the EU uses to govern the external dimension of the CFP is fishing access agreements. There are two types of agreements: reciprocal agreements that the EU agrees with other major developed fishing nations such as Norway (Box 4), and access agreements with developing countries known as Fisheries Partnership Agreements (FPAs). These are bilateral agreements signed by the EU with third countries that provide the legal framework for fleets to access different countries' Economic Exclusive Zones (EEZs) (Box 3).

#### Box 3 Legal basis of EU Fishing Agreements

Access agreements are internationally legal through the 1982 United Nations Convention on the Law of the Sea (UNCLOS) which established a 200nm zone which countries could claim as their 'Exclusive Economic Zones' (EEZ). Distant water fleets already operated in international waters (e.g. fleets from Russia, Japan, Spain) and the introduction of UNCLOS required bilateral agreements to pay for access to fisheries resources based on the premise that they were 'surplus stocks' not targeted by the coastal state. Surplus stocks are those that are deemed to be beyond the harvesting means of the coastal state or a stock that is not entirely used by a coastal state.

#### Box 4 EU reciprocal agreements with developed fishing nations

The EU has a number of fishing agreements with developed fishing nations. These bilateral agreements are based on the principle of reciprocity with takes the form of access to EU waters and stocks for operators from the partner country for access to the partner's territorial waters. For example, the EU – Norway agreement goes back to 1981 and provides shared access to around 750,000 tonnes of fish covering stocks such as cod, haddock, saithe, whiting, plaice, mackerel and herring. The EU has agreements with other countries including Iceland, Faroe Islands and Argentina.

### *Fishing Partnership Agreements (FPAs)*

This report focuses on FPAs as it is with these countries where there are major concerns with poor fisheries governance. Current FPAs are listed in Table 1 and a brief history given in Box 5. DG Mare has an overall budget of €150 million/year for FPAs which accounts for 15.3% of its budget. Most of the current agreements only allow access to tuna resources, but there are also the so called 'mixed' agreements that allow access to demersal (e.g. shrimp, cephalopods, hake) and pelagic species (sardine, horse mackerel). The only mixed agreements are with Mauritania, Greenland, Morocco and Guinea Bissau and are the more expensive types of agreements.

#### Box 5 History of EU FPAs

The EU's first fisheries agreement was with Senegal in 1979. The number of agreements rose sharply in the 1980s (Figure 2-1), following the ratification of UNCLOS and also the accession of Spain and Portugal to the EU in 1986, who brought with them a number of bilateral agreements with other countries, particularly in West Africa. The number of agreements peaked in the early 1990s, but then started to decline as several agreements were cancelled or not renewed in the 1990s (e.g. Mozambique, Tanzania, Gambia, Morocco). In recent years, despite the loss of previously important agreements in Senegal and Angola, the number of agreements has increased, due mainly to the new agreements being signed in the Pacific. In January 2007, 84% of agreements (16 out of 19) were with developing countries.



**Table 1 Current Fisheries Partnership Agreements**

Ocean	Country	Species	Date	Value/year € <sup>1</sup>
<b>Atlantic</b>	Greenland	Mixed	2007-2012	15,847,244
	Morocco	Mixed	2007-2011	36,100,000
	Mauritania	Mixed	2008-2012	76,250,000
	Cape Verde	Tuna	2007-2012	385,000
	Guinea Bissau	Mixed	2007-2011	7,500,000
	Guinea	Tuna	2009-2012 [closed] <sup>2</sup>	1,050,000
	Ivory Coast	Tuna	2007-2013	595,000
	Sao Tome	Tuna	2006-2010	663,000
	Gabon	Tuna	2005-2011	860,000
<b>Indian Ocean</b>	Seychelles	Tuna	2005-2011	5,355,000
	Madagascar	Tuna	2007-2012	1,197,000
	Mozambique	Tuna	2007-2011	900,000
	Comoros Island	Tuna	2005-2010	390,000
<b>Pacific</b>	Micronesia	Tuna	2007-2010	559,000
	Kiribati	Tuna	2006-2012	478,000
	Solomon	Tuna	2007-2010	400,000

Source: [http://ec.europa.eu/fisheries/cfp/external\\_relations/bilateral\\_agreements\\_en.htm](http://ec.europa.eu/fisheries/cfp/external_relations/bilateral_agreements_en.htm)

<sup>1</sup> Average annual amount

<sup>2</sup> EU repealed agreement following events of 28 September 2009, when Government forces opened fire on protesting crowds resulting in over 150 deaths.

### 1.3.3.1 Reform of FPAs

The EU has long been criticized for the fishing agreements it negotiations on behalf of member states with claims that they export EU's over capacity, are not based on effective stock assessments and lack coherence with development and environmental policies.

In response to these criticisms, and as part of the international dimension of 2002 CFP reform process, the Commission produced a communication outlining a framework for Fisheries Partnership Agreements (FPAs) (EC, 2002c, 637). The overall objective of the new agreements was to move from a situation of 'pay, fish and go' to improved third country fisheries governance within partnership frameworks.

The 2004 Council Conclusions<sup>5</sup> on the communication on fisheries agreements with third parties highlighted the following issues that the new FPAs should address:

- contribute towards **rational and sustainable exploitation of the surplus** of coastal States' marine resources, in particular by preventing the overfishing of stocks which are of interest for local people; in this context due account will be taken of the coastal States' priorities in favour of its private national sector;
- **improve scientific and technical knowledge** of the fisheries in question, taking into account the existing and necessary work in the field carried out at the appropriate regional level and taking into consideration the likely impact of fishing on the environment;
- contribute towards **combating illegal, unregulated and unreported fishing**, in particular by stepping up in a non-discriminatory fashion the management, control and follow-up measures for fishing operations;
- contribute towards **strategies for the sustainable management of fisheries** as defined by the coastal State, in particular by taking account of the development programmes

<sup>5</sup> European Council, 2004: Council conclusions on fisheries partnership agreements with third countries, 2599th Council Meeting Agriculture and Fisheries Brussels, 19 July 2004 (Item 15).

elaborated at national and/or regional level with Community assistance in accordance with cooperation or association agreements;

- facilitate the **integration of developing coastal States into the global economy**, inter alia by promoting fair conditions of employment between the employees of the sector and by encouraging the creation of an environment that is favourable to private investment and to the development of a dynamic, viable and competitive private sector, notably by a framework supporting European investments and the transfer of technology and vessels; and,
- **foster better global governance of fisheries at financial and political level**, in particular by strengthening the capacity building of coastal States and by the fight against corruption.

The major aspects that changed from the previous 'fishing access agreements' to 'fisheries partnership agreements' following the reform were:

- *Financial support for Sector reform*: The financial component was split into two parts including an access element and Sectoral reform element;
- *Inclusion of an exclusivity clause*: inclusion of a clause to make it illegal for EU vessels to have private agreements with coastal states where an EU fishing agreement is in place.
- *Promotion of Joint Ventures*: to encourage EU investment within coastal states fisheries sectors (both fishing and processing)
- *Management by Joint committee*: Joint committees were put in place to monitor the agreements

### 1.3.4 Regional and international level

#### 1.3.4.1 Regional Fisheries Management Organisations (RFMOs)

The FAO defines Regional Fisheries Management Organisations as: '*intergovernmental fisheries organisations or arrangements, as appropriate that have the competence to establish fisheries conservation and management measures*' (FAO, IPOA-IUU, 2001).

UNCLOS sets out free rights to fish on high seas but also sets out obligations to cooperation to maintain conservation and sustainability of resources. The role of RFMOs to achieve this was further strengthened by the United Nations Fish Stocks Agreement (UNFSA) which seeks to establish conservation and management measures both inside and outside areas of national jurisdiction.

#### **EU RFMO membership**

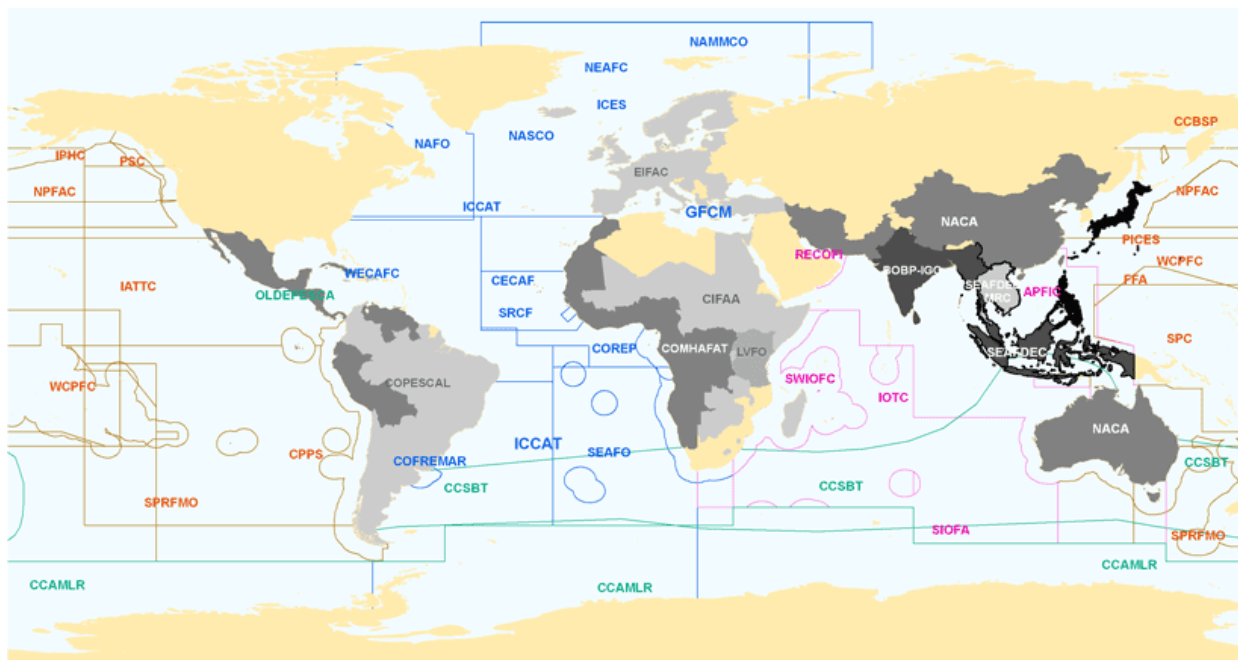
There are currently 38 regional fisheries bodies worldwide: 20 advisory bodies and 18 RFMOs, which in some instances cover stocks on the high seas or also those that straddle both the high seas individual countries' EEZs (Figure 3). The European Union is currently a contracting party to 11 RFMOs, including five tuna RFMOs (Table 2), and regional fisheries organisations that have weaker powers such as CECAF (Fisheries Committee for the Eastern Central Atlantic) and WECAFC (Western Central Atlantic Fisheries Commission).

In most cases the EU acts as a contracting party for all Member States although individual countries will also have a representative if they have overseas territories in these waters. For instance both UK and France are represented in addition to the EU in both ICCAT and IOTC.

**Table 2 RMFOs and EU membership**

RFMO		Type	EU member
<b>Mediterranean</b>			
GFCM	General Fisheries Council for the Mediterranean	Tuna	✓
<b>Atlantic Ocean</b>			
NAFO	Northwest Atlantic Fisheries Organisation		✓
NEAFC	North-East Atlantic Fisheries Convention		✓
NASCO	North Atlantic Salmon Conservation Organisation		✓
ICCAT	International Convention for the Conservation of Atlantic Tuna	Tuna	✓
SEAFO	South East Atlantic Fisheries Organisation		✓
<b>Indian Ocean</b>			
IOTC	Indian Ocean Tuna Commission	Tuna	✓
SIOFA	South Indian Ocean Fisheries Agreement		✓
CCSBT	Convention for the Conservation of Southern Bluefin Tuna	Tuna	✓
<b>Pacific</b>			
WCPFC	Western and Central Pacific Fisheries Commission		✓
PSC	Pacific Salmon Commission		
NPAFC	North Pacific Anadromous Fish Commission		
IPHC	International Pacific Halibut Commission		
IATTC	Inter-American Tropical Tuna Commission	Tuna	
<b>Bering Sea</b>			
CCBSP	Convention of the Conservation and Management of the Pollock Resources in the Central Bering Sea.		
<b>Antarctic</b>			
CCAMLR	Convention on the Conservation of Antarctic Marine Living Resources		✓
<b>General</b>			
IWF	International Whaling Commission		

**Figure 3 Illustration of RFMO distribution**



Source: <http://www.fao.org/geonetwork/srv/en/>

## ***EU RFMO policy***

The EU's strategy for Regional Fisheries Organisations, as set out in the EU external fisheries policy (EC, 2005), is to:

- Maintain coherence with the CFP and its aim for the sustainable management of fisheries resources;
- Defend long term interests of industry and the employment it creates;
- Promote action against IUU, in particular control measures.

The EU's engagement with RFMOs is also an objective of the Integrated Maritime Policy (IMP) (see Section 1.5.1.2)

### ***1.3.4.2 EU engagement within international organisations***

The CFP external policy (EC, 2005) states that the foundation of the EU's engagement the bilateral and regional levels is within the principles of international fisheries governance laid down in the United National Convention on the Law of the Sea (UNCLOS).

Other important legal texts include the 1995 Agreement on Straddling and Migratory Stocks; and the 1993 FAO Agreement to Promote Compliance with International Conservation and Management measures by Fishing Vessels on the High Seas.

Important voluntary agreements include the FAO Code of Conduct for Responsible Fishing (1995) and related International Action Plans (e.g. International Action Plan on IUU).

The EU is member of a number of important international organisations that help to coordinate or give advice on maritime governance. These include:

- United National Convention on the Law of the Sea (UNCLOS) which established a 200nm zone which countries could claim as their 'Exclusive Economic Zones' (EEZ).
- The Food and Agriculture Organization of the United Nations (FAO) which has provided the basis for fisheries management through the Code of Conduct for Responsible Fishing and has published guidelines for marine capture fisheries eco-labels;
- Organisation for Economic Cooperation and Development which takes an active role in fisheries issues and its interaction with policy coherence
- International Maritime Organisation: which advises on working conditions within the maritime sector

As part of the Integrated Maritime Policy (IMP) (see Section 1.5.1.2) the EU has committed to enhance its participation within international and regional organisations such as UNCLOS; FAO and IMO at the international level; and Regional Fisheries Management Organisations (RFMO) and the OECD at the regional level.

### **1.3.5 Community level: Internal policies that affect the external dimension**

At the community level, there are internal CFP measures that have linkages with international fisheries governance.

Table 3 illustrates measures within the CFP (as outlined within the new basic regulation EC, 2002a) and indicates those that have a major linkage to international fisheries governance. Although the report will focus on the external policy, it will also touch on CFP internal policies that are considered to have a significant link:

- **Control and enforcement:** considered in relation to control of the external fleet

- **Structural policy:** considered in relation to subsidies to the external fleet mainly through FPAs
- **Aquaculture:** considered in relation to its potential inclusion in future FPAs and impacts on international fisheries (see Section 3.4.2).

**Table 3 CFP measures that have a major link to international fisheries governance**

External/Internal	CFP measures	Major linkages to international fisheries governance	Section of Report
<b>External policy</b>	<b>International relations</b>	1) Fishing access agreements: - Reciprocal access agreements - Fisheries Partnership Agreements	Section 3.1
		2) EU engagement with RFMOs	Section 3.2
		3) EU engagement with international agreements and institutions	Section 3.3 [dealt with only briefly]
<b>CFP Internal Policies</b>	<b>Control and enforcement</b>	<i>Enforcement should apply to EU fleets within and outside of community waters</i>	Section 3.4.
	<b>Structural policy</b>	<i>Funding to fleet also open to EU external fleet and can be considered to subsidise over-capacity</i>	<i>Within Section 3.1.</i>
	<b>Aquaculture</b>	<i>Under proposed reforms, FPAs could include access to coastal areas to EU industry for aquaculture activities</i>	Section 3.5
	<b>Environment</b>	<i>Standards on by-catch/discards mainly apply to internal waters, however there is some debate on whether 'equivalent' standards should also apply to external waters.</i>	Briefly covered in Section 3.1
	Conservation measures	<i>TACs, effort controls refer only to internal waters</i>	
	Access	<i>System of assigning access within internal waters to maintain relative stability</i>	
	Common organisation of the markets	<i>Some COM measures can override trade policies when a shortage of supply of raw material for EU processors (i.e. provide quotas at 0,4 or 6%) but not considered significant in this context.</i>	

## 1.4 Common Fisheries Policy Reform

### 1.4.1 CFP Reform cycle

#### **Previous reforms**

There is a process for the CFP to undergo review and reform every 10 years (i.e. 1992, 2002 and 2012). The first reform took place in 1992 and attempted to address the serious

imbalance between fishing capacity and stock decline, but by the late 1990s it was clear this was not achieving its aim.

A further reform in 2002 led to a new basic regulation with more specific objectives for sustainable and responsible fishing and more emphasis on longer-term recovery plans (rather than the annual cycle of management). The 2002 reform also led to changes in structural assistance (entry-exit regime) to reduce capacity and introduced Regional Advisory Committees to provide a channel for stakeholder input.

The external dimension of the CFP also underwent a reform under the 2002 process. This did not involve a wholesale review, but did result in changes from fishing access agreements to Fisheries Partnership Agreements (FPAs), commitment to take action against Illegal Unreported and Illegal Fishing, renewed support for RMFOs and plans for an action plan to improve evaluations of surplus stocks available to the EU as outlined in the commission's 2002 roadmap for the CFP (EC, 2002d). The last of these actions is the only one still pending.

### ***Failings of the CFP***

Despite this reform cycle, the CFP is considered to be failing. Overcapacity within community waters is still a major issue, and the majority of European fish stocks continue to be overfished (88% of stocks are being fished beyond MSY) (EC, 2009a). As a consequence, economic performance is generally low and natural resources are becoming ever more depleted, leading to both public and political concern.

Outside of EU waters, the CFP has also been criticised as simply 'exporting' Europe's overcapacity to third countries' waters and the high seas while also undermining development aims. There have also been concerns that EU's external fisheries policy is incoherent with development aims. The Green Paper on the latest CFP reform highlights that while the framework of Fisheries Partnership Agreements (FPAs) has supported third country fisheries sector '*this has not been in a way to have a significant impact on the fight against poverty and the achievement of the Millennium Development Goals (MDGs)*' (EC, 2009a).

### ***2012 Reform***

A new reform process is therefore underway with the publication of another Green Paper in April 2009 setting out an ambitious vision for European fisheries by 2020. Because the 2002 reform was considered largely piecemeal and did not achieve an overarching change in emphasis (EC, 2009a), the EU has greater plans for the 2012 reform and have therefore started the consultation process early in 2009.

### ***Consultation***

Following from the Green Paper the EU invited comments from a wide range of stakeholders and contributions are publically available on the DG Mare website<sup>6</sup>. Responses include those from Member States, industry and NGOs. There have also been formal responses made by actors outside the EU specifically on the external dimension. For example the ACP Secretariat has submitted a formal response on behalf of African, Caribbean and Pacific states (ACP, 2009) and there has been a submission by a group of artisanal fishing organisations within West Africa (The Nouakchott Declaration, 2009).

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<sup>6</sup> [http://ec.europa.eu/fisheries/reform/consultation/received/index\\_en.htm](http://ec.europa.eu/fisheries/reform/consultation/received/index_en.htm)

## 1.4.2 Reform of the external dimension

The new CFP Green Paper (EC, 2009a) sets out a vision for CFP external policy as follows:

*'Outside Europe, the EU continues to work to promote good maritime governance and responsible fishing worldwide. Agreements with third countries now give higher priority to enhancing European contribution to local fisheries development, investment and good maritime governance. New regional programmes to improve the control and scientific monitoring of fish stocks are in place and involve most of the world's fishing nations.'*

There are also a number of specific proposals related to the external dimension of the CFP that are outlined within the Green Paper and have since been elaborated on by DG Mare through a number of fora (for example a seminar held on FPAs on 18<sup>th</sup> March 2010 and a seminar on the external dimension of the CFP on 28<sup>th</sup> April 2010):

### 1.4.2.1 Review objectives of the external policy

The fundamental objectives of the external policy are questioned, asking whether the external policy should have the same core objective of the CFP i.e.: 'to promote responsible and sustainable fisheries'.

It is suggested that other objectives that currently guide the external dimension such as maintaining the presence of an EU fleet internationally and ensuring this fleet supply the EU market, may be less relevant today. This is highlighted by the EU's increasing dependence on imports.

### 1.4.2.2 Reform of FPAs

While the FPAs are considered to be a considerable improvement from the traditional fisheries agreements based on the principle of 'pay, fish and go', it is also recognised that there are still problems with this approach. On the one hand they are administratively heavy for the EU to negotiate and on the other while the EU considers them to have contributed to the development of the fisheries sector in third countries they have not had a significant impact on poverty or development.

DG Mare recently presented preliminary ideas for reform of the FPAs within the new Common Fisheries Policy (2012)<sup>7</sup>.

The main justifications for reform are:

- To rationalise, modernise and simplify agreements (reduce bureaucratic burden)
- Ensure better coherence of EU policies (environment, trade, development and external relations)

There is a proposal for the agreements to evolve into *Fisheries Governance Partnership Agreements* (FGPAs) where the EU would pay for access within an agreed governance framework. However it is not the intention that FGPAs replace other development cooperation and it will be necessary to mobilise other resources and ensure coherence. The EU would pay a lower proportion of the access cost (initial suggestion of 50%) and the licence fees would be fixed rather than being linked to catch volumes. There is also an overall aim to simplify and standardise the agreements.

Other proposals on FPAs include:

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<sup>7</sup> DG Mare presentation, FPA seminar 18th March

- Separate access payment and payment for an agreed governance framework;
- A focus on tuna agreements (but consider other pelagic resources in the future);
- Phase out mixed agreements (but retain Mauritania, Morocco, Guinea Bissau, and Greenland<sup>8</sup>);
- Introduce a clause on human rights and democracy;
- Financial incentives to promote Joint Ventures (re-flagging of EU vessels) to promote local development.

#### **1.4.2.3 EU engagement with RFMOs**

The principle that the presence of EU vessels worldwide supports EU legitimacy and influence in Regional Fisheries Management Organisations is questioned and it is suggested that the EU can have a role simply due to its importance as the largest importer of fish. The importance of RFMOs is stressed together with their commitment to adopt stringent conservation and management measures and ensuring compliance through effective control.

#### **1.4.2.4 Regional approach**

The EU has proposed strengthening the regional approach to support fisheries governance. This means engaging with RFMOs (as above) but also providing specific support for elements that are often highlighted as important in the context of FPAs but need to be dealt with at a regional level to have significant impact i.e.:

- Stock assessments and scientific research on migratory or shared stocks;
- Action against IUU;
- Improved MCS.

DG Mare is already supporting such an approach through a regional MCS project in the Southern Indian Ocean (and through holding regional seminars on the IUU regulation) and would like to continue within other oceans. However, they are currently not planning to agree fishing access agreements on a regional level (as this would remain bilateral).

#### **1.4.2.5 EU role in international fora**

The continued role of the EU in international fora through the UN and FAO is supported.

#### **1.4.2.6 Policy coherence**

Policy coherence is highlighted, in particular ensuring coherence with EU development and environmental policies. There is also the recognition that external fisheries policies need to better take into account food security strategies of third countries.

#### **1.4.2.7 Proposals on additional elements that have implications on the external dimension**

In addition to specific proposals on the external dimension there are other proposals that have implications for third countries.

#### **Rights based approaches**

Rights based approaches have been supported in the Green Paper as an option for reform, whereby transferable rights as a more efficient and less expensive way to reduce

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<sup>8</sup> These are currently the only mixed FPAs



overcapacity along with safeguards to avoid excessive concentration of ownership or negative affects on small-scale and coastal fisheries (EC, 2009a).

This is suggested as a means to get the industry more involved in management. For instance public authorities could set catch limits or maximum by-catch and give the industry the flexibility to develop the best solutions to achieve this (rather than setting technical measures such as minimum net sizes etc). (EC, 2009a)

The discussion on new approaches to achieve sustainable fisheries has focused to date on the internal EU waters and has not yet been extended to consideration on whether the EU should be promoting such approaches within the external dimension.

### ***Encouraging trade of fish from sustainable sources (certification/standards)***

Trade regimes are suggested as having a role to play in promoting trade in fisheries products that come from sustainably managed fisheries, for example through the use of certification schemes. This would have significant implications for third countries that import fisheries products to the EU.

### ***Reducing subsidies***

Reducing subsidies is considered an aim of the reform but will also be a likely outcome of WTO negotiations. A reduction in subsidies within the FPA context has been discussed in terms of increased the ship-owner contribution to access. The external fleet may also be affected by a reduction in general subsidies i.e. on fleet modernisation or fuel payments.

### ***Improving control***

The EU recognises that control of fishing activities has generally been weak, penalties have not been a deterrent and inspections not frequent enough to ensure compliance. Improving control through the Control Regulation should apply to EU fleets operating both within and outside EU waters.

### ***Safeguards for third country small-scale fisheries***

There is recognition of a need to recognise the social/environmental benefits of small-scale and coastal fisheries in any new approach, and one way of doing this could be specific safeguards for smaller-scale fleets. Market allocations could still be used so that quotas were allocated to individuals or through collective schemes at the small-scale level.

While these proposals focus on small-scale fisheries within European waters, such principles of recognising the importance of small-scale fisheries could also be applied to the EU's engagement with third countries' fisheries.

### ***Integrating the CFP into the broader maritime context***

The Green paper suggests that the CFP must be integrated into the broader maritime context taking into consideration the ecosystem approach; climate change; and sustainable development in coastal regions. Again this is an aspect that could be applied to the EU's engagement with third countries and RFMOs governing the high seas.

### ***Scientific data***

The EU poses the question, 'How can conditions be put in place to produce high-quality scientific research regarding fisheries in the future'. This is a valid question also to ask of international fisheries outside of community waters.

## 1.5 Wider policy context

### 1.5.1 Development and policy coherence

The EU is committed to achieving policy coherence for development (PCD) as indicated within the CFP Green Paper (EC, 2009a). However, as has been highlighted for many years EU policy outside of development can have unintended consequence on third countries. In some cases policies can be incoherent with the overall aim of achieving the Millennium Development Goals (MDGs) and halving poverty by 2015. In recognition of this, in 2005 the EU set objectives to achieve PCD in twelve policy areas (of which fisheries is one).

The 2009 review on progress of achieving PCD looks in detail at EU FPAs; IUU Fishing; RFMOs & International Agreements; and Economic Partnership Agreements. It identified the following outstanding issues related to fisheries, including the need to:

- Reinforce the sustainability of fisheries in particular by improving stock assessments and by making them more transparent;
- Improve market access to the EU for fisheries products from developing countries, including through more flexible rules of origin (RoO);
- Support the formulation and implementation of developing countries' fisheries policies;
- Support and cooperate with developing countries in the fight against IUU fishing; and
- Move towards regional cooperation and enhance capacity of regional organisations.

### 1.5.2 Environment: EU Integrated Maritime Policy & International dimension

In 2007, the EU set out its vision for an Integrated Maritime Policy (IMP) with its aim to promote sustainable growth of both the maritime economy and coastal regions. It was recognised that – since marine ecosystems and maritime economies transcend national boundaries – the EU would need to take an integrated approach with international cooperation to succeed in this aim<sup>9</sup>.

In 2009, the EU therefore published a communication on: Developing the international dimension of the IMP of the EU. This outlines ways to ensure the EU can exert stronger influence on the international arena on maritime affairs in order to strengthen global governance of the oceans and seas. The key elements of the strategy for the international dimension of the IMP are given include:

- **International governance based on the rule of law:** The main objective is to achieve global membership of UNCLOS and suggests providing support for developing countries and using trade mechanisms (e.g. the General Systems of Preferences foreseen for 2015) as a lever to achieve this.
- **Protection of marine biodiversity, including the high seas:** The EU advocates an integrated approach to the protection and sustainable use of marine biodiversity and suggests the development of further legal instruments under UNCLOS to deal with marine protected areas within the high seas. Fishing activities are recognised as having a major impact on marine biodiversity.
- **Move oceans and seas further up the climate change agenda:** Actions suggested here including taking action to reduce climate change impacts on oceans and seas; contributing to adaptation and the use of oceans in mitigation strategies;

<sup>9</sup> [http://ec.europa.eu/maritimeaffairs/international\\_dimension\\_en.html](http://ec.europa.eu/maritimeaffairs/international_dimension_en.html)

- **Ensure maritime safety and freedom of navigation:** strengthen actions at the international level to ensure freedom, safety and security of navigation, also recognising that to combat piracy it is necessary to address root causes including the rule of law;
- **Promote decent working conditions within maritime sectors:** promote dialogue with the International Labour Organisation to promote decent working conditions which is both a competition (level playing field) and social justice issue;
- **Enhance research to understand global seas better:** continue research efforts to explore potentials and problems of the sea.

As part of the implementation of this strategy the EU proposes to enhance participation within international and regional organisations such as UNCLOS; FAO and IMO at the international level; and Regional Fisheries Management Organisations (RFMO) and the OECD at the regional level.

The IMP has a key aim of improving international maritime governance, and improved fisheries governance could be considered a sub-set of this. However, while the international dimension of the IMP covers a number of activities that overlap with fisheries sector, such as a strengthened role within RFMOs, it does not go into detail on how it will interact with the CFP external fisheries dimension, and EU's engagement on *fisheries issues* within RFMOs and bilateral fisheries access agreements.

### 1.5.3 Trade

Trade mechanisms are being increasingly used by the EU to promote sustainable fisheries at the international level. In particular the EU's new IUU (Illegal, Unreported and Unregulated fishing) regulation aims to prevent European market access to illegally caught fish, and the EU is using its new generation regional trade agreements (Economic Partnership Agreements, EPAs) to strengthen development. These issues are dealt with in more detail in Section 3.5.2.

## **2 Good International Fisheries Governance**

### **2.1 What do we mean by good fisheries governance?**

#### **2.1.1 Defining good governance**

Good governance refers to both the overall governance of a state and also specifically good governance of the fisheries sector as a subset of this.

##### ***Good governance***

The World Bank defines governance as the traditions and institutions by which authority in a country is exercised for the common good. This includes (i) the process by which those in authority are selected, monitored and replaced, (ii) the capacity of the government to effectively manage its resources and implement sound policies, and (iii) the respect of citizens and the state for the institutions that govern economic and social interactions among them<sup>10</sup>.

Good governance debates touch upon a wide range of questions, including the accountability and transparency of government action, participation of stakeholders in the decision process and administrative levels of government and the overall effectiveness of management policies. The World Bank has defined a series of indicators for good governance that cover themes of: voice and accountability; political stability; government effectiveness; regulatory quality; rule of law and lack of corruption.

##### ***Good fisheries governance***

Fisheries governance has been defined as the sum of the legal, social, economic and political arrangements used to manage fisheries. It has international, national and local dimensions and includes legally binding rules as well as customary social arrangements (FAO, 2001).

Good governance in fisheries is essentially effective policies, institutions and processes related to fisheries that deliver successful fisheries outcomes. These policies, institutions and processes need to be transparent, accountable to civil society, free of corruption, and backed up by effective legislation and enforcement. This is often particularly lacking in developing countries where capacity for governance as a whole is weak.

In contrast bad governance within fisheries is often characterised by a lack of transparency (i.e. limited information on who has access to resources); weak civil society (without the capacity to make government accountable); conflicts of interest (where fisheries officials are directly benefiting from the fishing industry e.g. where they have a stake in joint ventures); bribery (observers or legal framework easily bribed); fraud (theft of licence or aid money) and state capture (contributions to the government that shape policy or give immunity from law enforcement) (Standing, 2010).

The benefit of taking a 'governance perspective' within fisheries is that rather than using costly top-down management to control fisheries, the focus is on using the appropriate institutional structure within the wider economic, political and environmental context that can create incentives for sustainable fisheries (World Bank, 2004). It also directly addresses

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<sup>10</sup> <http://go.worldbank.org/MKOG258V0>

management capacity which needs to be the foundation of successful fisheries outcomes as well as tackling bad governance issues such as corruption that undermine policy objectives.

### ***A working definition of good governance in fisheries***

A potential working definition of good governance is:

*Effective policies, institutions and processes that are transparent, accountable to all stakeholders including civil society, free of corruption, and backed up by effective legislation and enforcement that lead to successful fisheries outcomes characterised by economic, environmental and social sustainability e.g. sustainable wealth creation, sustainable stocks, ecosystem health and support to food security.*

The overriding concern is support for third countries and regional organisations to develop effective fisheries governance and management frameworks and tackle corruption that undermines this. This means frameworks that define the policy objectives and have the institutions and processes in place that allow the achievement of these policies. However it is worth remembering that while we may be able to agree 'overarching principles' of good governance the definition of successful fisheries outcomes will be context specific and different countries will chose different pathways and timescales to achieve this.

### 3 Impacts of the CFP on global fisheries governance

This section looks at the impacts of the CFP policies on global fisheries governance which includes those within the external fisheries policy that are directly linked: FPAs; EU engagement within RFMOs; EU engagement at the International level; and those that have some overlap: Control regulations; Structural policy (discussed in the FPA section) and Aquaculture. Lastly, this section looks at policies outside the CFP that interact with those within fisheries to have a significant impact on global fisheries governance: i.e. Development policy, trade policy and specifically the new IUU regulation to reduce trade in illegal fish.

The scope of this section focuses on where there is poor governance and therefore concentrates on impacts of policies on developing countries contribution to international fisheries governance.

The section is guided by the questions indicated within Box 6.

#### **Box 6 Guiding questions for considering the impact of CFP and related policies on global fisheries governance**

##### **Governance**

- How do CFP external policies affect coastal states and regional institutions ability to develop effective policies institutions and processes (and tackle corruption & transparency) for successful fisheries?

##### **Economics**

- How do CFP external policies affect coastal states and regional institutions ability to generate sustainable wealth from their fisheries?

##### **Environment**

- How do CFP external policies affect sustainable stocks and ecosystem health within coastal states' EEZs and the high seas?

##### **Social**

- How do CFP external policies affect the ability of fish to contribute to national food security and support to small-scale fisheries?

## 3.1 Fisheries Partnership Agreements

FPAs have been questioned at a number of levels and by a number of different actors. The issues have been raised in the media<sup>11</sup>, and international NGOs have been vocal on the impacts of FPAs (e.g. WWF & CFFA) although a number of these are now engaging with the EU on the issues through the Long Distance Regional Advisory Committee (LDRAC). Individual member states have also questioned the agreements driven by public opinion<sup>12</sup> and taken the debate into the European Parliament.

Much has therefore been written on the impacts of EU's FPAs but it is worth considering that this represents only one part of the EU's external fleet activities which is also active on the high seas and within other coastal countries' EEZs through private agreements or Joint Ventures. The EU is only one player of many that have fishing operations in other coastal state EEZs and the high seas (other important DWF include Japan, China, Taiwan, and Russia).

What distinguishes FPAs is that public money is used to support access of the industry to fishing opportunities (in effect subsidising the industry). Therefore the EU needs to be held account in this respect as to whether this money is contributing to good fisheries governance and whether it is consistent with EU's other policies (policy coherence). However, it could be argued that EU public money is also used through Regional Fisheries Management Organisations (RFMOs) to secure EU access on the high seas (see Section 3.2).

This section looks at the environmental, economic and social impacts of FPAs, and then goes on to discuss their interaction with the fisheries governance of coastal states which is the core issue for CFP reform.

### 3.1.1 Economic impacts

FPAs are known to have direct economic benefits to the EU, but there are concerns that they do not promote developing countries' ability to capture a fair share of the value-added or to generate sustainable wealth from their fisheries. They also do not appear to have promoted EU investment in national fishing capacity through joint ventures.

#### ***Benefits of FPAs to the EU***

While the overall EU external fleet contributes 20% to total community catches provides around 12% of fisheries products into the EU market; access under FPAs contributes 8% of community catches and supplies around 400,000 tonnes (3% by volume) and employs 0.4% of the total EC fleet.

FPAs promote access to raw fish for processing and value addition, with the tuna FPAs supporting importing tuna processing facilities (mainly canning) in France, Italy, Spain and Portugal. It is estimated that the EU benefits from €3–4 for every Euro invested for tuna (however this is much lower for mixed agreements estimated around €1.2 for every Euro invested, EC, 2009d). One of the key benefits of the external fleet is a supply of fish that meets EU standards on hygiene, quality and legality.

Supporters of FPAs point out that they provide a legal and transparent framework for the EU's external fleet access into coastal states' EEZs. This is particularly useful to the industry

<sup>11</sup> E.g. <http://news.bbc.co.uk/1/hi/world/africa/1464966.stm>

<sup>12</sup> For example, there has been much debate and questioning of the agreements within the Swedish public (Ylva Engwall, personal communication, 29<sup>th</sup> March 2010)

where there is poor fisheries governance and unstable political climates which make negotiating private agreements difficult and time consuming. The tuna industry also appreciates an extended network of FPA agreements to have better access to migratory species which regularly cross EEZ boundaries (EC, 2009d).

Spain, France and Portugal benefit most from the agreements, although these countries previously had access to third country EEZs through private agreements before they were taken under the EU umbrella.

### ***Generating wealth from the fishery***

FPAs are often favoured by coastal states as they offer guaranteed and predictable budgetary support in the face of an unpredictable and variable resource. However despite this extracted 'resource rent', there are concerns that countries are not achieving maximum (or sustained) wealth from their fisheries because of poor governance and a lack of understanding on the potential of the resource under effective management.

It appears that countries that have not signed fishing agreements are able to capture a greater proportion of the value of their fisheries. It is estimated that under an effective management regime, fisheries should be able to generate rents 50–60% of the final product value<sup>13</sup>. For instance Namibia (which has joint ventures rather than fishing agreements) may capture up to 60% of its potential resource rent (Manning, pers. comm., 2006 cited in MRAG, 2007). It appears that the EU financial payment under an FPA reduces the incentives for countries to get a good handle on their fisheries management. Where a coastal state has an effective management framework fishing agreements do not appear to be necessary for them to generate significant wealth from the resource.

### ***Capture of value added***

One of the current realities is that the coastal state within access agreements often fails to capture a significant portion of the value-added of the resource, so that its contribution to local economic development and related employment is minimal. For example, in 1996, Guinea Bissau received \$8 million in licence fees while the EU vessels alone landed fish in Europe worth \$78 million with final processed value of fish was \$110 million (Kaczynski & Fluharty, 2002 cited in OECD, 2005). It is also estimated that Mauritania only captures 20% of the value-added created from fish caught within its EEZ and under the FPA only 12% of fish caught by EU vessels is processed locally (UNEP, 2007).

Within FPAs there are incentives for local landings but very few of these have been taken up. Where they have, there have been instances where EU ships have been known to land in third countries in order to take advantage of financial incentives but have then shipped the fish directly back out to EU ports (ECA, 2001).

Large quantities of the fish caught under FPAs is processed within Europe (particularly for tuna where there are significant canning operations in France, Spain and Portugal) although there is an increasing trend for offshore primary processing. For instance, again for tuna, primary processing into loins takes place in countries with the necessary capacity and hygiene standards (e.g. Ecuador, Columbia and Thailand) before final canning in Europe. There has been development of tuna processing facilities in some countries where the EU has FPAs for example Seychelles, Cote d'Ivoire and Madagascar although these are the exceptions rather than the norm<sup>14</sup>.

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<sup>13</sup> Personal communication: Tim Bostock, 17<sup>th</sup> May 2010.

<sup>14</sup> As a rule of thumb processing can increase the value of landed fish by 25%.



Although FPAs contribute to low value-addition within coastal countries, there are also a range of wider issues pertaining to the third country governance as to why increased value added for the coastal state is not being achieved. In particular a lack of port and processing infrastructure may mean that it is not feasible for EU vessels to land (as with large volumes of tuna from purse seine vessels) or the country or processing facilities do not have the necessary hygiene and sanitation requirements to then import fish into the EU. Investors in the processing industry also require a stable governance framework in which to operate.

### ***EU investments in Joint Ventures***

For some countries the incentive for signing FPAs has been the prospect of developing their own fishing capacity through EU investment, however the record of joint ventures under FPAs has been poor (Clark, 2006; EC, 2009c. This is partly due to an absence of European aid (subsidies/financial incentives) for the creation of mixed companies since 2004 and an unfavourable business climate in many of the countries concerned (e.g. Mauritania, Guinea Bissau). Private investment is most likely where it provides secure, stable opportunities for entry and exit to fisheries business opportunities for either foreign or domestic investors (Clark, 2006).

The economic benefits of joint ventures is the logic is that investments in the local fishing industry are often accompanied by investments on on-shore processing capacity, thereby contributing significantly to development within the coastal state. However, this link is by no means clear and one report undertaken by the European Court of Auditors found no clear social or economic benefits of joint ventures to the EU (ECA, 2001). There are also a range of other issues related to joint ventures such as the lack of transparency, reduced compliance compared to vessels operating under the EU flag, and their contribution to overcapacity in the context of no parallel reduction in effort following their introduction (see also the following Section 3.1.2).

### **3.1.2 Environmental impacts**

The environmental impact of FPAs have been documented as ranging from the simple overcapacity of EU fleets operating in other coastal EEZs and no guarantee that EU stocks are indeed targeting 'surplus stocks'<sup>15</sup> to more detailed criticisms on the specific fishing techniques used that some argue follow less stringent rules outside compared to within community waters. There are also reports of non-compliance by EU vessels, in effect IUU fishing.

#### ***Overcapacity and subsidisation of EU fleets***

The EU fleet has reached a state of overcapacity within community waters<sup>16</sup> and the poor management within community waters is sometimes suggested as a reason that the EU has to 'export' overcapacity to international fisheries. Although the external fleet has been operating outside of community waters for many years (i.e. French and Spanish vessels before joining the EU), capacity has increased and much of this has been down to technological advances. For example in the Indian Ocean the number of operating Spanish vessels has remained the same since the 1980s but their tonnage has doubled (Standing,

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<sup>15</sup> Surplus stocks are those that are deemed to be beyond the harvesting means or the coastal state or a stock that is not entirely used by a coastal state. Also see Box 3.

<sup>16</sup> 88% of community stocks are being fished beyond MSY (88%) and many fisheries catching immature fish, for instance 93% of the North Sea cod is being fished before it can breed. Although there have been some capacity reductions these have not been sufficient and average fleets have only been reduced by 2% a year which is offset by technological advances estimated at 2-3% per year (EU, 2009)

2009). This is in the context of increases in capacity by other Distant Water Fleets (DWF) and coastal states. For instance, the 'small-scale' sector in many West African fisheries is now extensive and has a far from 'small' impact.

Although it is not only the EU vessels contributing to over-exploitation, there are a number of examples to illustrate where stocks are under pressure in areas where the EU external fleet has access through FPAs. For example, in Mauritania the national IMROP scientific working group estimates that there is 31% excess capacity in the octopus fishery which is a cause of a 20% loss in production (CFFA & Pechecops, 2006). Within the Atlantic Ocean, ICCAT (International Convention for the Conservation of Atlantic Tuna) studies reveal that yellow-fin tuna is fully exploited and blue marlin over-exploited, while in the Indian Ocean, IOTC (Indian Ocean Tuna Commission) has highly recommended reduction in effort to blue-eye tuna and sword fish.

EU subsidies are argued to be fuelling this over-capacity of EU's DWF. This is both in the form of the Fisheries Partnership Agreements but also through structural support to modernise vessels. There have been incentives given in the past to vessels to operate under joint ventures and the commission is considering this as a future option. Subsidies discipline is currently high on the World Trade Organisation (WTO) agenda.

#### Box 7 Subsidies discussion at WTO

Discussions are ongoing at the WTO regarding fisheries subsidies. Disciplines on fisheries subsidies, if agreed, will restrict the type of subsidies permitted to be provided to the fisheries sector. The aim is to prohibit 'certain forms of fisheries subsidies that contribute to overcapacity and over-fishing', whilst recognizing the need for 'appropriate and effective special and differential treatment for developing and least-developed Members ... taking into account the importance of this sector to development priorities, poverty reduction, and livelihood and food security concerns'.

The EU fleet receives considerable financial support through fuel subsidies, modernization grants, and previously for vessel renewal. Disciplines on subsidies are likely to substantially reduce the types of support provided to the fishery sector. In relation to access agreements, current proposals indicate that government-to-government transfers would be excluded from the prohibitions. Subsidies involved in the sale of fishing rights, where the fishery in question is in the EEZ of a developing country member, would be subject to special and differential treatment for LDCs (Dugal, 2009).

#### EU Financial contribution to FPAs

FPA Protocols agreed between the EU and individual countries give details on the licence costs to EU ship owners, which can be compared with the EU contribution for access. For tuna this is calculated as the cost/tonne of catches. For mixed agreements it is possible to estimate the total contribution of ship owners. For most tuna FPAs the EU ship owner contribution accounts for 35% of the licence fee, whereas in mixed agreements ship owner contributions account for the following percentages of total financial contribution given to Greenland, Morocco and Mauritania: 22%; 8% and 29%.

Ocean	Country	Value/year € <sup>1</sup>	Est. EU contr. per tonne tuna	Ship owner contr. per tonne tuna	Estimated total ship owner payment/year ( for mixed agreements where data available)
Atlantic	Greenland	15,847,244			€3,550,000 (22%)
	Morocco	36,100,000	€75	€25 (25%)	3,000,000 (8%)
	Mauritania	76,250,000			€22,000,000 (29%)
	Guinea Bissau	7,500,000	€65	€35 (35%)	-
	Cape Verde	385,000	€65	€35 (35%)	
	Ivory Coast	595,000	€65	€35 (35%)	
	Sao Tome	663,000	€65	€35 (35%)	

	Gabon	860,000	€65	€35 (35%)	
<b>Indian Ocean</b>	Seychelles	5,355,000	€65	€35 (35%)	
	Madagascar	1,197,000	€65	€35 (35%)	
	Mozambique	900,000	-	-	
	Comoros Island	390,000	€65	€35 (35%)	
<b>Pacific</b>	Micronesia	559,000	€65	€35 (35%)	
	Kiribati	478,000	€65	€35 (35%)	
	Solomon	400,000	€65	€35 (35%)	

Source: MRAG, 2007

EU's financial contribution within FPAs may be considered a subsidy by some (although the WTO does not defined it as such) and it could be debated whether this is in effect a 'good subsidy' promoting improved governance or a 'bad subsidy' driving production targets and leading to over-capacity. The EU often justifies the financial contribution to FPAs as it gives them weight to ensure sustainable and responsible behaviour by the industry. For instance through the FPA with Senegal there were 30 EU trawlers and now in the absence of the FPA there are 60 trawlers operating (now as joint ventures) since the agreement has come to an end<sup>17</sup>.

There are proposals to reduce the amount the EU pays for access agreements while increasing the ship-owner contribution. Recent proposals have suggested increasing the ship-owner contribution to 50% and gradually phasing out the EU access contribution. The tuna sector has recently suggested that this could be a way forward if licence fees are fair in relation to other DWFs<sup>18</sup>. However, the trawlers operating under mixed agreements are currently only just profitable and representatives have suggested that they would not be economic to operate without the EU access contribution<sup>19</sup>.

### EU structural support to EU external fleet

Structural aid for fisheries has been available for EU fishing vessels (and non-vessel fisheries operations e.g. ports and processing) through different funding instruments such as the 1999 – 2004 Financial Instrument for Fisheries Guidance (FIFG) and the 2007 – 2011 European Fisheries Fund (EFF) Fund. European aid for construction of vessels and for the creation of mixed companies ended in 2004 (following the last reform of the CFP), but subsidies are still allowed for the 'modernisation of fleets' and fuel payments. Under EFF this should be directed towards environmentally friendly measures but often leads to increased fishing power of vessels involved.

It is difficult to determine the exact subsidies given to the EU fleet as vessel registers do not require a distinction on whether the vessel operates outside or inside community waters. However a recent initiative (fishsubsidies.org) has compiled information on all EU fisheries subsidies and has been able to distinguish those going to the European Tuna Fleet (of which a significant proportion will operate externally) (Table 4 and Table 5)

**Table 4 Subsidies to the European Tuna Fleet, by measure, 1994-2006**

Scheme	Amount €	No. payments	Share
Construction of new vessels	17,070,433	33	58%
Modernisation of vessels	10,793,708	113	37%
Exportation/Reassignment/Transfer	1,587,120	3	5%

<sup>17</sup> Beatrice Gorez, personal communication, 18th March 2010

<sup>18</sup> Beatrice Gorez, personal communication, 6<sup>th</sup> May 2010: feedback from the CFP external seminar (28<sup>th</sup> April 2010).

<sup>19</sup> Personal Communications, FPA Seminar, Las Palmas, 18<sup>th</sup> March 2010.

to third country			
<b>Total</b>	<b>29,451,261</b>	<b>149</b>	<b>100%</b>

Source: [www.fishsubsidies.org](http://www.fishsubsidies.org)

Note: Financing for construction of new vessels and exportation/transfer ended in 2004

In the overall context of EU fishing subsidies total payments to the EU tuna fleet represented less than 1% during the period (1994–2006).

**Table 5 Subsidies to the European Tuna Fleet, by country, 1994-2006**

Country	Amount €	No. payments	Share
Italy	12,198,519	57	41%
France	11,668,368	66	40%
Spain	4,159,923	6	14%
Greece	1,424,451	20	5%
<b>Total</b>	<b>29,451,261</b>	<b>149</b>	<b>100%</b>

Source: [www.fishsubsidy.org](http://www.fishsubsidy.org)

Of overall vessel subsidies Spain has received the most (50%) and over the period (1994–2006) these subsidies were higher for the construction of new vessels (43%) compared with scrapping (25%). While this refers to Spanish vessels operating both within and outside of community waters, it can be assumed that a proportion of this has been made available to the Spanish vessels operating outside of community waters which makes up an important part of the EU external fleet. For all other countries subsidies for scrapping was higher (46% compared with 21% for new vessels).

In addition to subsidies to vessels, member states are also eligible for investment in processing and port infrastructure, for example between 1994–2006 27% of non-vessel payments went to an increase or modernisation of processing capacity. 11% went towards port infrastructure with Spanish ports receiving the most investment (e.g. Vigo, Huelva and Las Palmas).

### EU Joint ventures

EU vessels were able to obtain subsidies for setting up joint ventures/enterprises or reflagging until 2004. This financing has not been possible under EFF, but DG Mare is considering re-initiating financial incentives for re-flagging under the CFP reform<sup>20</sup>. Between 1994 and 2006 5% of subsidies to the tuna fleet was used to create joint ventures or to re-flag; and a similar proportion of the overall fleet (6%).

The subject of joint ventures is complex. On the one hand they are suggested to assist the economic development of third countries, but on the other hand in effect the 're-flagging' of EU vessels is often seen as simply exporting excess capacity (without any overall reduction). It is argued by some that joint ventures have tended to increase over-exploitation of resources within countries' EEZs and competition with local small scale fisheries (ICSF, 2009). The commission itself admits that there are instances where EU vessels re-flag when their quota is exhausted<sup>21</sup>. For shared or migratory stocks managed under RFMOs, if EU vessels re-flag they are no longer tied to any EU quota allocation (if this exists for the

<sup>20</sup> Andrea Fontana, DG Mare: personal communication, 18<sup>th</sup> March 2010.

<sup>21</sup> Andrea Fontana, DG Mare, personal communications, 18<sup>th</sup> March 2010

species they are targeting) and are no longer required to report data to the EU. Other flag states may not have the same capacity to ensure their fleets are compliant with regional regulations.

It is worth pointing out that where Joint Ventures exist within an effective fisheries management framework (e.g. Namibia) there have considerable benefits achieved for the coastal state (Box 8). It is therefore more likely the case that Joint Ventures can lead to negative impacts (on sustainability and development) in *the absence of good fisheries governance*.

#### **Box 8 Namibian experience of fisheries management**

After independence Namibia developed a fisheries management regime based on limited access and the allocation of fishing rights. Strong fisheries institutions were built with donor support and the vision was a responsibly managed fishery that progressed towards Namibianisation and onshore processing. Total allowable catches, divisible into individual quotas, have been set for eight species: hake, horse mackerel, orange roughy, alfoncino, pilchard, red crab, lobster and monk. Rights of exploitation are granted for periods of 7, 10, 15 or 20 years. Quota fees are charged to the rights holders which are structured to encourage Namibian registration and ownership of vessels. Within this framework, foreign investors can participate in joint ventures and right-holders can also 'charter' foreign vessels although this incurs higher fees than if Namibian vessels are used. Following the development of this regime and the allocation of rights, fishing effort was significantly reduced. For example within the hake fishery sources suggest that there were 173 community vessels operating in Namibian waters before independence, but after sector reform a total of 87 vessels of all nationalities targeting hake were operating (1999 data).

Source: World Bank (2003) & Clark (2006)

#### ***Difficulty in determining surplus stocks***

A common criticism of FPAs is that there is no guarantee that EU fleets are targeting 'surplus stocks'. This is mainly due to a lack of stock assessments, and where they exist they are unreliable due to problems with data reporting by both EU and other distant water fleets. There are also concerns that local fishing and other distant water fleet capacity has increased to a level that where a 'surplus' may have previously existed this is no longer the case. There are more concerns in relation to 'mixed agreements' where EU fleets directly target stocks that are also targeted by national fleets and in many cases small-scale fisheries.

For stocks that are under the sole management of the coastal state – i.e. not covered under RFMOs – and those targeted by 'mixed fishing agreements' (e.g. Mauritania, Morocco and Guinea-Bissau), there is often a clear lack of stock assessments. For instance, despite previous targeted support to scientific research under EU fishing agreements, Moroccan fisheries research has been unable to complete stock assessment programmes. Assessments are also particularly difficult for coastal countries when the stock is in effect shared (e.g. hake stocks span a number of different West African countries) but no fully-fledged RFMO is in operation. Although the regional organisation CECAF (Fisheries Committee for the Eastern Central Atlantic) exists for shared stocks and has recently assigned 'quotas' based on historical performance, it does not have a full mandate for these recommendations to have any teeth.

For tuna and tuna-like species stock assessments are undertaken by the relevant RFMO and it is not possible to determine the 'surplus' of such as highly migratory species within a specific EEZ. However it is possible to set overall quotas for example has assigned the EU quotas for bluefin and swordfish that can be taken within EU waters, the high seas or other coastal states' EEZs. As long as the EU and other RFMO states comply with these quotas there should not be a concern for over-exploitation. However, whether this compliance exists in reality within RFMOs is another matter (Section 3.2).

It is interesting to point out that, no quotas have been set for tropical tuna species (i.e. yellowfin, skip jack or big eye) which are the key ones targeted by the EU external fleet through FPAs. Both ICCAT and WCPFC have set effort limits but these are often not seen as effective as controlling catch as fishing power can increase with technological advances.

Coastal states and RFMOs rely on vessels to accurately report their catches on which to base stock assessments, but there are considerable problems with accurate reporting from EU, other DWF and national fleets. As the ship owners' contribution is linked to a reference tonnage within the FPAs, it is often argued that there is no incentive to correctly report catches<sup>22</sup>.

While the EU fishing agreements are relatively transparent, in contrast there is no public information available on other access agreements signed by coastal states. For instance, although it is known that Seychelles has fishing agreements with Japanese fishing companies neither party make this information public, making it difficult to assess in what context the EU fleets are fishing.

### ***Less stringent rules outside of community waters***

The EU external fishing vessels can have significant environmental impacts, for instance damage to benthic environments through bottom trawling or by-catch of purse seines (particularly with the use of fish aggregating devices) and surface longlines. While a number of these impacts are mitigated through specific regulations within community waters, it has been suggested that in a number of cases equivalent technical conservation measures are not applied in external waters (Standing, 2009). WWF has proposed that the EU fleet should be operating to the highest possible standards and at the very least standards equivalent with regulations that apply within internal EU waters<sup>23</sup>.

Where the EU fleets operate within the rules of RFMOs (e.g. ICCAT, IOTC and WCPFC for tuna) FPAs require the fleets to comply with regional regulations. However, this still raises the question on whether the RFMO rules are as stringent as community conservation measures and whether the EU fleet should be operating under the highest possible standards i.e. to reduce by-catch and eliminate discards.

### ***Low control and compliance of EU fleets***

The environmental impact of FPAs depends a certain degree on the extent to which the EU external fleets comply with national and regional legislation. There are some suggestions that EU operators are not fulfilling their legal obligations in respecting minimum sizes or banned fishing gears<sup>24</sup>; and are not sufficiently sanctioned when they break the rules (ACP, 2009).

A report assessing the impact of FPAs compared to the previous EU fishing agreements (MRAG, 2007) determined a number of problems with the control of EU fleets under FPAs in particular:

- Vessel Monitoring Systems (VMS) are not fully operational so that coastal states do not or cannot receive up to date information on vessel movements;
- Transshipments often take place outside of EEZ so that transshipment data (giving further back up to catch data) is not reported to the coastal state;

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<sup>22</sup> Beatrice Gorez, CFFA: personal communication, 18th March 2010

<sup>23</sup> Raul Rodriguez, WWF: personal communication, 18th March 2010

<sup>24</sup> Beatrice Gorez, CFFA, personal communication, 18th March 2010

- Observers are not compulsory and in some countries are not used<sup>25</sup> (e.g. Seychelles).

Control and compliance of EU fleets should increase under the enhanced EU control regulation (Section 3.4.1) and the IUU regulation (see Section 3.5.3) but this also depends on effective control at the level of coastal states.

### **3.1.3 Social impacts**

#### ***Competition with national fleets***

Within mixed agreements, EU vessels are often in direct competition with national fleets, although there is normally a zone that is off limits to international fleets (e.g. 6-12nm zones preserved for small-scale fleets). This would not be a concern if there was certainty that the EU fleet was targeting a surplus in stocks, however this is not always the case (see above). For example with Mauritania the EU fleet targets the octopus fishery along side small scale/artisanal fishers and the national industrial fleet with uses around 125 boats of Chinese origin (MRAG, 2007). There are also concerns where EU fleets under mixed FPAs target crustaceans (e.g. shrimp, crabs); demersal species and small-pelagics (sardines, horse mackerel) that are also targeted by small-scale fleets. In some cases it is the by-catch of EU fleets that are targeted by small-scale fisheries, for instance in Mauritania there were concerns raised at the 2008 joint committee that shrimp vessels produce significant by-catch of demersal species that are targeted by artisanal fleets.

Competition is less marked for tuna fisheries where developing countries often have less capacity to fish off-shore, for example the Seychelles tuna fleet makes up only 23% of the purse seine licences and is not represented within long-line licenses (MRAG, 2007). However small-scale fleets in the Pacific Islands (pole and line vessels) and off East Africa still target tuna species often using fish aggregating devices (FADs).

#### ***Food security***

Related to the competition with small-scale fleets, there have been concerns expressed that distant water fleets have affected fish available on local markets. For example it has been suggested that in Mauritania while previously large demersal species were available, the local market is now dominated by inferior quality small-pelagic species; and in Senegal (which previously had a fishing agreement with the EU) there have been reports of local market price increases of 7.5% for small pelagics and 15-20% for demersal species per year (UNEP, 2002). However, this is also likely to have been affected by policies to increase fish exports.

### **3.1.4 Governance impacts**

#### ***FPAs: a suitable framework to support good fisheries governance?***

Since the reform of the FPAs they have aimed to promote good governance and partnerships. Within governance at a financial and political level the aim was to strengthen capacity building within coastal states and fight corruption. The partnership aspect of the FPAs relates to increased dialogue on fisheries policy, financial contributions to sector reform and a commitment to share information (MRAG, 2007).

By its own admission the commission has encountered a number of problems in taking a partnership approach within FPAs in order to strengthen governance. The commission has

<sup>25</sup> However, observers may not always be appropriate and other enforcement measures may be available e.g. sea and air surveillance.

found the 'sector reform' element of FPAs requires significant time and resources, and in a context that does not allow for extended dialogue, 'fisheries policy' often ends up as a paper exercise written by external consultants and remains an abstract notion with no implementation (Andrea Fontana, DG Mare: personal communication, 18<sup>th</sup> March 2010). There are also concerns that the EU's role in sector reform is a conflict of interest and impinges on state sovereignty.

Other observers have highlighted that the location of FPAs often coincides with countries with weak fisheries governance (André Standing: personal communication, 18<sup>th</sup> March 2010) characterised by:

- *Low transparency* in information on who has access to EEZ resources (African authorities not publishing data on all access agreements e.g. for Asian vessels)
- *Weak civil society* that does not demand transparency on access agreements or accountability on how fisheries resources could and do contribute to the economy;
- *Conflicts of interest* (officials directly benefiting from the fishing industry – e.g. through Joint Ventures)
- *Corruption* (bribes paid to avoid regulation requirements (e.g. observers) or sanctions;
- *Fraud* (theft of money/aid destined to the fisheries sector)
- *State capture*: financial contributions directly to government to have a role in shaping policy or to have immunity from regulations

While FPAs are the most transparent access agreements at the international level, there are still concerns that the impact assessments are not made public and it is not easy to access coherent data on the EU's external fleet activities. However as mentioned earlier other DWF access agreements are even less transparent, negotiations take place behind closed doors and corruption is likely. Addressing these concerns requires more than just publishing access agreements, it also requires a review of fisheries law to ensure broader participation in decisions on licensing and provide open consultation and transparency on who gets access and at what cost (Clark, 2006).

A key question to ask is whether the EU should sign FPAs with countries that have poor fisheries governance, or with countries where the state of governance is not clear because fisheries management data is not published transparently?

It could be argued that the EU should not sign any agreements with countries where there is clear evidence of poor fisheries governance. For example, the EU could consider signing a FPA with Sierra Leone but this is known to have very poor management and high corruption capturing short term benefits for the political elites. The argument would follow that the EU would not negotiate agreements until fisheries governance had been improved, and would provide the support to achieve this

Alternatively it is suggested that FPAs are in fact the best option for EU access to third country waters in the absence of good governance. For instance there are a number of examples where in the context of poor fisheries management within the coastal state private agreements and joint venture with EU vessels are less transparent and can lead to greater capacity and less compliance with national and regional regulations. In general FPAs are supported by NGOs (e.g. CFFA and WWF) as they are considered better than the alternatives.

The difficulty of FPAs in achieving good fisheries governance has been described as a problem of '*putting the cart before the horse*', in as much as rather than the FPAs driving sector reform, coastal countries need to develop their fisheries policy and set their objectives so that within this context they can assign access to DWFs. However, it appears that countries that continue to rely on access agreements cannot generate the momentum to



reform fisheries policies and generate new options for sustainable fisheries development (Clark, 2006). At present FPAs often have the same legal standing as a coastal state's fisheries legislation, so that it is unclear which framework should take priority<sup>26</sup>.

The deficiencies of FPAs in demonstrating an improvement in fisheries governance is in the context of declining development support for the sector, which some would argue would be a more appropriate mechanism through which to support sector reform (MRAG, 2007). Although DG Mare argues that FPAs should not be a substitute to development funding, this is the situation in reality. For example within ACP Fish II (a major EU regional project supporting improved fisheries governance within ACP countries) countries that are already receiving funding through an FPA will not be able to receive additional funds through the programme<sup>27</sup>. It should be pointed out, however, that priorities for development support are not entirely driven by the EU and are framed by priorities outlined within countries Poverty Reduction Strategy Papers (PRSPs) where the fisheries sector often takes a back seat.

### **Financial contribution of FPAs to sector reform**

Much of the discussion on the contribution of FPAs to improving coastal states fisheries governance centres on the financial contribution towards this aim. Before the last reform of the FPAs the financial contribution consisted of a payment for access and separate funds for targeted actions (related to fisheries management) paid directly to the fisheries ministry or department. Following the reform, the financial contribution is made of a payment for access but also a contribution to fisheries sector reform and is paid directly as budgetary support. It is then up to the country itself to decide how much it will allocate to the sector.

While some countries have committed high proportions of the FPA payment towards fisheries sector reform (Table 6), there are concerns in practice a large proportion of the FPA contribution goes straight to budgetary support and funds going towards policies and enforcement for sustainable fisheries is limited<sup>28</sup>.

**Table 6 Financial contributions through FPAs and % earmarked by third country to Fisheries Sector Support**

Ocean	Country	Species	Date	Value/year € <sup>1</sup>	% Sector Support <sup>2</sup>
<b>Atlantic</b>	Greenland	Mixed	2007-2012	15,847,244	21%
	Morocco	Mixed	2007-2011	36,100,000	37%
	Mauritania	Mixed	2008-2012	76,250,000	13%
	Cape Verde	Tuna	2007-2012	385,000	100%
	Guinea Bissau	Mixed	2007-2011	7,500,000	39%
	Guinea	Tuna	2009-2012	1,050,000	100%
	Ivory Coast	Tuna	2007-2013	595,000	100%
	Sao Tome	Tuna	2006-2010	663,000	50%
	Gabon	Tuna	2005-2011	860,000	60%
<b>Indian Ocean</b>	Seychelles	Tuna	2005-2011	5,355,000	56%
	Madagascar	Tuna	2007-2012	1,197,000	80%
	Mozambique	Tuna	2007-2011	900,000	100%
	Comoros Island	Tuna	2005-2010	390,000	60%
<b>Pacific</b>	Micronesia	Tuna	2007-2010	559,000	18%
	Kiribati	Tuna	2006-2012	478,000	30% (later inc. to 60%)
	Solomon	Tuna	2007-2010	400,000	30%

<sup>26</sup> Steve Cunningham, personal communication, 29<sup>th</sup> March 2010

<sup>27</sup> Patrice Moussey, DG Development: personal communication, 13<sup>th</sup> April 2010

<sup>28</sup> Sloans Chimatiro, NEPAD: personal communication, 1<sup>st</sup> April 2010

In order to prioritise funding available for fisheries sector form a multi-annual matrix of objectives and results is decided on by the Joint Committee, and one or two objectives selected for implementation (EC, 2009d). These actions are most often related to MCS rather than tackling the basis of setting up fisheries institutions to deliver good governance.

There are a number of concerns over funding fisheries sector reform through FPAs:

- There is an inherent conflict of interest as the EU Directorate General for Maritime Affairs and Fisheries (DG Mare) is responsible both for negotiating access for EU fleets to coastal states EEZs and for promoting reform of the fisheries policy and management;
- Funding channelled into fisheries management through FPAs comes to an abrupt halt if a new agreement is not negotiated leading to unsustainable institutions. For example, the scientific research institute in Senegal (CRODT) was completely dependent on financing from the FPA and since it has not been renewed the institute has almost ceased to operate;
- EU funding support for sectoral reform is piece-meal and concentrates on specific aspects (e.g. MCS and IUU) rather than a wholesale review of policies and institutions;
- DG Mare does not have the remit or capacity to provide ongoing technical assistance for sectoral reform which requires a long-term view.

In order to address these concerns a number of actors have suggested that funding of FPAs should be '*de-linked*', i.e. there should be separate funding for sector reform which does not rely on any access granted to the EU external fleet. There are a number of pros and cons of this approach:

Pros of 'de-linking' FPA funding	Cons of 'de-linking' FPA funding
<ul style="list-style-type: none"> <li>• Investment into developing countries fisheries management would not be dependent on an FPA (and would therefore continue if an FPA ceased);</li> <li>• Conflict of interest between negotiating access and supporting reform of fisheries policy could be avoided;</li> <li>• DG Development could lead investment and technical assistance to fisheries management with the remit to provide long-term support.</li> </ul>	<ul style="list-style-type: none"> <li>• DG Development currently lacks financing and capacity for support to the fisheries sector driven by its lack of priority within countries' PRSPs;</li> <li>• DG Mare only to pays for access and no funding provided for sector reform;</li> <li>• Potential for DG Mare and DG Development to become even less coordinated as managing separate budgets.</li> </ul>

## **Democracy**

There have been questions recently (mainly channelled through the EU Parliament) as to whether the EU should sign agreements with countries with questionable democracy. This goes back to the question on whether the EU should sign fishing agreements with countries that have 'poor governance'.

### **3.1.5 Concluding points**

- FPAs have received a lot of attention which needs to be considered in the context that the EU external fleet also operates on the high seas and in other coastal states' EEZs through private agreements and joint ventures. What distinguishes FPAs is that they use public money to support the access of the industry which could be considered a 'good subsidy' if they effectively promoting good governance but a 'bad subsidy' if they only served to increased over-capacity.
- There is no guarantee that EU fleets always target 'surplus stocks' under FPAs. This is mainly due to a lack of information on stocks, and where data exists it points to the full or

over-exploitation of a number of species. It raises concerns of competition between the EU and national fleets.

- The external fleet is also criticised for operating under less stringent rules than those required in internal waters. The argument follows that regardless of national or regional context, the EU should set an example in good fisheries governance by operating under the highest standards, although there are concerns from industry that EU vessels do not operate on a 'level playing field'.
- Mixed agreements are more controversial than the tuna agreements as they may use destructive techniques (trawling), are more likely to be in direct competition with national fleets (compared to tuna fisheries that are more likely to be offshore) and without the EU access contribution are unlikely to be economic to operate.
- Coastal states with which the EU has signed FPAs are often characterised by poor governance and an inability to maximise the wealth generated from their fisheries. In contrast countries with effective frameworks do not appear to need the financial contribution of FPAs to generate wealth. A key question is whether FPAs should be signed with countries that have a poor fisheries governance record.
- Countries that have FPAs with the EU also do not capture a significant proportion of value-added. This is partly owing to the priority of FPAs to promote the flow of raw fish into the EU but is also affected by trade policies. However there are also issues at the coastal state level that restrict the capacity to add-value and export to the EU such as deficiencies in infrastructure and health and hygiene requirements.
- FPAs have attempted to support fisheries sector reform and improve fisheries governance but there are considerable challenges in achieving this within the FPA framework. While FPAs should not preclude development funding to the fisheries sector, this is often what happens in practice.
- Evaluations of FPAs need to assess progress on fisheries governance as well as successful fisheries outcomes such as sustainable wealth generation.

### 3.2 EU Engagement with RFMOs

Although the EU is only one contracting party of any one RFMO there are a number of issues that are relevant to the EU's fleet operating in external waters and EU's role in promoting good fisheries governance at the international level. This section focuses on problems with RFMOs from a developing country perspective as this is one of the key areas of concern for the management of high seas and international stocks and is where the EU could play a role to enhance capacity.

This section focuses on the key RFMOs that overlap with where the EU fleets operate in developing country waters, which are:

- **ICCAT** (International Convention for the Conservation of Atlantic Tuna): EU tuna fleets operate within EU waters but also within the EEZs of West African countries and the high seas
- **IOTC** (Indian Ocean Tuna Commission): EU tuna fleets operate within and outside the EEZs of developing countries within the Indian Ocean (e.g. Seychelles, Tanzania, Mozambique, Mauritius)
- **WCFFPC** (Western and Central Pacific Fisheries Commission ): Although less active than in the Atlantic and Indian Oceans EU fleets operate within and outside the EEZs of a number of Pacific States.

### 3.2.1 Governance impacts

#### ***EU role in RFMO governance***

As indicated earlier the EU strategy for Regional Fisheries Organisation is to achieve sustainable management of fisheries resources and promote action against IUU while also defending long-term interests of the EU industry and the employment it creates.

The EU considers that it plays a significant role in RFMOs on a number of different levels (EC, 2009d):

- At the *institutional level*: the Community has taken the initiative to create new RFMOs where none existed, for example it played a key role in establishing the South East Atlantic Fisheries Organisation (SEAFO);
- In *management measures*: the Community has proposed improvements on management, technical or quality assurance measures for example promoting multi-annual management plans within RFMOs;
- Through *coordination*: by being a member of a range of RFMOs the community can transfer best practice from one organisation to another and promote the consistency of approaches, for example the EU has drawn on experiences of CCAMLR on applying catch certification schemes to address IUU and ICCAT is now looking at harmonising its catch certification formats with the EU scheme.

The EU also gives considerable support to the development of RFMOs and in a number of cases is one of the most significant contributors to running costs. For example within the IOTC (indicative contributions for 2010) the overall budget is \$1.98 million of which the EU contributes \$512,000 (26%).

However, it is worth noting that the EU is only one of the contracting parties within any RFMO and therefore has restricted influence. For instance within ICCAT the EU is only one out of 48 contracting parties, although France and the UK are additional parties that can add pressure on shared policies. It has also been suggested that the EU has restricted influence while fisheries management within European waters is considered to be failing<sup>29</sup>. If EU could improve management within its own waters it would have more influence on the international stage.

The Green Paper on the CFP reform questions the principle that the presence of EU vessels worldwide supports EU legitimacy and influence in Regional Fisheries Management Organisations and suggests that the EU could have a role one of the major world's importers of fish (EC, 2009a). This again points to a discussion on the EU's objectives for the external fisheries policy and would be more coherent if the EU engaged to improve fisheries governance rather than enhancing EU access. However, this would also need to be assessed on a practical level, to determine if the EU could play a major role within RFMOs as a 'trade' rather than 'fishing' partner.

#### ***RFMOs provide an effective framework for EU DWFs and FPAs targeting highly migratory or shared stocks***

The EU external fleet operates within international waters that in many cases (but not all) are governed by RFMOs. These fleets are subject to the management and conservation rules of the RFMO within the high seas and coastal states' EEZs within its jurisdiction (which it may have gained access to through private agreements, joint ventures or FPAs).

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<sup>29</sup> Andy Carroll, Defra, Pers. Comms 25th March 2010

A clear benefit of RFMOs for the management of EU's external fleet is that it provides an effective framework within which the fleet can operate. For instance within the tuna FPAs there is specific reference made to the management and conservation measures of the relevant RFMO, thus avoiding the complication where EU rules may be different to the coastal state rules. However, many would argue that the EU should still operate to the highest possible standards (and up to the level required within EU waters) and that they should continue to push these standards at the regional level.

### ***Not all areas targeted by EU DWF covered by RFMOs***

Although RFMOs cover the majority of the shared or migratory stocks targeted by the EU DWFs, there are some areas where there is no RFMO coverage. For example:

- Straddling stocks of octopus, hake, prawns and small-pelagics (sardines, horse mackerel) along the West Coast of Africa. There are consultative bodies that cover these species – CECAF and CSRSP (which aim to harmonise fisheries policies) – but neither of these are fully-fledged RFMOs which would enable them to create their own legally binding regulations and enforce them through penalties and sanctions (Box 9);
- Demersal stocks (hake, octopus) within the South-West Atlantic Ocean – covering shared stocks between the Falklands, Argentina and Uruguay.

#### **Box 9 Important regional fisheries organisations in the Eastern Atlantic: CECAF & CSRSP**

**CECAF** (Fishery Committee for the Eastern Central Atlantic) is regional fisheries organisation which sits within the FAO body. It has responsibility for all living resources within the Eastern Central Atlantic but in practice concentrates on small-pelagic and demersal resources as ICCAT covers large pelagics within this area. Its aims are to promote and encourage scientific research, MCS and regulatory measures (implemented through the appropriate members and regional bodies). There have been discussions on making CECAF a full commission (i.e. an RFMO will full regulatory powers), however it does not currently have this status. CECAF has a wide membership including 34 countries and representing West African Countries, European countries (the European Commission as well as other Member States), US, Asian countries (e.g. Japan & Korea).

<http://www.fao.org/fishery/rfb/cecaf/en>

**CSRSP** (Commission Sous-Régionale des Pêches also known as SRFC: Sub regional Fisheries Commission) is an inter-governmental organisation developed in 1985. Member countries include Mauritania, Senegal, Guinea Bissau, Guinea, the Gambia, Cape Verde and Sierra Leone and the scope of the organisation covers the EEZs of these countries. The overall aim is to harmonise fisheries policy, laws and regulations across the member states to lead to sustainable resources management. There is also an aim to achieve regional cooperation on aspects such as MCS and research. While CSRSP aims at harmonising fisheries regulations across its different countries it does not have full powers of an RFMO to make its own regulations – which states are legally obliged to follow – or to enforce regulations through sanctions and penalties. The European Commission is not a member of CSRSP but does provide development funding.

<http://www.csrpsp.org/>

### ***RFMOs not succeeding in managing sustainable fisheries***

RFMOs are responsible for collecting data and assessing the state of stocks within their remit and are able to adopt a range of measures which are compulsory to members including technical measures (e.g. gear restrictions, closed areas or seasons), control measures (e.g. enforcement, catch certification schemes) and management measures (e.g. setting TACs, quotas, licenses). It is the responsibility of flag states and coastal states to implement the measures although some RFMOs attempt to enhance compliance through measures such as reducing the next allocation of quota.

RFMOs are very variable in their mandates, approaches and performance but they all share a number of limitations and challenges, as summarised in Chatham House's work on

improving fisheries governance by strengthening RFMOs (Lodge et al., 2007). While RFMOs are currently the best mechanism for managing shared and high seas stocks they are limited by a lack of compliance, enforcement and political will and most of all excess capacity fuelled by inappropriate subsidies. The existence of IUU fishing and poor fisheries governance at a national level undermines the management efforts of RFMOs. There are further challenges to be addressed including enabling RFMOs to take a whole ecosystem approach (rather than focusing on specific stocks), effectively engaging developing countries and at the heart of the matter fairly allocate rights (i.e. quotas) to contracting parties (Lodge, 2007).

For example, although ICCAT is considered to have made considerable advances (for example quarterly stock assessments are well attending and compliance is improving through actions of the ICCAT compliance committee) its role has been seriously questioned by the considerable failure in managing bluefin tuna stocks (leading to the proposal for it to be listed as an endangered species on CITES). IOTC compliance is very weak<sup>30</sup> and the science and data collection particularly for small-scale tuna fleets is poor (e.g. those under Sri Lanka and Indian flags<sup>31</sup>).

While compliance and enforcement of members is an issue, there is also a problem of non-contracting parties. It is not compulsory to join a RFMO and for example the Maldives have currently taking a decision not to formally join the IOTC although they are now a cooperating non-member due to market pressures.<sup>32</sup>

### ***Developing countries not effectively participating within RFMOs***

A key problem of RFMOs is the lack of effective participation of developing countries both in engaging in setting management measures and in ensuring compliance. For example Sri Lanka rarely attends the IOTC meetings and India only intermittently. The reasons for this failure within the broader set of RFMOs range from a simple lack of capacity or due to a conscious decision not to take part either so the country's fleet is not bound by the rules of the RFMO or provides a haven to illegal fishers often operating under 'flags of convenience' (Lodge, 2007).

### ***RFMOs driven by DWF interests and not matched with regional developing country institutions***

One of the reasons put forward for the lack of developing country involvement is that current RFMOs have been driven by the agendas of major DWF fishing nations and have not been set up to give coastal states a voice (Sloans Chimatiro, Nepad, Pers. Comms, 1<sup>st</sup> April 2010).

Within Africa, RFMOs have also not been developed in lines with the structure of regional cooperation organisations (for example ECOWAS, COMESA, SADC etc) so that in effect there are different institutional processes addressing similar issues. For instance in Southern Africa, national fisheries ministries already meet at the SADC level to discuss protocols on fisheries including shared stocks, but they are also required to attend RFMOs leading to fragmented efforts<sup>33</sup>. The World Bank and DFID supported Programme for African Fisheries (PAF) is starting to look at how these different institutional efforts can be harmonised.

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<sup>30</sup> Andy Carroll, DEFRA, 25th March 2010

<sup>31</sup> Chris Mees, UK IOTC representative, 4<sup>th</sup> May 2010

<sup>32</sup> This includes pressures from eco-labelling schemes such as Marine Stewardship Council which requires countries to engage in the appropriate regional management institutions to consider their fish for certification (John Pearce, MRAG, 19th April 2010).

<sup>33</sup> Sloans Chimatiro, Nepad, personal communications, 1<sup>st</sup> April 2010

In contrast, the Western and Central Pacific Fisheries Commission (WCPFC) is seen to have been driven by the priorities of southern countries and in its set up contains extensive reference to the special requirement of developing states and the factors to be taken into account in the allocation of fishing rights (Lodge et al., 2007). The Pacific states were able to operate as a regional group which greatly enhanced their negotiating position. WCPFC also made extensive use of external advice in facilitating discussions.

### ***Lack of coordination between RFMOs***

The goal of strengthening the role of RFMOs in managing high seas and shared stocks is made particularly difficult owing to the great divergence in mandates and effectiveness in regulation implementation within the different RFMOs (Lodge et al., 2007). However, there are some promising signs of coordination and lesson-learning such as the biennial joint meetings of all tuna RFMOs which began in 2007 (Kobe process) and the Chatham House hosted initiative to develop a model for improved governance by RFMOs.

## **3.2.2 Environmental impacts**

### ***RFMO ability to define quotas: high seas and EEZ***

As discussed in Section 3.1.2, there are only some catch limits set for the range of tropical tuna species targeted by the EU external fleet. For example:

- Within **ICCAT** quotas have only been assigned for bluefin tuna, north Atlantic swordfish and albacore, but not for any of the tropical tuna species most common along the coasts of West Africa (e.g. Yellowfin and Skipjack). For example the EU has a quota of 3,000 tonnes of Mediterranean bluefin Tuna which they can catch either within or outside or their coastal waters. In contrast, for tropical tuna species it has only been possible to agree theoretically to an effort cap at 1992 levels based on the number of vessels (although the fishing power of these vessels has not been restricted).
- Within **IOTC**, there have been no quotas allocated for any species although discussions are ongoing. There are however key disagreements on how quota should be allocated i.e. EU, Japan and Taiwan are in favour of allocations based on historical data (previous fishing activity) while coastal states in the area (e.g. Seychelles) are arguing for a method in line with the proximity of their EEZs.
- Within **WCPFC** fishing effort is currently controlled through limiting the number of vessels, for instance purse seine fishing effort has been frozen at 2004 levels. However, the WCPFC Convention includes a list of factors that would need to be taken into account for the allocation of allowable catch or fishing effort.

Although where they exist tuna quotas are 'overall quotas' and are not specific to any one area, RFMOs could give specific guidance to coastal states on quotas for shared but less migratory stocks (e.g. demersal species). This has been achieved under the Pacific Halibut Commission and could be a model for shared stocks along the coast of West Africa e.g. hake populations. However CECAF is not a fully-fledged RFMO and does not have an effective mandate to achieve this.

The problems in allocating quotas (i.e. rights) are discussed in more detail below.

### 3.2.3 Economic impacts

#### *Developing countries often have limited allocation of fishing possibilities*

One of the main challenges of RFMOs is to establish basis for the equitable allocation of access to diminishing fisheries resources, taking into account new players including cooperating non-members (Lodge et al., 2007).

Allocation of fishing opportunities or quotas (where it has been possible) has generally been based on historical catch, which means that States not actively fishing over the relevant period (often developing states) have not received allocations. In ICCAT this has led to significant problems where developing country aspirations were not taken into account, and has led to disagreement over catch levels and serious over-harvesting of depleted stocks. Before agreeing to join RFMOs countries will often fish outside of the agreement to build up a track record, for example India is actively doing so within IOTC where historical catch is dominated by the EU and Japan. Existing fishing countries are then faced with a choice of reducing their quotas (which they are generally loath to do) or increase catch levels to accommodate new interests with the hope of making mutual reductions later.

Other suggestions for allocating quotas include: building on the 'historical catch' method but in addition reserving a set-aside quota (e.g. 20-30% of the TAC) for new entrants; or basing allocations on the geographical configuration of the region. The partially allocated quota (PAQ) system assigns quotas to coastal states in direct proportion to the concentration of resources within their EEZs. Approaches are also under consideration where a small percentage of all existing holders' quota is returned to a central pool each year for redistribution (Lodge et al., 2007).

In this regard, it has been suggested by some observers that new entrants need to be accommodated while reducing the access of current players including the EU particularly for tuna and small-pelagics (ICSF, 2009). For instance the Green Paper raises the question of whether 'relative stability' should be maintained within community waters and there are suggestions it would need to consider this also for international waters. However, one of the concerns of current fishing nations of allocating quota to developing countries is the lack of national fisheries management capacity and associated IUU fishing. For example within ICCAT there is evidence of problems with overfishing of tuna within specific areas by countries with limited governance<sup>34</sup>. This again points to the priority of addressing good fisheries governance within coastal states.

As a way of resolving this dilemma, there have been suggestions that better economic returns from the high seas and shared stocks could be achieved for all parties by adopting a rights-based approach without increasing overall capacity (Lodge et al., 2007). This is based on the theory that through current management resources rents are being dissipated and are driving over-exploitation whereas a rights-based approach would create incentives to reduce over-exploitation and maximise the value of the resource (see **Error! Reference source not found.** on WBFM and **Error! Reference source not found.** on RBFM). There may also be opportunities to link RFMO access with fisheries development policy to ensure that access is given in parallel to improved governance.

Assigning rights is obviously no easy task and will be highly influenced by the political economic of stakes involved but it has been suggested at least taking a wealth approach would enable the correct questions to be asked (IDDRA, 2003):

- What resources are available and what is their potential value in terms of resource rent?

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<sup>34</sup> Andy Carroll, DEFRA: personal communications, 25<sup>th</sup> March 2010



- To whom do the resources belong and what share of the resource rent should go to the owners?
- Who is to exploit the resource and under what conditions?

Potential approaches to assigning rights within RFMOs include national quota trading schemes where developing countries would have a stake in high-seas resources but would still be able to lease these to currently active fishing nations and realise a 'resource rent'. Tradable quota would also enable new actors to engage in the fishery, for example from a UK perspective overseas territories could enhance fishing possibilities by purchasing quota<sup>35</sup>.

### 3.2.4 Concluding points

- When considering the EU's impact on global fisheries governance the main focus is often on FPAs, however EU's engagement with RFMOs is also critical considering:
  - RFMOs provide the legal framework (in terms of conservation and management measures) for the operation of the EU external fleet that targets highly migratory or shared stocks;
  - Catches from the high seas may contribute up to 20% of EU catches (far higher than the 8% under FPAs)<sup>36</sup>
- RFMOs play an important role in providing the governance framework in which the EU external fleet can operate, but this role is limited due to a number of factors both under and outside the control of EU policy including: the lack of effectiveness of RFMOs in achieving good fisheries governance; the absence of a fully fledged RFMO in some areas where EU fleets are very active (i.e. shared stocks along the West Africa); and even where RFMOs exist the lack of quota allocations for a range of species targeted by EU's external fleet (i.e. tropical tuna).
- RFMOs provides the EU with a key opportunity to influence improved fisheries governance for stocks that it relies on to meet import demands but these influence is also restricted by: the failure of EU's management measures within European waters leading to a lack of legitimacy on the international stage and the reality that the EU is only one contracting party of any one RFMO and needs to engage all states (in particular developing country states) to have an overall impact.
- The EU (together with other key DWF fishing nations) needs to effectively address the allocation of fishing rights through RFMOs. This means either accepting a reduction in fishing to accommodate developing country aspirations or moving towards wealth -based approaches that in theory would allow for sharing increased benefits from improved management without further increasing capacity.
- The EU has expressed the intention through the CFP reform to take a more regional approach to its support to good fisheries governance currently channelled at the national level through FPAs. This regional support can also serve to engage current regional economic groupings of developing countries within the RFMOs structure and thereby enhance their negotiation power. However, it is still the individual capacity of coastal and flag states to enforce RFMO regulations, which is a key limitation to their effectiveness and therefore support to coastal states to develop core fisheries governance frameworks should also be a priority.

<sup>35</sup> Andy Carroll, DEFRA: personal communications, 25<sup>th</sup> March 2010

<sup>36</sup> There are estimates that fishing agreements account for 40% of EU catches (EC, 2009b). This includes both reciprocal agreements and FPAs.

- There is a key question here on whether EU's external fisheries objectives in relation to RFMOs should be to protect EU interests or to support improved fisheries governance. If it is the latter the EU may need to consider reductions in its own capacity while providing support for developing countries to improve their governance.
- The EU could have a role within RFMOs as a 'trading partner' given that it is one of the largest international importers of fish. However, this would need to be assessed against RFMO mandates and the significance of this trade should not be overstated since the EU only actually represents 10% of global fish consumption.

### 3.3 EU engagement at international level

International agreements such as UNCLOS provide the overarching legal framework for EU's engagement within RFMOs and the legal basis for targeting 'surplus' resources within coastal countries' EEZs (i.e. through private agreements and FPAs). The 1995 United Nations Fish Stocks Agreement (on straddling fish stocks and highly migratory fish stocks) further strengthened the role of RFMOs.

The FAO as a UN body also places an important role in providing international standards for good fisheries governance and has developed the 1995 Code of Conduct for Responsible Fisheries and more recently the FAO Action Plan on Illegal, Unregulated and Unreported Fisheries. The EU has an opportunity both to influence these processes but also to use these frameworks in its own policies – for instance the new EU regulation on IUU fishing is built on the FAO action plan giving it legitimacy under WTO rules.

There has been some discussion that the ultimate allocation of rights would need to be based on clear ownership of the high-seas rather than these remaining as international waters. One possibility under discussion is the option of pushing EEZ boundaries out resulting in a completely different management regime where RFMOs may no longer play a role<sup>37</sup>. However, this is a controversial area and given that the UNCLOS regime took such considerable time and effort to agree on it is likely that the RFMO regime will persist for the near future and therefore the aim of enhancing their effectiveness remain a priority.

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<sup>37</sup> Steve Cunningham, personal communication: 29th March 2010

## **3.4 Internal CFP policies that impact global fisheries governance**

### **3.4.1 Control measures**

Although not specifically within the external policy, the control mechanisms have implications for the activity of EU fleets both within and outside of community waters.

#### ***Background***

Control and enforcement measures of the CFP are the responsibility of Member States. However, the commission also has the obligation to ensure that Member States' control systems are effectively implementing the CFP. Important aspects of control measures is the use of satellite-based monitoring systems (VMS) which allow to verify the position of vessels and the future introduction of electronic reporting systems (ERS) to replace old paper log books.

In 2006 the Community Fisheries Control Agency (CFCA) was created to inspect and coordinate Member States' control systems.

Member States can pool inspection resources through Joint Deployments coordinated by CFCA. The CFCA assists by collating intelligence and undertaking risk assessments although it is primarily the Member States who contribute intelligence and statistical material. For instance, Member States provide most of the monitoring resources for JDPs such as aircraft, ships, personnel, communications and 24 hour manning at selected Fishery Monitoring Centres. At an RFMO level, joint inspections are undertaken under NAFO (Northwest Atlantic Fisheries Organisation) for both internal and external community waters and are envisaged for waters under NEAFC (North-East Atlantic Fisheries Convention). However CFCA is not expecting to do the same for other RFMOs and compliance within these waters will remain the responsibilities of Member States.

The EU has recently published a new Control Regulation<sup>38</sup> which strengthens elements of control and enforcement under the CFP. Of particular significance is:

- The responsibility of Member States to inspect activities along the entire fisheries chain: from landing, through to processing, transport and marketing;
- A wider scope which allows Member State inspections outside of their territories (i.e. within international waters and also for their own flags or other Member State flagged vessels);
- Harmonised sanctions such as: depriving permits; suspending financial assistance and deducting quotas.

#### ***Impacts on global fisheries governance***

The control measures within the CFP should have impacts on EU fleet management (i.e. ensure that they follow the relevant regional and national regulations), however the impact in practice depends on implementation of this control by individual member states.

It would be instructive to know how many infringements have been recorded for the external fleet. However, although the commission published a report in 2006 on serious infringements<sup>39</sup>, it did not distinguish between comprehensible information on infringements within and outside of community waters, and the report has not recently been updated.

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<sup>38</sup> COUNCIL REGULATION (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.

<sup>39</sup> [http://ec.europa.eu/fisheries/publications/factsheets/legal\\_texts/com\\_08\\_670\\_en.pdf](http://ec.europa.eu/fisheries/publications/factsheets/legal_texts/com_08_670_en.pdf)

The inspection of vessels, for example, by member states should be strengthened through the new control regulation which allows member states to inspect their own and other European countries' vessels within international waters.

It is the responsibility of flagged states to ensure vessels follow relevant regulations, but the incentive to do this is related to likelihood of detection and whether sanctions or penalties for breaking the rules are significant.

It is outside the scope of this report to look in detail at the CFP control measures, but it is important to flag this as an issue that merits further consideration in particular how member states implement their responsibilities to control their flagged vessels and whether they could undertake joint deployments within other RFMO areas e.g. ICCAT, IOTC & WCPFC.

### **3.4.2 Aquaculture**

It is not within the scope of this report to look in detail at the CFP policy on aquaculture, but it is included here to consider linkages between aquaculture and international fisheries governance. In particular this section will consider the question within the green paper on whether aquaculture should be included within future FPAs, as well as considering the impacts of aquaculture, within and outside the EU, on fisheries governance.

#### ***Background: EU Policy on Aquaculture***

The EU aquaculture sector is a significant player with an annual turnover of €2.9 billion, generating 65,000 jobs, yet its progress has been stalling and production has been constant since 2000 (1.3 tonnes in 2005) (EC, 2009b). This has been despite investment in aquaculture becoming one of the priority axes within the EFF (and €80 million invested through its predecessor, FIG). The high standards required in the EU sector result in high costs and alongside increasing competition for coastal space; it has become more difficult for fish farmers to compete in markets within and outside of the EU.

Within the vision of the Green Paper (EC, 2009a) it is suggested a future where: *'European's agriculture industry is an important provider of fish to European consumers: it remains at the forefront of technological development and continues to export know-how and technology outside Europe'*. Within the discussion on reform of the Fishing Partnership Agreements, the Green Paper also asks whether aquaculture opportunities could be included within future FPAs.

#### ***Impacts of aquaculture on international fisheries governance***

##### **EU market demand for farmed fish**

Most wild caught fish is fully exploited and increasing demand on all markets (including the EU market) will need to be met from aquaculture (EC, 2009b). It is interesting to note that a very large volume of fish imported from developing countries (mainly Asian) is farmed, and in some cases is driving down the price of wild-caught fish (e.g. Pangasius farmed in Vietnam competing on the market with wild-caught Nile Perch from Lake Victoria).

##### **Aquaculture that uses fish feed impacts on small-pelagic stocks**

Fish-meal orientated aquaculture (e.g. Salmon farming) obviously has a direct impact on small-pelagics fisheries stocks from which the fish-meal is sourced. A significant source of fish meal is from the productive upwelling anchovy fisheries off Argentina, but the small-pelagics caught off the West African coast may also be used for fish meal. These resources

are also important basis of food security often traded as a dried and cheap protein source nationally and regionally.

### **Potential of aquaculture to contribute to development and good fisheries governance**

In contrast aquaculture does have the potential to contribute to food security as well as development and good fisheries governance if it could be structured to provide alternative livelihoods and assist reduction in fishing capacity. Compared with the huge growth in aquaculture and export of farmed fish from South East Asia, aquaculture currently only represents 2% of fish production in Africa (compared with 90% coming from small-scale fisheries). However, there are also concerns that aquaculture can disrupt livelihoods if for example it blocks off access to coastal areas or results in pollution affecting local communities.

There is considerable debate on whether aquaculture should be further promoted in Africa. On the one hand some suggest there has been large amounts invested into aquaculture with no return (as well as it being a high risk venture and therefore not necessarily a pro-poor solution<sup>40</sup>), and on the other hand there are examples of thriving aquaculture that are supplying European markets (e.g. Lake Harvest exporting Tilapia from Zimbabwe to the EU <http://www.lakeharvest.com/> ). World fish suggest there is significant potential to support small and medium sized aquaculture enterprises<sup>41</sup>. NEPAD also has aquaculture as a priority for Africa but has been hampered by problems with infrastructure, supply of seed and feed and lack of finance.

#### **3.4.2.1 Concluding points**

- There may therefore be a role for EU investment within aquaculture sectors of developing countries if it is achieved sensitively and is not orientated towards farming heavily dependent on fish feed and high external inputs (ICSF, 2009). Investment in processing/hygiene infrastructure could equally benefit the capture as well as the aquaculture industry.
- Whether FPAs provide the best mechanism to encourage EU investment is open to question given the lack of EU investment in third country fisheries sector (joint ventures) within the framework. This is obviously a topic that needs further discussion and debate.

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<sup>40</sup> However, in a recent review of the impacts of development assistance in fisheries and aquaculture, it revealed that some evaluations do hint at potentially better performance of aquaculture projects/programme in terms of their impacts compared with capture fisheries projects, although this development support is not necessarily Africa-specific (Poseidon, 2008).

<sup>41</sup> Stephen Hall, World Fish, 17-18<sup>th</sup> September 2009 – European Fisheries Development Advisors Network

### 3.5 Policies outside of the CFP that have a significant impact on global fisheries governance

#### 3.5.1 Development assistance to the fisheries sector

The EU funds fisheries initiatives aim at: helping coastal and island states to formulate and implement fisheries development policies; and better management of aquatic resources. Another key aim of DG development policy is to ensure coherence with development as described in Section 1.5.1.

Rather than having projects at the national level DG Development now provides support through regional fisheries projects. An indication of the major projects and their regions are given below and includes a DG Mare project on MCS within the Indian Ocean which followed on from a previous DG Development project:

<p><b>Eastern Atlantic Ocean</b></p> <p><b>Support to CRSP:</b> enhance MSC in West Africa (€ 7 million)</p> <p><b>Support to CRSP:</b> harmonise fisheries policies across West Africa (€ 5 million: 2007–2010)</p>	<p><b>Indian Ocean</b></p> <p><b>Regional Coastal Management Programme</b> Indian Ocean Countries (2006–2011)</p> <p>DG Mare project: <b>Regional MCS project</b> (€7 million)</p> <p><u>Proposal:</u> <b>Regional Fisheries Strategies</b> for Eastern &amp; Southern African (Indian Ocean Countries) (€21 million)</p>
<p><b>Pacific Ocean</b></p> <p><b>Dev Fish:</b> Increase private sector participation, processing, trade and economic benefits (€12.5 million; €8.2 <u>proposed</u> 2009–2013)</p> <p><b>Sci Fish:</b> improve scientific basis of decision making (€6.5 million; €9 million proposed 2009–2013)</p>	<p><b>ACP (All oceans)</b></p> <p><b>ACP Fish II:</b> Reinforce ACP fisheries governance</p> <ol style="list-style-type: none"> <li>1) Consolidate national sector strategies</li> <li>2) Development and implement regional action plans</li> </ol> <p>(€ 30 million)</p> <p><b>Support for implementation of the IUU regulation</b> (€ 1 million)</p>

ACP Fish II is currently the largest DG Development international programme and has as its core objective to improve and reinforce fisheries sector governance and enhance the contribution of the fisheries sector to wealth generation. It also aims in particular improve transparency, accountability and coherence of fisheries policy and implementation. The basis of this is to support countries to develop coherent sector strategies which will be a condition for further funding under the programme. There will also be an important regional element to develop and coordinate fisheries policy across national boundaries. However, of critical importance is that within ACP Fish II, ACP countries that already have an FPA with the EU are included with the project but will not be able to receive additional funds.

Through the consultation on the CFP reform a number of international stakeholders have highlighted where there is further need for development support within the fisheries sector:

- Improved fisheries governance;
- Investment in MCS and Surveillance (Nouachott Declaration, 2009; ICSF, 2009)
- Improved science for stock assessments;
- Investment in infrastructure for landing, processing and adding value (Nouachott Declaration, 2009; ACP, 2009)

- Investment for technologies for improved sanitation and traceability in order to promote trade (Nouachott Declaration, 2009)
- Safeguards for small-scale fisheries and their ability to market fish (ACP, 2009; Nouachott Declaration, 2009)

### **3.5.1.1 Concluding points**

- DG Development is attempting to promote fisheries sector reform but this is not coordinated with DG Mare FPA or RFMO approach.
- Development funding is restricted (as the wealth creation potential of fisheries is not recognised)
- Development funding not forthcoming where the EU already engages with FPAs, although FPAs can only address a subset of the issues and need sustained dialogue within a development context for effective sector reform.

## **3.5.2 Fisheries trade policies**

### **3.5.2.1 Background**

Trade of fish and fisheries products is important to Europe, both as an importer and exporter. 60-65% of the EU fish supply for consumption is met through imports, and for some species, the percentage is much higher (e.g. whitefish, 90%) (EC, 2009d). This is a result of the poor state of fish stocks in European waters and increasing purchasing power and consumer demand for fish among EU consumers. The EU processing industry requires stable and reliable supplies to remain competitive, since internal supplies from EU waters are not sufficient (EC, 2009d).

Export of fish and fisheries products provide an important source of foreign exchange revenue for developing countries, and the EU is an important trade partner for many developing countries. Net revenues for developing countries from fish exports were US\$ 20.4 billion in 2004, greater than those for other major commodities such as coffee, cocoa, sugar and tea combined (MRAG & DFID, 2008).

The EU represents the largest single market for imported fish and fishery products. Of the top fifteen developing countries that export fish and fisheries products to the EU market, exports are dominated mainly by Asian and South American countries: the main developing country exporters of fish and fishery products to the EU by value are China, Morocco, Viet Nam, Thailand and Ecuador (Table 7).

The main categories of fish and fishery products that the EU imports from developing countries are shrimp, tuna, cuttlefish, squid and octopus, groundfish and fish not specified (mainly frozen fish fillets) (Table 8). Much of the shrimp is likely to be predominantly from farmed sources rather than from wild capture fisheries. Similarly, most of the salmon imported to the EU is also predominantly from farmed sources (in particular from Norway and Chile).



**Table 7: EU-27 fish imports from developing countries: top 15 countries by value (2007)**

Country	Import value (€) 2007
China	1,230,691,842
Morocco	741,521,991
Viet Nam	652,202,020
Thailand	636,746,030
Ecuador	558,031,060
Argentina	545,720,920
Chile	498,962,499
India	488,243,962
Russia	359,352,219
Namibia	231,400,300
South Africa	228,901,318
Indonesia	212,010,577
Turkey	190,274,899
Bangladesh	189,702,408
Senegal	177,206,551

Source: Eurostat COMEXT Trade Database. Based on HS2-4 codes 03, 1604, 1605. 2007 data.

**Table 8: Main fish and fishery product groups imported to the EU27 from developing countries (2007): top 15 by value**

Product group	2007 value (€)
Shrimps	2283677770
Tuna	1531134554
Cuttlefish & octopus	1100602021
Groundfish	1072474789
Fish not specified	533072251
Other molluscs & invertebrates	242256442
Lobster	234953660
Molluscs (other)	147054242
Scallops	144342014
Salmon	139332542
Sardine	114876411
Swordfish	93541832
Ornamental fish	81851240
Crustaceans other	81499816
Anchovies	80228467

Source: Eurostat COMEXT Trade Database. Based on HS6 codes 03, 1604, 1605. 2007 data.

### 3.5.2.2 Impacts of international fisheries trade

Developing country fish exports can strengthen employment and income opportunities for local people in domestic fisheries in coastal and inland regions (FAO, 2007a).

There are arguments both in favour of and against the benefits of fish trade for developing countries. On the one hand, the export revenues generated contribute to national foreign exchange earnings and thus to the wider economy, supporting health, education or infrastructure spending. Furthermore, the export industry provides jobs. However, there are also arguments that the export of fish and fisheries products may jeopardise the livelihoods and food security of fisheries-dependent communities at a local level, and may reduce the availability of fish on local markets. It is particularly in the case of weak governance where expanding international fish trade could aggravate overexploitation of vulnerable fish stocks, destroying the resource on which the trade relies (FAO, 2007a), and in the process negatively affecting people who also depend on the resources for their food, livelihood or income.

A study by Bené (2008) found that at a macroeconomic level, there is no evidence that fish trade negatively affects fish food security. However, there was also a lack of relationship between fish trade and macro-level indicators of economic growth or poverty alleviation. This may be because fish export revenues are a relatively small proportion of GDP and hence their effect is hidden, or it may be due to poor, or even an absence of, efficient trickle down mechanisms, failing to redistribute the revenues generated by fish exports to the poorest segments of the population.

It is likely that benefits are felt at a national level, whereas negative impacts are felt at a local level. It is therefore important for developing countries to assess the context-specific trade-offs with trade and have mechanisms in place to compensate those negatively affected. It is also essential that management and governance frameworks are in place that effectively

monitor and manage the fisheries to avoid export-driven resource overexploitation from occurring.

### **3.5.2.3 Impact of EU trade policy**

#### **Tariffs**

None of the countries that have an FPA with EU are subject to tariffs on the import of fisheries products. They either qualify under the 'Everything but Arms Initiative' (EBA) as a Least Developed Country (LDC) or if they have signed a full or Interim Economic Partnership Agreement (EPA). Countries that do not fall under such agreements often pay high tariffs on fisheries products, especially if they have been processed (referred to as 'tariff peaks' designed to protect EU processing industry) (Box 10).

#### **Box 10 EU Fisheries Tariffs**

Import tariffs are applied to different fish and fishery products according to their type and level of processing. The Generalised System of Preferences (GSP) is a trade arrangement through which the EU provides preferential access to the EU market to 176 developing countries and territories, in the form of reduced tariffs. The GSP incorporates three preference regimes: the standard GSP; GSP+ which offers additional tariff reductions to support vulnerable developing countries that have signed international treaties on sustainable development and good governance; and the Everything but Arms Initiative (EBA), which provides duty- and quota-free access to the EU market for the 49 least developed countries (LDCs).

The GSP includes a number of tariff peaks (where tariffs for particular sensitive products are much higher than other tariffs) for fishery products, in order to protect and support the EU processing industry. For example, there is a tariff of 15% on fresh tuna fillets, 18% for frozen fillets and 24% for canned tuna and tuna loins.

The World Trade Organization (WTO) Doha Round, if successfully completed, will result in substantial cuts to the current EU tariffs applicable to fish and fishery products, especially those which currently have high tariff peaks, such as processed tuna. However, even without conclusion of the Doha Round, the trend of trade liberalisation is expected to continue, and the EU is negotiating a number of Free Trade Agreements (FTAs), including with some key fisheries players (e.g. India, Association of Southeast Asian Nations).

#### **Trade agreements and Economic Partnership Agreements**

ACP states had previously been the main countries to benefit from zero tariffs on fisheries products (through the Cotonou Agreement), but this trade preference is being eroded by the reduction of tariffs under WTO or other EU free trade agreements (e.g. g. India, Association of Southeast Asian Nations). Under Cotonou, processing facilities developed in some ACP countries (e.g. Cote d'Ivoire, Seychelles, Madagascar), exporting mainly to the EU market. These countries are concerned that as other countries also begin to benefit from zero tariffs (e.g. Ecuador and Columbia which qualify under EBA) they will become less competitive.

The Cotonou Agreement expired in December 2007 and EPAs are being negotiated between the EU and regional groupings of ACP countries to provide equivalent tariffs but under a regional umbrella which requires all parties to liberalise trade to be compliant with WTO. Several regional groupings of ACP countries have agreed full or interim EPAs with the EU (see Table 9). The Caribbean region (CARIFORUM countries) is the only region to have reach agreement for a full EPA; other regions have agreed interim-EPAs (e.g. countries in Western and Central Africa and the EAC, ESA and SADC groupings in Eastern & Southern Africa as well as selected countries in the Pacific). In some situations, rather than reaching agreements with the whole of each regional grouping, subsets of countries in each grouping have agreed interim-EPAs, with other countries being free to join at a later date. Usually, the countries that signed interim-EPAs are those for whom trade with the EU is particularly

important, and that do not have the opportunity to trade under other zero tariff systems, such as EBA or GSP+.

For the Eastern and Southern Africa (ESA) and East African Community (EAC) interim-EPAs, a separate chapter on fisheries was included (Campling, 2008), indicating the importance of fisheries for these countries. These chapters contain provisions for the EU to support the implementation of VMS and MCS systems on a regional level.

**Table 9: Current situation of EPA negotiations, February 2010.**

Region	Full/interim	Date signed	Comments
<b>Caribbean</b>			
CARIFORUM	Full	Initialled 16 Dec 2007, signed Oct 2008	All CARIFORUM countries signed, except Haiti, which subsequently signed in Dec 2009. Includes chapter on agriculture and fisheries.
<b>West and Central Africa</b>			
Ghana	Interim	Initialled Dec 2007	
Cote d'Ivoire	Interim	26 Nov 2008	
ECOWAS	--		Negotiations for full EPA continuing with regional grouping.
Cameroon	Interim	15 Jan 2009	
CEMAC + Sao Tome & Principe	--		Negotiations for full EPA continuing with regional grouping,
<b>Eastern &amp; Southern Africa</b>			
EAC	Interim	Initialled 23 Nov 2007	Kenya, Tanzania, Rwanda, Uganda and Burundi. Negotiations for full EPA continuing. Includes fisheries chapter
ESA	Interim	Initialled end 2007	Initialled by Comoros, Madagascar, Mauritius, Seychelles, Zambia, Zimbabwe. Negotiations for full EPA continuing (11 countries). Includes fisheries chapter. Derogation for 8000mt of canned tuna and 2000t of tuna loins.
SADC	Interim	Initialled 2007, signed June 2009 (except Namibia)	I-EPA initialled by Botswana, Lesotho, Swaziland, Namibia and Mozambique. Full EPA under negotiation between I-EPA countries plus South Africa and Angola. Requires coherence between ACP and TDCA* trade regimes, due to the BLNS customs union
<b>Pacific</b>			
Pacific	Interim	Initialled Nov 2007. Signed July 2009.	Signed only by Fiji and Papua New Guinea. Global sourcing RoO (fish considered originating if processed from tariff heading 03 to 1603 or 1604). Full EPA under negotiation with full regional grouping.

\*TDCA is the Trade, Development and Cooperation Agreement between the EU and South Africa. BLNS = Botswana, Lesotho, Namibia and South Africa.

Sources: ECDPM (2009); [http://ec.europa.eu/trade/issues/bilateral/regions/acp/regneg\\_en.htm](http://ec.europa.eu/trade/issues/bilateral/regions/acp/regneg_en.htm)

### **Rules of origin**

Of more significance to ACP states than tariffs as barriers to add-value and export to the EU are the EU's Rules of Origin (RoO) which establish the criteria that products must comply with to obtain favourable tariff rates (for example under the GSP, the previous Cotonou Agreement or EPAs).

RoO are designed to ensure that only products meeting the minimum origin standards can benefit from trade preferences, but often also protect EU interests particularly the EU tuna processing industry. For example, to qualify for zero tariffs (under the Cotonou Agreement and most EPAs), fish and fish products have to be caught by an ACP- or EU-owned vessel. Many ACP countries do not have their own fishing fleets, and therefore have to purchase fish from high-priced EU suppliers, rather than from third-country vessels fishing locally. The restriction of supplies effectively limits the development of the processing industries and provides an incentive for ACP countries to sign access agreements with the EU (CTA, 2009). Table 10 provides further background on current trends in tuna processing.

**Table 10 Current trends in tuna processing**

Export of canned tuna is important for some ACP countries which have built up their tuna processing industries as a result of the trade preferences provided by the Cotonou Agreement. Tuna is usually caught by EU vessels (often operating under FPAs) and processed in canneries, the main countries being Seychelles, Mauritius, Cote d'Ivoire and Madagascar.

Thailand is the world's largest producer of canned tuna, producing 269,400 tonnes per year. Raw material is mainly obtained from Taiwan and Japan, and the main markets are the US, Middle East and Europe (Oceanic, Poseidon & MegaPesca, 2005). Its tuna processing industry has been established a long time but developed considerably in the last 10-15 years and competes with the ACP canneries exporting into Europe.

Many EU-based tuna processing factories (in Spain and France) are increasingly importing tuna loins for canning, rather than whole fish. Carrying out the labour-intensive primary processing (loining) outside the EU reduces costs and maintains competitiveness of the EU-based canneries. Loining is predominantly carried out in Ecuador and Colombia (both countries that benefit from zero tariffs through the EBA system), Kenya (zero tariffs as an ACP country) and Thailand (Oceanic, Poseidon & MegaPesca, 2005). Several such loining plants have been established by EU companies.

Stringent RoO therefore protect the EU fishing industry interests and EU-based processing industries, whereas more relaxed RoO could support the EU processing interests based overseas. However, there has been some relaxing of RoO in recent agreements. For example, the ESA interim EPA allows a derogation for 8000t of canned tuna and 2000t of tuna loins (i.e. quantities that can be imported before applying RoO).

The Pacific interim-EPA provides for global sourcing RoO. This means that regardless of where the fish is caught or the flag state of the vessel that caught it, it is considered originating if it undergoes processing that transforms it from tariff heading 03 (fresh or frozen whole or filleted fish) to 1603 or 1604 (pre-cooked, packaged or canned) (i.e. change of tariff heading). This provides substantial flexibility to the Pacific ACP countries under the EPA, and has already boosted investment and growth in the fisheries sector in Fiji and Papua New Guinea (EC, 2010), although unexpected conflicts between the tuna processing industry and coastal communities have arisen (e.g. disputes over working conditions, land rights and pollution) (CTA, 2009).

### ***Sanitary, hygiene and quality requirements***

In many cases, quality requirements are of more concern to developing countries as an effective constraint to trade, due to the complexity of food safety requirements that must be complied with. These include SPS measures, product identification (species, origin), traceability and private eco-labels, as well as increasingly stringent quality, sustainability and traceability requirements demanded by retailers.

Quality, sanitary and hygiene requirements are important mediators of fish trade and countries that export to the EU must comply with the sanitary and phyto-sanitary (SPS) measures. In particular, this requires the existence of a competent authority which must be approved by the EU Food and Veterinary Inspectorate (DG SANCO). The competent authority must be capable of ensuring that fishery products are of an equivalent level of safety for European consumers as that of products produced and approved by the EU's internal food safety system; and is responsible for certifying processing and exporting establishments that meet the criteria. Freezer and factory vessels must also be registered and approved. Countries that do not have a competent authority approved by the EU therefore cannot export fish and fishery products to the EU; and some facilities will not be approved by the competent authority so that they will not be able to export product to the EU.

### ***Fisheries certification & eco-labels***

Fisheries eco-labels have increased in importance in recent years certifying fish from 'sustainable sources'. The most well known label is the Marine Stewardship Council (MCS) but there are other labels emerging (e.g. Friend of the Sea, Naturland).

Eco-labels have the opportunity to use market demand to raise standards and improve sustainability but there are concerns from developing countries that this acts as another barrier to trade. There are also concerns from fisheries economist that current certification schemes only covers 'ecological sustainability' and does not require fisheries to generate sustainable wealth (Anderson, 2010). Approaches are emerging that define indicator centred on good fisheries governance and sustainable wealth outcomes which may be powerful in driving a different sort of change (Box 11).

#### **Box 11 Indicators to measure good fisheries governance and sustainable wealth outcomes**

A set of Fisheries Performance Indicators (FPI) have recently been developed to measure wealth creation in fisheries. The indicators measure the success or failure of fisheries to maximise potential wealth (outputs) as well as enabling factors that allow wealth generation in fisheries (inputs such as good governance) (Anderson, 2010). Output indicators measure success in stock sustainability, harvest & post sector economic performance and community sustainability. Enabling factors assess the macro-economy (governance, GDP, economic freedom); property rights & responsibilities; management effectiveness and post harvest market institutions and infrastructure.

Since 2005, the EU has been considering a community approach towards eco-labelling schemes for fisheries products, with a view to defining elements that should be associated with an eco-labelling scheme. Some of the early concerns of the EU included: the cost of certification, difficulties for small and medium sized fishing enterprises to participate; and the perception of developing countries that eco-labels are another form of trade protection.

The commission is investigating the option of establishing minimum criteria and procedures for voluntary schemes for labelling sustainable fishing for marine-capture fisheries products placed on the European market and to allow member states to enforce the monitoring of environmental claims. The proposal will be based on the FAO guidelines for the eco-labelling of fish and fishery products (2005) according to three central criteria: fisheries management; state of the stocks; ecosystem considerations.

#### **3.5.2.4 Concluding points**

- Countries with an FPA are not significant exporters to the EU with the exception of Morocco, often because of FPAs where EU vessels land directly into EU ports. Developing countries that import significant quantities of fish into the EU are either those without FPAs (e.g. Namibia, South Africa, Argentina and Senegal) or are countries

exporting farmed fish (e.g. prawns, shrimps from Vietnam). In the overall context, developing countries import only small quantities of fish compared to fish from Norway, Iceland, China, USA, Russia, Chile, and Faroe Islands)

- There are also few countries with an FPA that have significant processing capacity (with the exceptions of Seychelles, Cote d'Ivoire and Madagascar) and their competitiveness is being challenged by erosion of trade preferences.
- Export of fish from developing countries provides significant benefits for economic growth and development, but in the absence of good governance and policy coherence it can lead to over-exploitation and impacts on the most vulnerable.
- One of the major concerns is that the EU trade policy works in conjunction with the external fisheries policy to make it more difficult for third countries to add-value to their fisheries product and export them to the EU. As discussed above fish caught under FPAs (particularly tuna) is often landed directly into Europe. Trade policies add further barriers.
- Tariff barriers are not the main issue as none of the countries that have an FPA with the EU are subject to tariffs for the import of fish or fisheries products. They previously qualified for zero tariffs under the Cotonou agreement and now either as a LDC (under the EBA initiative) or as part of an EPA. However, these countries trade preferences (compared to countries that pay higher tariffs for fish) are being eroded as the EU brings down tariff peaks in line with WTO and signs other free trade agreements. This means that countries with processing capacity (e.g. Cote d'Ivoire, Seychelles, Madagascar) are likely to become less competitive in the future especially compared to countries (e.g. Ecuador, Columbia, Thailand) that undertake primary processing of tuna (into loins) which is then canned in Europe.
- Of more concern as trade barriers are the EU's RoO and the sanitary and hygiene requirements (SPS measures).
- Stringent RoO allow tariff preferences only for originating fish (caught by the third country or EU vessels) and this effectively limits the ability of the third country to access raw product and therefore process and export it to the EU unless they buy product from high-priced EU suppliers. However, the EU has agreed to more relaxed RoO under the ESA EPA (which concerns the Seychelles, Comoros and Madagascar) where there is a quantity of fish that can be imported before RoO applies; and under the Pacific EPA preferential tariffs are given to products that have undergone a tariff heading change (i.e. from fresh/frozen to canned).
- SPS measures are often a considerable hurdle for countries or specific processing units to get over in order to export to the EU, especially where capacity and supporting infrastructure is weak.
- Fisheries certification provides a significant opportunity to drive improved fisheries outcomes through market demand. However, there are concerns from developing countries that this acts as yet another trade barrier. There are also concerns that certification schemes only look at 'ecological sustainability' and do not assess their ability to generate sustainable wealth. However new 'fisheries performance indicators' are being designed to fill this gap and provide an index which measures both wealth creation and the required enabling factors i.e. good fisheries governance.

### 3.5.3 EU IUU regulation

#### 3.5.3.1 Background

Illegal Unreported and Unregulated (IUU) fishing is a serious threat to good global fisheries governance. It is estimated to represent around €10 billion/year, and nearly 20% of the catch in sub-Saharan Africa (MRAG, 2005). Vulnerability to IUU fishing has been strongly linked with poor national governance (MRAG, 2005).

The EU has had an action plan on Illegal, Unreported and Unregulated Fishing since 2002. Following a consultation process, the EU published a new strategy to deter, prevent and eliminate IUU in October 2007. This strategy covers a number of areas of action as indicated in Box 12.

#### Box 12 Main actions in the EU strategy on IUU

- 1) Introduce a new trade regime that only allows legally caught fisheries products into the EU
  - 2) Creation of IUU black lists for vessels and non cooperating states (i.e. those hosing flags of non-compliance)
  - 3) Address IUU activities of EU fleets through implementation of the CFP and control measures with sufficient penalties
  - 4) Cooperate at the international level e.g. through the global list of vessels, international MCS network and sharing of information
  - 5) Support action on the high seas (through RMFOs) and within waters of developing coastal states
- Source: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0601:FIN:EN:PDF>

A specific IUU regulation (1005/2008<sup>42</sup>) was brought into force this year (January 2010) which specifically targets the first action in the IUU strategy (preventing imports of illegal fish into the EU). It requires a new system of catch certification for consignments imported into the EC that are validated by the flag state. This validates that catches have been made in accordance with applicable laws and international conservation and management measures. In addition export consignments require additional certification or proof if they have been transported or processed in a third country.

Catch documentation systems are also being used within RFMOs and some (e.g. ICCAT) are looking at ways to harmonise their systems with the EU regulation in order to reduce paper work<sup>43</sup>.

The regulation sets up procedures for the identification and listing of IUU vessels and of non-cooperating third countries. Countries need to indicate their 'cooperation' by illustrating they have the administrative arrangements for the implementation, control and enforcement of laws and regulations regarding fishing vessels and have identified public authorities that are properly empowered to validate certificates and prove this validity (Oceanic Développement & MegaPesca Lda, 2009). The EU will not sign any new FPAs with 'non cooperating third countries'.

On the basis of the IUU regulation member states can reject fish imports if they

- are not accompanied by a catch certificate;
  - were caught by a vessel that has been found to engage in IUU fishing;
  - were caught by a vessel included in the EU IUU fishing list; or
  - were caught by a vessel flying the flag of a non-cooperating third country
- (Baumüller, 2010)

<sup>42</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:286:0001:0032:EN:PDF>

<sup>43</sup> Andy Carroll, personal communications, 25th March 2010

Member states are required to undertake additional verification or audits at random in particular where there is any doubt on the authenticity of the catch certification or compliance of the fishing vessels concerned; where the vessel or enterprise has been associated with illegal fishing; where the flag state has been reported to an RFMO under a trade measure; or there has been an alert notice has been published by the Commission. The exact criteria used to select audits are up to individual member states although they must be communicated to the Commission.

### **3.5.3.2 Impacts**

Before the IUU regulation came into force there were some concerns on the ability of developing countries to be able to comply (Baumüller, 2009). In particular there were concerns that the system would be impractical for small-scale fisheries that would require a large number of catch certificates for one export consignment and associated difficulties in tracing the products back to the catch level.

However, since the introduction of the legislation in January 2010 there have been very few reported problems and most countries have now been listed as 'cooperating third countries', although there were initial problems with Sao Tomé. There has been no formal flexibility given to developing countries, although there may have been some discretion applied in order to assist countries with the new developments<sup>44</sup>. At the level of the UK, fresh fish consignments have been received since the IUU regulation has come into force with no encountered problems. However as of March 2010, there had not been any consignments of processed fish which may pose more problems<sup>45</sup>.

It therefore appears that developing countries have been able to get the administrative structures in place to issue catch certificates, but it remains to be seen whether they have the capacity to truly 'validate' the certificate if this was questioned by member states and prove whether they have been made in accordance with applicable laws, conservation and management measures. It is likely that fisheries imports entering the EU from developing countries that are controlled by developed country interests (and already have traceability systems in place required for other import regulations e.g. SPS and origin certification) will find it easier to prove legality compared with exports from nationally owned or small-scale fisheries (EC, 2009d).

Both the efficacy of the regulation and its likely impact on developing countries and improved fisheries governance will depend on how the regulation is applied in practice, and in particular whether it is backed up by a rigorous verification and audit system. This is in effect the responsibility of member states although the Commission can prompt audits by issuing specific alerts relating to a vessel, species or third country. It is also related to the commitment of third countries to ensure the validity of their catch certificates and prevent the development of fraudulent catch certificates issued under their name (Oceanic Développement & MegaPesca Lda, 2009).

An assessment of the expected consequences for developing countries of the IUU fishing regulation identified the following limitations in their ability to prove the basis of catch certificates:

- **Limitations of MCS systems** to guarantee the implementation of national laws and prove that catches were made legally;
- **Lack of traceability in the distribution chain** to illustrate that catch within an export consignment can be tacked back to legal catch;

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<sup>44</sup> Heike Baumüller, personal communications, 29<sup>th</sup> March 2010].

<sup>45</sup> Andy Carroll, personal communications, 25<sup>th</sup> March 2010



- **Lack of traceability in the processing chain** to prove the fish catch has not been 'laundered' especially where processed product may have been originally caught under one country's flag but imported into the EU through another country. In particular flag states do not have control over traceability of catches where they are landed elsewhere. (Oceanic Développement & MegaPesca Lda, 2009)

There is a capacity building programme (of €1 million) to assist developing countries comply with the IUU regulation, however this is only envisaged to address administrative capacity (and the legal basis for catch certificates) and will not be able to address capacity for wider fisheries governance to be able to verify catches are from legal sources.

This contrasts starkly with the EU approach to reducing trade in illegal timber which has put capacity building on improved forestry governance at the heart of its approach. The EU's Forest, Law Enforcement, Governance and Trade action plan (FLEGT) is a bi-lateral approach which centres on the negotiation of bilateral agreements between key timber exporting countries and the EU that commit only to trade in legal timber. The Voluntary Partnership Agreements (VPAs)<sup>46</sup> include a licensing system for certifying legal timber and a large capacity building element to assist in developing of the system including improvement in enforcement and support to reform forestry laws. While the FLEGT approach has its weaknesses (mainly evasion by trading through non-VPA countries) it has been recognised that it provides an important means to improve forestry governance (Baumüller et al., 2009) by:

- Providing an analysis of existing legislation;
- Setting up independent monitoring of licences;
- Involving national stakeholders (including civil society) in joint committees; and
- Improving transparency of reporting and forest sector management (e.g. production, rights allocation, financing and audits);

The FAO has a programme<sup>47</sup> to support the FLEGT approach in ACP countries with a total budget of around \$13 million.

### **3.5.3.3 Concluding points**

- In summary the IUU regulation has significant potential to reduce IUU fishing and therefore contribute to good global fisheries governance especially since imports account for 65% of fish consumption in Europe.
- However, the impact of the IUU regulation will depend on whether it is sufficiently audited by Member States and the capacity of flag states to have the systems in place to validate certificates and prove that they are in fact from legal sources.
- The fisheries sector could learn from the approach being used within the forestry sector to reduce trade in illegal timber. Through the FLEGT programme, the EU is engaged at a bilateral level to reform forestry laws and governance structures as well as involve the civil society and promote transparency. Significant resources are also being made available to support capacity for good forestry governance within developing countries, for example a FAO/EU/UN programme provides \$13 million for capacity building on preventing illegal timber trade within ACP states compared to the €1 million being made available to assist developing countries implement the IUU fish regulation.

<sup>46</sup> VPAs have currently been agreed with Ghana (September, 2008); Republic of Congo (March 2009) and negotiations concluded with Cameroon. Other negotiations are underway with Central African Republic, Gabon, Indonesia, Liberia and Malaysia with many other countries expressing an interest to conclude VPAs.

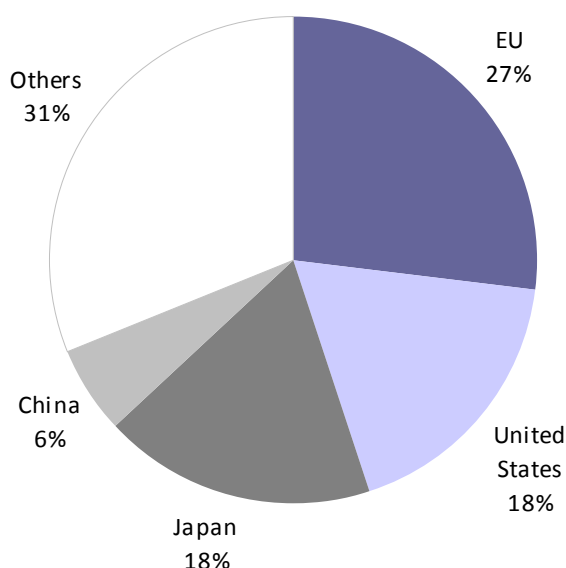
<sup>47</sup> The Forest Law Enforcement, Governance and Trade Support Programme for African, Caribbean and Pacific countries (ACP-FLEGT Support Programme) is a collaborative effort among the Food and Agriculture Organization of the United Nations, the European Commission and the African, Caribbean and Pacific Group of States (ACP) to address forest law enforcement, governance and trade issues in ACP member countries.

## 4 Conclusions:

### 4.1 Why is international fisheries governance important to the EU?

#### *Contribution of fish to EU/UK food security*

The EU accounts for a large proportion of global fisheries imports but is less significant when considering total world seafood consumption. Global trade in fisheries products reached a value of \$85.9 billion in 2006 (FAO, 2008) and the EU, USA and Japan together account for 72% of total world imports in terms of value and 52% by volume (EC, 2009d). The EU represents 27% of world trade by volume (Figure 4). In terms of consumption, the EU makes up approximately 11%. Total world consumption reached 100 million tonnes (EC, 2009b) with the EU consuming around 11.7 million tonnes in 2007 (FAOStat<sup>48</sup>).



**Figure 4 Share of world import values of fish and fishery products excluding intra-EU trade (2006)**

Source: FAO, 2007b.

Fish products are very important to Europe in terms of food security providing on average 15% of all animal protein per head in the EU. However this figure hides considerable variation between member states, for instance the proportion reaches 50% in Portugal but is less than 10% in more than half of all Member States.

Europe is now highly reliant on fish imports to reach its need for fisheries products and imports contribute to 65% of Europe's fish consumption (DG Mare, 2009). Important import species are demersal white fish (cod, hake & pollock); tuna; salmon; shrimps & prawns; and molluscs (cuttlefish, octopus, squid).

Norway is the largest supplier of fresh, chilled and frozen fish to the EU. Other key suppliers (especially for cod, hake, pollock and tuna) are Iceland, China, USA, Russia, Chile, Faroe

<sup>48</sup> <http://faostat.fao.org/site/610/default.aspx#ancor>

Islands & Vietnam. The main suppliers for shrimp and prawn are Argentina, Ecuador, India, Bangladesh and China. There is a growing dependence of the European processing industry towards imports of semi-processed materials such as loins and fillets, especially for tuna from Ecuador, Thailand and the Seychelles.

It is difficult to separate out imports of farmed from wild caught fish, but studies suggest that imports of farmed fish reached \$2.8 billion in 2007. This was made up mainly of sea bass and sea bream (from Turkey and Croatia); mussels and salmon (Chile and Norway) and a significant increase in recent years of fresh water fish such as Tilapia and *Pangasius* from south Asian countries. However this data does not account for imports of prawns/shrimps of which a large proportion will be farmed.

The UK imported 753,000 tonnes of fish in 2006 of which cod, haddock, tuna, shrimps and prawn were predominant among imported species (House of Lords Report, 2008).

### ***Demand for sustainable & legal products:***

The EU is leading the demand for sustainable products and there is considerable demand for fish available on the international market that is legal, sustainable and reaches high sanitation conditions. Compliance with the IUU regulation depends on good fisheries governance within flag states.

### ***Objectives for improved maritime governance within the IMP***

The IMP has an international element striving for improved maritime governance and healthy oceans.

### ***EU commitment to policy coherence for development:***

The EU has made a commitment to policy coherence for development and improved global fisheries governance has an important role to support sustainable development in developing countries

## **4.2 What are the key barriers to the CFP promoting good international fisheries governance?**

### **4.2.1 Conflicting objectives**

It is clear that one of the key barriers for the CFP to promote good international fisheries governance is its conflicting objectives. Within the commission diagnostic assessment of the CFP, it is recognised that the policy is currently based on: *a trinity of equally important, and in practice sometimes contradictory objectives of international fleet presence, supply security and governance contribution* (EC, 2009d).

The conflict of current objectives is illustrated by both EU's engagement in RFMOs and in its negotiation of FPAs where in order to contribute to good fisheries governance it may be the best policy to reduce EU capacity or to promote trade from third countries to support their development, even though this would go against EU industry interests.

The Green Paper on CFP reform questions whether the external fisheries policy should have the same objectives as the internal dimension, namely achieving sustainable and responsible fisheries. It suggests that objectives that currently guide the external policy such as maintaining a presence of an EU fleet internationally and ensuring this fleet supplies the

EU market; as well as the premise that the presence of EU vessels supporting the EU legitimacy and influence in RFMOs could be of less relevance today. However there may be a requirement for an objective that supports EU food security, understanding that for the long term this can be achieved through support to coastal state and RFMO fisheries governance and facilitated trade rather than a focus on the EU external fleet's role.

A number of submitted consultation responses have picked up on this theme and agreed with this shift (e.g. ICSF, 2009). Others have suggested that as well as an objective to achieve sustainable and responsible fisheries, the external policy objectives should go further (Nouachott Declaration, 2009) to support:

- Responsible/sustainable fisheries and poverty reduction;
- Promotion of international commitments on sustainable fisheries;

However, not everyone agrees that the EU should be changing its objectives, for instance Spanish fishing industry representative (SGM-Spain) at a recent seminar on FPAs suggested that the CFP should retain its current objectives.

#### **4.2.2 Lack of good fisheries governance within coastal states**

Although an obvious conclusion it is worth highlighting how it is the lack of good fisheries governance within coastal states which leads to the major problems associated with distant fishing nations. For instance where there are effective allocations based on scientific research and monitoring, control and surveillance to enforce the regulations, joint ventures do not pose a particular problem (e.g. Namibia), but where there are no limits or reporting requirements they can serve to increase over-capacity and over-exploitation of stocks.

A lack of good governance within coastal states also contributes to the following problems:

- Higher levels of IUU fishing;
- Trade policies that could lead to over-exploitation of resources and limitations to the contribution of fisheries trade to economic growth and poverty reduction;
- Conflicting objectives such as food security, building a national fishing industry and providing access to DWFs;
- Low control of external fleets to ensure compliance with national and regional regulations;
- Lack of scientific assessments to ensure DWFs target only 'surplus' resources;
- Lack of private sector investment in national fisheries and processing sectors;
- Low transparency on access agreements and related corruption.

#### **4.2.3 EU approach to promoting good fisheries governance**

Within coastal states' EEZs, the EU has attempted to promote good fisheries governance within the FPA framework. However, the attempt to promote sector reform that is linked to EU access will always face problems such as an inherent conflict of interest, the time required for policy dialogue and the need for the coastal state policy to take primacy in order to provide an effective framework for access agreements.

It has been argued that support for sector reform would be better placed within development support but in practice the EU's development support for the fisheries sector is restricted by budgets and capacity. EU development funding is not given to coastal states already receiving funds through FPAs and it is difficult for the EU to prioritise the fisheries sector where it is not prioritised within countries' PRSPs.

#### **4.2.4 Coastal states' untapped potential for wealth creation from fisheries**

A key constraint in achieving good fisheries governance within coastal states' EEZs is the lack of awareness on potential wealth creation from the fisheries sector under improved management. Coastal states do not prioritise the fisheries sector within their development policies (e.g. PRSPs) as it may be considered marginal to economic growth and this leads to a lack of political will to redress incentives for sustainable management. In this context FPAs become an option that provides a financial contribution in the short-term but does not maximise the value of the resource or of the post-harvest sector to add-value.

#### **4.2.5 Policy incoherence**

The EU's ability to contribute to successful outcomes of good fisheries governance within developing countries is also undermined by policy incoherence. There are a wide range of tools currently used by the EU's different departments to support development of the fisheries sector in third countries e.g. FPAs (provide support for fisheries sector reform), EPAs (provide trade preferences but also specific support for SPS measures) and development support (aims to promote good fisheries governance). However none of these tools are coordinated or even share overarching objectives. This incoherence takes place both at the national level where FPAs are not linked to wider development and trade issues<sup>49</sup>, and at the regional level where support is going towards regional projects without agreeing on shared objectives.

Due to a lack of policy coherence different policies can have unintended consequences on each other. For example trade and fisheries policies may interact to make it more difficult for developing countries to add-value and export fisheries products to the EU.

#### **4.2.6 CFP policies can actively undermine good global fisheries management**

There are a number of ways in which CFP policies directly affect global fisheries governance and successful fisheries outcomes (specifically within developing countries).

##### **FPAs:**

- can be seen as subsidising overcapacity of EU fleets in third country waters;
- support poor fisheries governance of coastal states or at least do not create real incentives for fisheries sector reform;
- lead to over-exploitation where 'surplus stocks' cannot be guaranteed;
- use damaging fishing techniques under regulations that are not as stringent as those within community waters;

##### **EU's engagement within RFMOs:**

- Is driven by the objective to enhance EU fishing interests rather than promote good fisheries governance;
- Directly conflicts with the need to reduce capacity within RFMOs and allow developing country access to the benefits.

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<sup>49</sup> For example, it has been commented that Solomon Island FPA remains essentially an access agreement and does not address trade, investment and private sector development issues that would be associated with effectively integrating fisheries into the Solomon Islands domestic economy (Clark, 2006).

#### **4.2.7 CFP has limited influence over international fisheries governance**

While the CFP can have direct impacts on global fisheries governance, there are many aspects that it cannot control or that are dependent on the good fisheries governance within coastal states.

Within the influence of the CFP are the FPAs for certain coastal states' EEZs, engagement with RFMOs to govern the EU external fleet activities on the high seas, the CFP structural policy and control regulations. However, the EU fleet also operates outside of these frameworks (e.g. through private agreements with coastal states or joint ventures) and its compliance within coastal states' EEZ will also be driven by the capacity of that state for monitoring, control and surveillance to enforce regulations.

At the regional level, the EU is only one contracting state within any one RFMO and its influence is undermined by perceptions that it is failing to achieve sustainable fisheries management within its own waters. Regional management is affected by:

- Effectiveness of RFMOs as the mechanism to govern high seas and shared stocks
- Coastal states ability to govern and ensure compliance within their own waters;
- Activities of other distant water fleets operating within coastal states EEZs and the high seas and compliance required by their flags;

#### **4.2.8 Constraints of RFMOs in absence of allocating rights**

Under an ideal situation of effective RFMOs there would also be no major concern for EU DWF targeting high-seas or shared stocks. However, while there is considerable management effort going into RFMOs there are still major limitations and challenges in achieving desirable outcomes. Limitations include the lack of involvement of developing countries, but at its core is the fact that RFMOs are based on traditional command and control management and have not addressed the incentives for cooperation by focusing on how wealth could be enhanced for all parties through the allocation of secure rights.

#### **4.2.9 Trade policies outside the CFP may have a more significant impact on global fisheries governance**

Trade policies could have a more significant role to play in promoting good fisheries governance than other aspects, given that 65% of all fish consumed in the EU is imported (compared to 12% on the market from the external fleet). The IUU regulation and fisheries eco-labelling initiatives have the potential to drive improvements in legality and sustainability of fish flowing into the EU. However, these tools are unlikely to have a significant impact unless they are matched by real capacity to meet the standards (especially in developing countries) and independent structures that can verify validity of the certificates. These approaches are also limited at present as they only address certain aspects of improved global fisheries governance and do not address economic sustainability and good governance frameworks. It is also worth bearing in mind that trade policies need to be indiscriminate (as with the IUU regulation) or justified on the basis of 'relating to the conservation of exhaustible natural resources' under Article XX(g) in order to remain legal under WTO rules<sup>50</sup>.

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<sup>50</sup> When assessing whether an import ban can be justified under Article XX(g) the following questions need to be answered: Does the trade measure promote conservation of the exhaustible natural resource in question or is it a disguised trade barrier?; Is the measure applied indiscriminately between domestic and foreign producers or between different countries?; Is the country justified in addressing environmental impacts outside of its territory?; Is the measure based on multi-lateral agreed norms or agreements? (adapted from Baumüller, 2010).

## **5 Recommendations**

This section is structured in order to answer the key questions raised by the EU within the Green Paper on the CFP reform.

### **5.1 How can the EU promote improved global fisheries governance both within and outside the CFP reform?**

#### **5.1.1 Make the external dimension a priority for the CFP reform**

The EU should make the external dimension a priority within the CFP reform for the following reasons:

##### **1. EU's commitment to good international fisheries governance**

The EU has committed to promoting good international fisheries governance both through international conventions and through a key objective within its external fisheries policy to: *'Improve world governance of all matters affecting the fisheries sector'*.

The international dimension of the EU's Integrated Maritime Policy includes a key aim to improve international maritime governance.

##### **2. Importance of good international fisheries governance to the EU**

Good international fisheries governance is of key importance to the EU's food security, where around 65% of all fish consumed is imported, and 12% is provided by the EU external fleet (operating in both third country waters and the high seas). Good fisheries governance will also be critical to the long-term sustainability of EU's external fleet which provides key economic and social benefits to a number of individual Member States.

##### **3. EU's commitment to policy coherence for development (PCD)**

The EU has made a commitment of policy coherence for development (PCD) to ensure that policies do not have a negative impact on development of third countries and achievement of the MDGs. The external fisheries policy interacts with the ability of third countries to use fisheries as an engine of growth, and therefore needs to be structured in a way that supports developing countries to attain sustainable development in the fisheries sector.

#### **5.1.2 Ensure the reform of the CFP external dimension covers all the important elements**

It is important that the reform of the external dimension of the CFP does not only focus on FPAs which is an important element but only represents a proportion of the EU's external fleet activities. The EU is more likely to have significant impact on good international fisheries governance by looking at the wider picture i.e. promoting good governance through RFMOs and at the coastal state level and coordinating this effectively with development support.

It is not only the CFP external fisheries policy that has an implication on global fisheries, and therefore all aspects of CFP policy (but in particular the structural policy, aquaculture and control measures) should be assessed for their impacts on global fisheries governance (i.e. any impact assessment of the CFP reform should explicitly assess impacts on global fisheries governance).

The EU also needs to consider how other policies interact with objectives of the external fisheries policy, in particular development policy and the IUU and other trade regulations.

### 5.1.3 Re-aligning objectives of the external fisheries policy

The Green Paper on the CFP reform asks whether the external policy should have the same core objective of the CFP: 'to promote responsible and sustainable fisheries'. We would recommend that the driving force of the CFP external policy and instruments should be 'improving global fisheries governance' rather than EU fishing interests and also to address generation of sustainable wealth which is not currently considered. The policy objectives of external fisheries policy will need to be coherent with objectives of IMP.

The objectives of the CFP external policy could therefore be reformulated to: **improve international fisheries governance and outcomes of sustainable and responsible management and sustainable wealth creation that are coherent with development.**

The incentive for the EU to support improved governance in both individual countries and the high seas is: healthy oceans; fish available on the international market that is legal, sustainable and reaches high sanitation conditions; and thriving fisheries that supports the achievement of MDGs within developing countries.

*Q The core objective of the CFP is to promote responsible and sustainable fisheries. Is there any reason why the external dimension of the CFP should be driven by different objectives?*

The objectives of the external dimension should also be to promote responsible and sustainable fisheries but also needs to prioritise good international fisheries governance because of development aims. The EU could commit to operate at the highest environmental standards and set a good example with management of community waters and its external fleet.

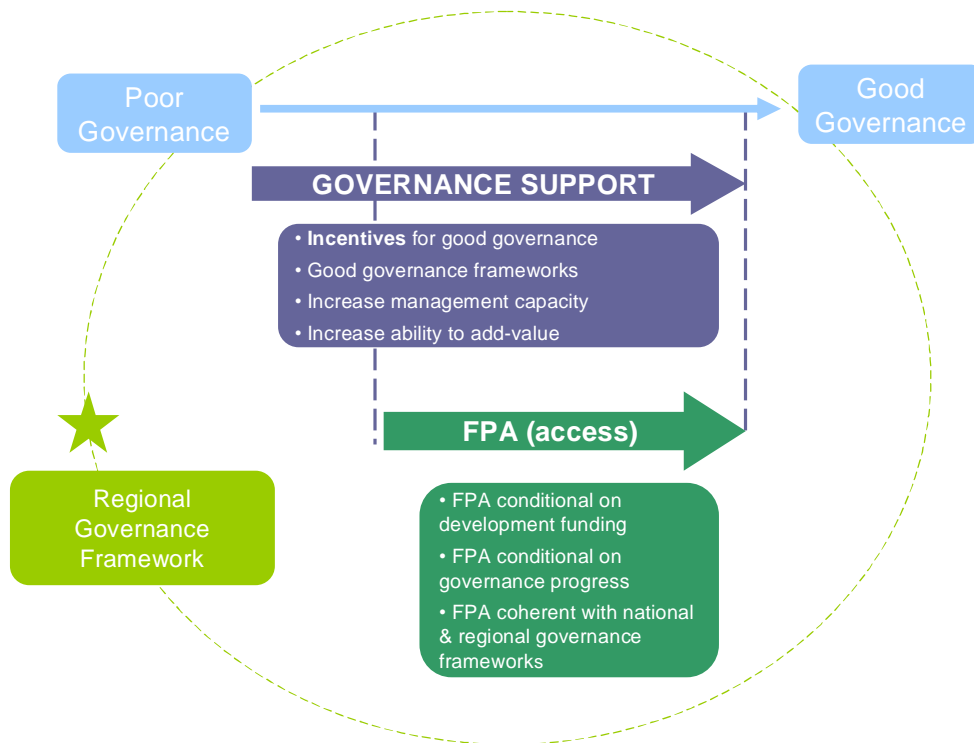
### 5.1.4 Reforming Fisheries Partnership Agreements

#### ***Phase out FPAs with governance transition framework***

FPAs need to be a part of a transitional framework leading to good fisheries governance within coastal states, where funding for sectoral reform is *de-linked* from access payments. FPAs are currently signed with countries with relatively poor fisheries governance as this provides both the EU vessels a legal framework in an uncertain climate and keeps EU vessel activity within limits given the absence of good management. However, under good fisheries governance regimes, FPAs should not be necessary.

The *diagram* below describes this transition. It first requires funding for improved fisheries governance which would be independent from the level of access to EU fleet and directly related to the development needs of the country. FPAs, that would agree EU vessel access, could then be agreed conditional on: a) funding for improvement fisheries governance in place; and b) some progress on improved governance against selected indicators. The governance support and FPA (access agreement) would need to be coherent with an overall regional agreement (see below discussion on policy coherence).





However, there are risks in this approach where DG Mare and DG Development could become even less coordinated and DG Mare only pay for access while DG Development struggles to access funds for governance support. There are also questions on how Member State and multi-lateral support can contribute to this process. Given these risks and questions it is recommended that the EU undertakes a review of the options for de-linking FPA funding and coordinating fisheries and development policy.

### ***Improve FPAs contribution to good governance***

If FPAs remain (at least for the short term) there are a number of areas that could be done to improve good governance but mainly to reduce any negative impacts on economic, environmental and social outcomes.

- **Phase out subsidies within FPAs – licence fees should be fully paid by boat owners**

A number of stakeholders and reports have highlighted the need to reduce the proportion of the access cost paid by the EU and therefore phase out subsidies within FPAs as well as other subsidies such as for fleet modernisation and fuel payments (ICSF, 2009; MRAG, 2007). With the 2002 reform of the FPAs the boat owner contribution within tuna agreements has increased from around 25% to 35% of the overall cost of the agreement and latest EU proposals suggest this would be further increased to 50% within the 2010 reform with a general phase out over time. A time-line for this phase out needs to be agreed and an exit-strategy provided for fleets that will not be economically viable without subsidies (e.g. the trawler fleet operating under the mixed agreements).

- **EU vessels should operate to the highest environmental standards**

The EU could be leading on environmentally friendly fishing techniques globally with vessels demonstrating exemplary performance on reducing by-catch and avoiding destructive techniques (i.e. trawl damage to the sea bottom). There are concerns from the industry that

this would not provide a 'level-playing field' and the EU therefore needs to address ways in which through the CFP and other mechanisms it can achieve a level playing field at the international level of high environmental standards.

- **Improve scientific assessments to determine 'surplus' in third country waters**

There have been a number of calls for the EU to support improvements in stock assessments (e.g. ACP, 2009). While this needs to be done at the coastal state level for species contained within their waters (e.g. cephalopods and shrimp within the mixed agreements of Morocco, Mauritania and Guinea Bissau), the best channel for highly migratory or shared stocks (e.g. tuna, or hake along the coast of West Africa) is through RFMOs or through regional cooperation where RFMOs do not exist. There is an action plan still pending from the previous CFP reform for improving scientific assessments of surplus stocks available to the EU, which should be taken forward.

- **Improve data availability on the EU external fleet**

Improve the availability of comprehensive data on the EU external fleet (operating both within and outside of FPAs) starting with a distinction between external and internal fleets on the vessel register, which would allow more transparency on subsidies enjoyed by the external fleet. Catch data of the external fleet should also be collated by DG Mare and made publically available. While such data should be reported to the relevant national and regional bodies there are problems with its transfer to DG Mare who is attempting to address the issue through improved data architecture. However transparency of this data needs to go hand in hand with improved coastal state data including data on other fleets to give the whole picture and therefore context of the EU external fleet.

- **Make EU evaluations of FPAs publically available**

While the EU fisheries access agreements are far more transparent than for any other country (complete lack of public data on Asian agreements), this could be further improved by making the pre and post EU evaluations publically available so that stakeholders can scrutinise the contribution the FPAs make to improved fisheries governance and development of third countries (ACP, 2009; Standing, 2009). This could be further bolstered by putting the "burden of proof" on the signatories of the agreement to show how the fishery will be managed effectively.

- **Involve the small-scale fisheries sector in designing/finalising agreements**

FPAs need to ensure that they do not impinge on resources targeted by coastal states small-scale sector (this is most relevant for the mixed agreements in West Africa). An effective way of achieving this would be to allow representation of the small-scale sector within FPA negotiations and within relevant regional management bodies (Nouachott Declaration, 2009). It may also be possible to increase the coastal zone reserved for national fleets.

- **Include a non-corruption clause within FPAs**

There have been proposals to include a democracy clause within FPAs and in a similar vein it would be possible to include an anti-corruption clause in FPAs in particular to improve accountability of FPA funds. In effect would mean that FPA could be annulled if there was evidence of corruption found.

- **Involve DG Development**

DG Development needs to be involved in the design and negotiation of FPAs that have development implications.

### ***Improve cooperation with other DWF***

EU need to engage with international actors (e.g. Japan, Taiwan, China) to build consensus on responsible fishing within third country waters. This can be done at the RFMO level but also at diplomatic levels to encourage transparency of all access agreements.

**Q *How can objectives such as investment promotion (creation of joint-ventures, transfer of know-how and technologies, investments and capacity management for the fishing industry ...), creation of jobs (on vessels, in ports, in the processing industry) or promoting good maritime governance be pursued in the framework of future international fisheries agreements?***

Objectives of the CFP external policy need to be linked with development objectives and those within the Integrated Maritime Policy. We would suggest that the objectives of the CFP external policy should be reformulated to: improve international fisheries governance and outcomes of sustainable and responsible management and sustainable wealth creation that are coherent with development.

**Q *Are the FPAs the best instrument to achieve sustainability beyond EU waters or should they be replaced by other forms of cooperation? Should the regional perspective be explored and either substitute or complement a streamlined bilateral one?***

FPAs currently provide an important framework for the operation of the EU external fleet in some third country waters. However, they should be phased out with improved fisheries governance, which will require bilateral development support. The long-term aim would therefore be for third countries to have effective fisheries management systems in place and for them to participate fully in RFMOs. They would then be able to sell licences to 'the highest bidder' including EU fleets or catch and trade the resource themselves. Support to RFMOs are essential to provide a management framework for the EU external fleet operating on the high seas and for migratory or shared stocks that cross over into third countries' EEZs. Regional approaches for providing development support are also important in tackling cross-boundary issues could be used to promote EU policy coherence. However regional support should not substitute bilateral support which is essential for building national fisheries governance.

**Q *How could we make scientific research to assess the sustainability of fish stocks and the control of the fishing activity more transparent and efficient?***

Stock assessments need to be improved at the coastal state level for species contained within their waters (e.g. cephalopods and shrimp within the mixed agreements of Morocco, Mauritania and Guinea Bissau). The best channel for highly migratory or shared stocks (e.g. tuna, or hake along the coast of West Africa) is through RFMOs. There is an action plan still pending from the previous CFP reform for improving scientific assessments of surplus stocks available to the EU, which should be taken forward.

Data reporting needs to be improved to support stock assessments and civil society needs to be strengthened within coastal states to demand transparency on access agreements and drive political will to support the RFMO process.

**Q *How can we assure better cooperation and compliance with new regulations in developing countries?***

Good fisheries governance and capacity for control at the coastal state level needs to be supported so there are clear disincentives (i.e. high probability of detection and penalties or sanctions) to breaking national regulation. Incentives for compliance could be increased by supporting coastal states to assign high quality rights that are backed up by effective policies, laws and institutions. This process can be complemented by sector support provided through FPAs but needs to be driven through bilateral development cooperation, and through RFMOs.

**Q *Should EU operators cover all the costs of their fishing activities in third country waters or should the Community budget continue to support part of these costs?***

EU contribution for access should be phased out so that ship-owners pay the full price for licences (but a fair one in comparison with other DWFs). A time-line for this phase out needs to be agreed and an exit-strategy provided for fleets that will not be economically viable without subsidies (e.g. the trawler fleet operating under the mixed agreements).

**Q *Should the integration of European fishing fleets and interests in third countries be actively pursued as an objective of the external dimension of the CFP with a view, in particular, to support the development of the concerned partner countries?***

The main objective of the external dimension of the CFP should be to promote good fisheries governance. Within this framework the integration of European fishing fleets and interests is not a concern, but without effective governance joint ventures are likely to lead to over-capacity and over-exploitation of stocks.

**Q *Should aquaculture be included in future partnership agreements?***

A clear benefit of having aquaculture within FPAs would be to EU investors within aquaculture who would like an overarching legal framework within which to operate. It may also be beneficial from a fisheries policy point of view where aquaculture could have an impact on capture fisheries i.e. through access to coastal waters; use of fish feed or through pollution. There are also investments within processing and trade infrastructure that can benefit both capture fisheries and aquaculture industries, although FPAs to date do not appear to have been an effective vehicle for such investments. Aquaculture could also support third countries development: i) as an alternative livelihood where fishing capacity needs to be reduced; and ii) as an engine for growth and export. However, it needs to be promoted sensitively ensuring that it does not drive aquaculture that is heavily dependent on fish feed and external inputs. There are some models (e.g. farming of Tilapia in Zimbabwe by Lake Harvest) which operate under high environmental and social standards.

There are therefore benefits in coordinating aquaculture and fisheries policies but it is not clear whether the FPA framework is the best way of achieving this and this requires further research and debate.

### **5.1.5 Starting point: laying down foundations for good fisheries governance within coastal states**

EU vessels gaining access to third country waters are only one of the actors involved and overall fisheries outcomes are affected by the activity of other distant water fleets as well as national fleets. This therefore highlights the core argument that improved fisheries governance at the national level is the priority to have a significant impact. Improved fisheries governance is also essential for the effective implementation of the IUU regulation and other trade driven changes (e.g. certification/eco-labels).

- **Support coastal states to put in place their own fisheries strategies and governance frameworks**

Coastal states need to have their own fisheries strategies and frameworks in place within which access agreements (including FPAs, joint ventures and private agreements with EU vessels) and national fisheries can fit in. Clear fisheries policies and the required institutional frameworks to implement these avoids the situation where there are conflicting goals such as encouraging access to DWFs while also growing national industrial and small-scale fisheries.

The EU needs to give support to the development of fisheries policy, but de-linked financial contributions for fisheries access. Ideally this support needs to be provided through development channels, which provides the right environment for policy dialogue. For instance the EU is providing support through the ACP Fish II programme for sector reform but is unable to provide financing to countries that already have an FPA in place. In order for fisheries to be a priority for coastal states it needs to be integrated into development plans such as PRSPs allowing the EU to devote more resources to the sector.

- **Support civil society role in enhancing third country transparency**

Development support to good fisheries governance in coastal states should support the development of fisheries policies and effective institutions, but also needs to address corruption, fraud and a lack of transparency. An important way of achieving this is through supporting the role of civil society groups to demand transparency of data and accountability from their governments on all access agreements and governance of their fisheries resources. For example while the EU is relatively transparent on FPAs, there is very little public information released by third countries (e.g. African countries) on access of other fleets to third country waters. The EU could play a role in demanding transparency both on other distant water fleet activity and the use of any financial gains from the agreements.

### **5.1.6 Promote wealth-based and rights-based approaches**

- **Promote wealth-based approaches to fisheries management**

While the overall priority is a clear policy framework, ideally this policy would be based on the generation of sustainable wealth (i.e. through implementing wealth based fisheries management, WBFM). The basis of WBFM are described in Box 13 and the main reasons for taking a wealth based approach in this context are:

- WBFM approaches recognise that economic incentives are essential to drive sector reform for sustainable fisheries;
- Managing the incentives within a fishery is the only way to achieve sustainable exploitation without spending vast amounts on command and control management which is rarely available in developing countries;

- Understanding the potential of fisheries to create wealth under effective management is a significant incentive for finance ministries together with fisheries ministries/departments to take decisive action in reforming their fisheries governance;
- It is an approach that involves fewer trade-offs than because if the overall contribution to wealth can be maximised it provides greater resources that can be dedicated to environmental and social aims. The representation of stakeholders (including coastal state artisanal fisheries) is important for an equitable share of the benefits.
- FPAs are currently encouraging negative incentives by subsidising the EU fleet and discouraging reform of coastal state fisheries management. Wealth based approaches may help to design positive incentives that reduce the race to fish and align fisheries management with a more economically rational approach.

For example, the Programme for African Fisheries (PAF<sup>51</sup>) is taking a WBFM approach within its aims to strengthen fisheries governance in African countries. Through a set of case study countries the programme will work with finance and fisheries ministries to understand the wealth generating potential of their fisheries and through this determine what they should be investing within fisheries management (5% of turnover as a rule of thumb<sup>52</sup>), how they need to approach management as well as tackle corruption to achieve this potential.

### Box 13 Wealth based fisheries management

Wealth based fisheries management systems (WBFM) have been defined as: *ecologically sustainable, socially acceptable and generate sustainable resource rents or profits* (Anderson, 2010).

There are a number of different potential policy aims when it comes to fisheries, for instance: employment creation; fisheries production; provision of safety nets; foreign currency earning; contributing to food security; and sustainable economic growth. **WBFM suggests that policies would be more effective if they are focused on generating sustainable wealth.**

**Although biological sustainability is a necessary condition for successful fisheries it is not sufficient and it is important to understand economic outcomes in order to generate sustainable income and wealth** (Anderson, 2010). For example, although the Alaskan salmon fisheries has Marine Stewardship Council (MSC) certification, economically it is performing poorly with management that promotes a race to fish during a restricted fishing season, inefficient boats and gears, and a processing industry that cannot maximise value-added due to the short peak season (Anderson, 2010). In fact, it is estimated that in economic terms 75% of the worlds marine stocks are 'underperforming' at an estimated loss of \$50 billion annually to the global economy (World Bank, 2008). Traditional fisheries management is failing in its ability generate wealth from marine resources.

**Wealth based fisheries management is an approach that focuses on understanding how the rents from a fishery drive behaviour.** It suggests that in the absence of effective management rents drive exploitation of fisheries and the full value of the fishery is not realised. In contrast in the right management framework, rents from the fishery incentivise sustainable management and wealth creation (Cunningham et al. 2010). Using market based measures to create incentives has the added benefit of allowing the fishing industry to drive improvements rather than relying on expensive top down management to ensure compliance.

**The WBFM approach suggests starting with an understanding of the potential of the resource and then creating the conditions for wealth generation** i.e. define success indicators; develop methods to capture, preserve and distribute the wealth and ensure an effective institutional framework is in place to create the right incentives (Cunningham et al. 2010).

**The WBFM approach is gaining significant support from international agencies and is being applied through programmes to reform fisheries management in developing countries.** The Programme for African Fisheries (PAF) – supported by DFID and the World Bank – is taking a WBFM

<sup>51</sup> supported by DFID and the World Bank

<sup>52</sup> Steve Cunningham, personal communication: 29<sup>th</sup> March 2010

approach within its aims to strengthen fisheries governance in African countries. Through a set of case study countries the programme will work with finance and fisheries ministries to understand the wealth generating potential of their fisheries and through this determine how they need to approach their fisheries management framework as well as tackle corruption to achieve this potential.

- **Use a wealth-based approach to re-evaluate the external fleet**

Taking a wealth based approach also enables interesting questions from the EU perspective to be asked. For instance it enables us to assess what FPAs are achieving in terms of maximising the value of tuna fisheries. Currently FPAs concentrate on providing access for low-grade tuna to the tuna canning industry. While this does provide some value-added – does it achieve the maximum value from the resource? Is it possible to consider an evolution of the tuna market to higher value products e.g. fresh and frozen whole fish that could provide higher returns and be fished using more environmentally friendly processes? Why should inefficient processing sector be protected?

- **Promote the inclusion of fisheries within coastal states' PRSPs through evaluations of the potential for the fisheries sector to generate wealth**

Support studies to assess the potential for third countries' fisheries sectors to generate wealth under improved management as a lever to its inclusion as a priority sector within development plans (i.e. PRSPs).

- **Support the development of rights based approaches to fisheries management**

Rights Based Fisheries Management (RBFM) is a key way of applying WBFM in practice. It addresses the inherent problems in having open and free access to a renewable resource, and re-sets the economic incentives through the assignment of rights (Box 14). For these to be high quality rights they need to be backed up by effective institutions and scientific advice.

## Box 14 Rights based fisheries management

**Many fisheries policies are directed towards the symptoms of over-exploitation rather than the cause (open and free access) leading to command and control management strategies that lead to economically inefficient outcomes** (e.g. restrictions on season length or fishing areas) (Wilén, 2006).

**It is the central tenet of rights based fisheries management that assigning property rights linked directly to the resource addressing the cause of the problem rather than the symptoms and dramatically changes the incentives from a 'race to fish' to a 'race to add value' to a secure share of the resource** (Crothers & Wilén, 2009). Industry become more involved and cooperates with management. The system also allows for innovation to add value to raw products. For example fishing methods are developed (often slower methods) that allow the catch of larger or higher-valued fish and keep them in better condition for processors – innovations that would not be possible under a 'race for fish' scenario.

**There are different definitions of rights based management from those that are more inclusive to those that suggest that only rights linked directly to the resource will effectively change incentives.** For instance in a review of rights based systems within the EU, MRAG defined rights based management as '*any system of allocating rights to fishermen, fishing vessels, enterprises, cooperatives or fishing communities*' (MRAG, 2009) and the range of different mechanisms identified are summarised below. However, others have suggested that many of these systems e.g. assigning vessels licences are 'weak rights' and as they are not directly linked to the resource they will still lead to a 'race to fish' (Wilén, 2004). Examples of 'strong rights' are given as Individual or Community catch quotas; harvest cooperatives and TURFs (Territorial Use Rights in Fisheries).

**In order for rights based management to be successful, it has been argued that rights must be exclusive, valid, secure and transferable** (MRAG, 2009). This therefore highlights the importance of a legal infrastructure, human capacity, and enforcement to uphold these rights. The system also needs to be backed up by scientific research. For instance an ITQ system needs accurate specification of Total Allowable Catches (TACs) that are adjusted annually in line with stock fluctuations (MRAG, 2009). Quotas can be used in conjunction with other technical management measures such as closed areas creating a 'bundle of rights'.

### **Different types of rights based management systems identified within the EU**

LL: Limited licences

LTL: Limited tradable licences

IE: Individual effort quota

ITE: Individual tradable effort quota

IQ: Individual catch quota

VC: Vessel catch limits

ITQ: Individual transferable catch quota

TURF: Territorial use rights

CQ: Community quota

### **High quality fisheries rights**

**ITQs:** rights to harvest shares of biologically determined allowable catch each season measured in tons of fish.

**Harvest cooperatives:** cooperatives grant shares of an allowable quota to groups. Within the cooperative the shares may be managed as an internal ITQ system or as a corporation with overall decisions on how to maximise returns and distribute proceeds according to pre-arranged formular.

**TURFs:** rights to use a unit of space within a marine ecosystem. Within the TURFs access may stay as business as usual or more likely move towards a system where rights are internally limited to users in time and space.

Source: Crothers & Wilén, 2009

**One of the concerns of rights based management is that ownership of rights can become concentrated and these issues need to be addressed within RBFM to avoid potential equity issues or marginalisation of the small-scale sector.** This issue can be addressed by restricting the transferability of rights (although this reduces efficiency of the outcomes), by putting restrictions on levels of ownership or by assigning small-scale sector specific community quotas (MRAG, 2009). The role of harvest cooperatives in achieving both efficiency and equity objectives has been investigated to a certain degree (Wilén & Richardson, 2008) but deserves further research especially in the developing country context.



**Q How could we contribute to increasing the fisheries management capabilities of developing countries, e.g. through targeted assistance?**

FPAs can continue to give support to fisheries sector reform, but this needs to be in the context of bilateral development support that is de-linked from access contributions. The EU can also make significant contributions by supporting the role of RFMOs and developing countries engagement.

**Q How could the potential of small-scale fisheries in third countries for sustainability, ecological and social benefits be enhanced?**

FPAs need to ensure that they do not impinge on resources targeted by coastal states small-scale sector (this is most relevant for the mixed agreements in West Africa). An effective way of achieving this would be to allow representation of the small-scale sector within FPA negotiations and within relevant regional management bodies. It may also be possible to increase the coastal zone reserved for national fleets. Third countries should also be supported within their fisheries governance frameworks to define policies to support small-scale fisheries. However, it should be remembered that small-scale fisheries does not always mean small impact and policies will need to consider rationalising fleets to create sustainable wealth.

### **5.1.7 Provide development support to the fisheries sector**

- **Provide development support to the fisheries sector that supports good governance and successful fisheries outcomes**

Specific development support therefore needs to be given on three fronts, and rather than FPAs substituting development support; EU and Member State development funding needs to be directly linked to providing development assistance where there are FPA agreements.

1. Support for development of good fisheries governance frameworks with well defined objectives, institutions and processes that lead to successful fisheries outcomes and is coherent with related policies e.g. trade:
  - Assessments to determine the potential wealth that could be created from fisheries under improved management;
  - Legislative and institutional capacity to put in place governance frameworks Strengthen civil society and accountability of governments to fight against corruption and fraud;
  - Improve representation of stakeholders for an equitable share of benefits;
2. Support to enhance fisheries management capacity (e.g. support for MCS, action against IUU and improved scientific assessments) that leads to direct benefits of improved fisheries management within third countries:
  - Monitoring, Control and Surveillance (MCS)
  - Action against IUU
  - Improved scientific assessments
3. Support to enhance the role of the fisheries sector in sustainable development that allows developing countries to capture value-added and invest in good management:
  - Landing and processing infrastructure to add-value to raw fisheries products and facilitate trade (possibly through EPA-related funding, or Aid-for-Trade support);
  - Sanitation and traceability capacity to reach international markets (including the EU market)

- Coastal state small-scale fisheries engagement with markets
- Consider support for aquaculture if it complements a reduction in fishing capacity (as with capture fisheries, the overall governance framework is important to ensure that benefits accrue to the third country and support sustainable economic, social and environmental outcomes.)

### 5.1.8 Promote policy coherence

- **Make policy coherence a priority for achieving good global fisheries governance**

There are two important reasons for the EU to promote policy coherence with their fisheries policies: firstly this is an EU obligation but secondly it follows that if fisheries sectors provide a better contribution to economic growth and poverty reduction developing countries are more likely to invest in good fisheries governance. Without policy coherence, EU fisheries policies (both within and outside of the CFP) can have a negative impact on development and reduce incentives for developing countries to improve their fisheries management.

- **Ensure trade policy is coherence with development policy**

Trade policy related to fisheries could be made more coherent with development policy by relaxing rules of origin (RoO) in order to facilitate the development of value-added and processing sectors in developing countries; and by ensuring that fisheries issues are explicitly considered. This could be taken forward under the EPAs with ACP countries by including a specific fisheries chapter in the agreements.. This could include provisions for the EU to provide regional support to the development of good fisheries governance, such as through support to improving MCS and VMS capacity.

- **Use the regional platform to coordinate policy coherence**

The EU has proposed taking a regional approach to its support for improved fisheries governance, particularly on issues that require collaboration across a number of countries to be effective including the fight against IUU and improved MCS. It would also be possible to use this regional platform to determine an overall EU strategy in relation to fisheries issues (*a good governance agreement*) with all the relevant parties represented (i.e. DG Sanco; DG Trade; DG Mare; DG Dev; DG Env; LCRAC) and within which specific EU tools could fit: e.g. FPAs, EPAs, IUU regulation and development assistance. This would include arriving at a shared definition of good fisheries governance. Such an approach should be coordinated by DG Development which already has the mandate for PCD through its unit for policy coherence.

Regional support can also be used to promote capacity of developing countries to coordinate and negotiate at the regional level. In order to achieve this it will also be important to harmonise efforts across regional institutions (i.e. fisheries regional groupings are not always the same as economic regional groupings).

- **Broaden the PCD assessment of the fisheries sector**

While the EU annual PCD report coherence for development covers most of the important issues within fisheries (FPAs, RFMOs, IUU, EPAs and CFP reform) but could be further extended in the future to consider interactions with internal CFP policies that has international implications (e.g. aquaculture, control measures and structural policy) and wider trade issues (e.g. EPAs, tariffs, rules of origin, sanitation requirements; and certification).

Q *How can we reinforce the synergies between the different forms of support and the different partners in the fisheries sector reinforced and the development strategies of coastal states?*

Policy coherence should be made a priority throughout the CFP external fisheries policy. A regional platform could be used to coordinate different EU policies based around a shared and defined objective of improved fisheries governance. The PCD assessment of the fisheries sector needs to be broadened out to consider impacts of internal CFP policies on international fisheries governance (e.g. structural policy, control measures and aquaculture) as well as wider trade issues (e.g. EPAs, RoO, SPS and certification).

### 5.1.9 Re-examining governance approaches of Regional Fisheries Management Organisations

- **Re-examine CFP objectives in relation to RFMOs**

As with the overall objectives to the external fisheries policy, the EU also needs to examine its objectives of engaging with RFMOs and make sure that enhancing good fisheries governance is the priority above defending interests of European industry.

The effectiveness of RFMOs needs to be enhanced through a number of channels, in which the EU can play a role:

- **Support the creation of RFMOs where they do not exist:** RFMOs provide an important framework for the EU's external fleets (that target shared or highly migratory stocks) but they do not exist for all the shared stocks that the EU targets. In particular CECAF needs to be strengthened to act as a RFMO for shared stocks along the coast of Africa (e.g. hake).
- **Improve developing countries' engagement with RFMOs** or otherwise weak governance by coastal and flag states undermines their effectiveness. This includes supporting capacity for participating but also carrying out obligations. There are examples (i.e. in the Pacific) where developing countries have been able to develop synergies and become active and responsible actors within RFMOs (ICSF, 2009), and this approach could be extended to African and Indian Ocean countries. Third country small-scale fisheries need to be represented within developing countries' engagement with RFMOs so that issues that affect them are taken into account. EU can provide assistance to developing countries to engage as regional groupings which should give them increased negotiation power.
- **Enhance coordination of RFMOs:** EU can play an important role in improving the coordination between RFMOs and enhancing their performance by harmonisation and sharing lessons learnt (e.g. through the Kobe process). This can also include a harmonised approach to catch documentation systems to close the net on trade of illegal fish.
- **Improve stock assessments undertaken by RFMOs** and transparency of information: this relies on cooperation of contracting parties to reliably report data and support scientific assessments of shared stocks;
- **Encourage RFMOs to develop long-term management plans** for the recovery of stocks rather than taking a short-term (annual) perspective: consistent with changes within internal community waters since the 2002 CFP reform;

- **Encourage RFMOs to assign quotas for all species, especially those targeted by DWF (e.g. tropical tuna):** not all species targeted by DWFs are covered by quotas under RFMOs and may only have effort limits which if achieved through number of vessels does not prevent increases in fishing power through technological creep;
- **Consider allocation of rights based on generating wealth rather than allocating fishing possibilities:** this allows economic benefits to be shared without increasing overall fishing capacity. Assigning rights goes to the heart of the issue with RFMOs as they are unlikely to be able to gain compliance of contracting parties until there are strong rights (i.e. exclusive, valid, secure and transferable) that create incentives for long-term sustainable management. It is also important that rights are perceived as having been fairly allocated for it to be a stable arrangement. In particular developing countries need to have a fair allocation of the potential benefits of RFMO resources both to ensure this stability and promote the contribution of the fisheries sector to sustainable development.
- **Ensure safeguards are put in place to prevent concentration of rights:** There are different ways of achieving this, for example: restricting the time-frame on rights e.g. 20-year concessions or assigning Community Development Quotas (CDQ) that cannot be sold outside of the community.

*Q How can the EU cooperate with its partners to make RFMOs more effective?*

There are a number of ways the EU can cooperate with its partners to make RFMOs more effective. These include:

- Support the creation of RFMOs where they do not exist• Improve developing countries' engagement with RFMOs.
- Enhance coordination of RFMOs
- Improve stock assessments undertaken by RFMOs and transparency of information:
- Encourage RFMOs use ecosystem-based approaches and develop long-term management plans for the recovery of stocks rather than taking a short-term (annual) perspective
- Encourage RFMOs to assign quotas for all species, especially those targeted by DWF (e.g. tropical tuna)

However the EU also needs to improve its management of community waters in order to have legitimacy on the regional and international state.

*Q Contrary to the current free access principle in international waters, should fishermen pay for the right to fish in the high seas under the governance provided by RFMOs?*

Yes. Allocating rights on the high seas could be a very powerful way of changing incentives towards a race to add-value rather than a race to fish, and could promote cooperation for sustainable management and compliance. It may be possible to consider allocation of rights based on generating wealth rather than allocating fishing possibilities. It will also be important to ensure safeguards are put in place to prevent concentration of rights.

### **5.1.10 Linking trade mechanisms and good fisheries governance**

- **Support third countries ability to trade with the EU as part of the contribution of the fisheries sector to sustainable development**

This needs to be seen in the context of wider trade (i.e. to other international and regional countries), and ensure that trade is enabled within channels that give most benefits (e.g. the small-scale sector may benefit most from infrastructure support for regional trade). This may include support for trade infrastructure (e.g. ports and transport links) which could be provided through development funding or Aid-for-Trade funding, support for developing value-added activities, and support for meeting EU-specific trade requirements such as SPS and the documentation (and supporting management frameworks and processes) required for the IUU Regulation.

- **Relax trade policies to support developing country fisheries exports**

The EU should relax its trade policies (in particular Rules of Origin) to allow developing countries greater access to trade with EU

- **Support good fisheries governance to ensure that fisheries trade from third countries benefits development**

Where developing countries export fish and fisheries products, there should be effective fisheries management and strong governance frameworks in place in the exporting country, to ensure that the resources on which the trade is based are exploited sustainably, and to ensure that the revenues from fish trade are distributed equitably to the population. Developing countries' policies also need to be coherent to ensure that trade policy supports overall policy aims for the fisheries sector and for development goals in general.

- **Promote role of EPAs to support good fisheries governance (in coordination with other EU policies)**

EPAs provide a potential vehicle for development in the fisheries sector and should support developing countries' ability to capture wealth from their resources. The inclusion of a specific fisheries chapter is recommended.

- **Trade measures can be used to drive reform in fisheries governance**

Fisheries certification provides a significant opportunity to drive improved fisheries outcomes through market demand. However, these need to be implemented without creating further trade barriers for developing countries. Certification schemes also need to be designed that also measure sustainable wealth creation and institutional enabling factors i.e. good fisheries governance.

The EU also needs to give more extensive support for implementation of IUU regulation for it to have any impact – and this needs to start with overall fisheries governance rather than piece meal support to MCS.

**Q How could market mechanisms be used to encourage the development of fisheries that are market efficient as well as sustainably exploited?**

Certification schemes also need to be designed that also measure sustainable wealth creation and institutional enabling factors i.e. good fisheries governance.

**Q How can the future CFP best support initiatives for certification and labelling?**

The future CFP could support minimum criteria for certification schemes (that draw from the FAO Guidelines but take these further to include economic, social and governance aspects). It could also provide funding to support capacity building for effective implementation within developing countries.

**Q How can traceability and transparency in production chain be best supported?**

Developing countries need support to develop traceability systems in particular to ensure the effective implementation of the IUU regulation.

**Q How could the EU promote that fisheries products come from sustainably management fisheries, providing a level playing field for all?**

EU needs to ensure the highest standards of its external fleet. It also needs to make changes within its external fisheries policy (i.e. FPAs, RFMOs) and internal policy (structural, control & aquaculture) to support international fisheries governance. Trade measures such as certification and the IUU regulation are important but need to support capacity within developing countries so that they are coherent with objectives to enhance the wealth contribution of fisheries sector.

**Q What is the role of trade policy in balancing the interests of producers, consumers and our relations with exporting countries?**

There should be a high-priority objective within trade policies to promote good international fisheries governance.

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## 7 Annex 1: Green Paper Text

### Box 15 Text within the Green Paper on Reform of the External Dimension of the CFP

The main objective for activities under the external dimension of the Common Fisheries Policy should be to extend the principles of sustainable and responsible fisheries internationally. This objective must be placed fully within the aims of the IMP on good governance of the sea and the sustainable development of coastal regions. Other objectives that currently guide the external dimension of the CFP, such as maintaining the presence of an EU fleet internationally and ensuring that this fleet supply the EU market, may be less relevant today.

The idea that the presence of EU vessels worldwide supports EU legitimacy and influence in Regional Fisheries Management Organisations does not seem so obvious today: even in the absence of fishing interests, many international partners have demonstrated the ability to influence global fisheries governance as well as an active presence in international fora. Furthermore, the sheer importance of the EU market in world trading of fisheries products provides sufficient legitimacy for our action in regional and other multilateral fora. It must also be said that the logic of the EU external fleet supplying the EU market is being undermined by our large and increasing dependence on imports.

Coherence with other EU policies must be ensured within all parts of the CFP. In the case of the external component, the EU development and environment policies have a particular role to play. It is crucial therefore that the objectives of the external dimension be reviewed and redefined so that they meet the needs of the 21st Century. A future CFP should continue to promote responsible fisheries in international fora such as the UN General Assembly and FAO, as part of the EU's overall responsibility and effort to achieve better global governance of the seas. We need to continue to work on issues such as the Law of the Sea, the protection of vulnerable marine ecosystems from destructive fishing practices and also in the negotiations to develop an international agreement on marine genetic resources beyond national jurisdiction.

Regional Fisheries Management Organisations (RFMOs) are so far considered to be the best instruments for fisheries governance in particular for straddling and highly migratory fish stocks in the Exclusive Economic Zones (EEZs) and in the high seas. However, their performance is uneven and they have not always been effective in adopting stringent conservation and management measures or ensuring compliance with these measures or in their means of control. There is a need therefore to strengthen their commitment in this respect as well as their overall performance. Work with international partners will continue to be crucial to achieve this.

The 2002 CFP reform led to a transition from traditional fisheries agreements, mostly based on the principle of "pay, fish and go", to the more comprehensive and cooperative approach under the current Fisheries Partnership Agreements (FPAs). Along with providing access to EU vessels, present FPAs seek to strengthen partner countries' capacity to ensure sustainable fisheries in their own waters. Most of the financial contribution attached to these agreements helps partner countries strengthen their fisheries policy, including scientific research and control and monitoring of fisheries activities in their waters. However, these agreements require very "heavy maintenance" and have proven problematic to implement in many countries because of political turmoil or slow – or even sometimes lack of – uptake of the assistance provided for the fisheries policy. Conversely, parts of the EU fishing industry – in particular the tuna sector – express a strong interest in extending the networks of agreements in order to better cover the trail of migratory species they target in neighbouring EEZs. EU fishermen are also interested in deploying their activities in EEZs where EU agreements provide a high level of legal security and transparency.

The greatest virtue of FPAs is that they help improve fisheries governance in waters of developing countries. Nevertheless scientific analysis and research capacity should be reinforced to better assess the conservation status of the stock and determine sustainable catch levels. The support to the fisheries sector, in particular in the framework of FPAs; has contributed to the development of this industry but not in a way to have a significant impact on the fight against poverty and the achievement of the Millenium Development Goals. The external fisheries policies should better take into account in the food security strategies of the third countries. The current architecture of our agreements should therefore be revisited in order to explore alternative forms of arrangements with third countries that would better meet the needs of our industry and those of our partners. The introduction of regional forms of cooperation may be worth exploring in this regard especially at a time when regional integration is being promoted as a tool for development.