

# Fisheries Partnership Agreements

European vessels versus African fisherman

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**FAIR  
POLITICS**  
MAKE ———  
DEVELOPMENT  
WORK ———

**More than 150 million people in the world depend directly on fisheries for their livelihood. Despite the potential that the fisheries in developing countries have, through fisheries agreements between the EU and developing countries fish stocks are being depleted and local fishing communities are competing against subsidized and technologically superior EU vessels. More than a billion people living in 40 developing countries risk being deprived of their main source of protein and of an opportunity to fight themselves out of poverty, because of the incoherence between the EUs fisheries policy and the EUs development policy.**

The fisheries sector, especially the small-scale fishing sector, could have a significant positive effect in achieving poverty reduction as well as progress towards the Millennium Development Goals (MDGs). Not only is it a form of livelihood and a source of income that could pay for food, education or health care, fish is also a strategy to ensure food security. It is a source for high quality proteins and nutrients for poorer populations, and could decrease child and maternal mortality because it ensures a better health for both the mother and child. Moreover, fish production and export supports the local economies of developing countries as a whole.<sup>1</sup> Supporting local fisheries is thus extremely important when tackling poverty in developing countries.

As the Common Fisheries Policy of the European Union is under review and due to be reformed in 2013, Fair Politics urges the European Commission and the Parliament to take a closer look at the Fisheries Partnership Agreements and its implications for developing countries.

### **Fisheries for Development**

The central aim of the current Development Policy of the European Union, is to reduce poverty worldwide (Lisbon Art. 208). The Unions External Action has several objectives laid out in the Lisbon Treaty, including objectives like supporting human rights, fostering the sustainable economic, social and environmental development of developing countries and encouraging the integration of all countries into the world economy through the progressive abolition of restrictions on international trade.<sup>2</sup> All of these objectives have the primary aim of eradicating poverty.

The guiding principle of development cooperation in fisheries is to contribute to a sustainable natural environment.<sup>3</sup> Concerning the EU fisheries agreements, which lets EU fleets fish in the waters of the contracting countries, the Development Policy explicitly

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<sup>1</sup> Mikael Cullberg, Report to draw the line: EU fisheries agreements in West Africa, Swedish Society for Nature Conservation, Stockholm 2009.

<sup>2</sup> Lisbon Treaty Art. 208.

<sup>3</sup> Communication from the Commission to the council and the European Parliament: Fisheries and Poverty Reduction, Brussels, COM (2000) 724; p.3.

promises that the EU will pay particular attention to the development objectives of the countries with which the EU has made or will make fisheries agreements.

In order to succeed in reducing world poverty, which is the objective of the EU Development Policy, it is important that all policy areas consider the impacts on poverty and do not obstruct development policy. In recognition of this, and in accordance to Article 208 of the Lisbon Treaty the EU made policy coherence for development (PCD) a central pillar in its effort to realise the MDGs. PCD aims at building unity between different policy areas and the EUs development objectives. By doing so, they would increase the effectiveness of development aid.<sup>4</sup> As previously explained, fisheries are important for development and therefore coherence between the EUs policies is vital.

### **European Common Fisheries Policy and its Fisheries Partnership Agreements**

The EU holds one of the biggest fleets which fishes in all of the earths oceans. It is the largest importer of fisheries products with a net import of over 60% and it has a seat in almost every regional fisheries management organization.<sup>5</sup> This makes the EU the biggest stakeholder in the global fish market. Their fisheries policies therefore have an effect on the entire global fish sector. The Common Fisheries Policy (CFP) was adopted in 1993, remarkably with the same legal basis (Articles 32-38 of the EC Treaty) and same general objectives as the Common Agricultural Policy (CAP); i.e. to protect and benefit the EUs own fisheries and advocate economic, environmental and social sustainability. These policies do not only cover the European fishing vessels in European waters but also the European vessels in distant waters.<sup>6</sup>

#### **Box 1: Historical overview**

Since 1997, fisheries agreements with third countries have been signed in order for European vessels to fish in distant waters. The legal basis of fisheries agreements lies in the United Nations Convention on the Law of the Sea (UNCLOS) that was concluded in 1982, when the global fish talks had started to decline dramatically. This convention was adopted in order to impede countries from fishing in foreign waters after depleting their own resources. Under this law the coastal states control the ocean and its resources in the area up to 200 nautical miles from land, called Exclusive Economic Zones (EEZ). With the UNCLOS in place, about 90% of the global fishing grounds are under control of coastal states. If states do want to fish in a foreign EEZ, they need to buy the right to fish any surplus fish resources, which the owning state cannot utilize itself.<sup>7</sup> In the name

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<sup>4</sup> European Commission, Policy Coherence for Development: accelerating progress towards attaining the Millennium Development Goals, COM (2005) 134.

<sup>5</sup> OCEAN 2010 contribution to Parliamentary Hearing on the CFP Reform, 1 December 2009.

<sup>6</sup> Europa Glossary, Common Fisheries Policy, retrieved in March 2010 from: [http://europa.eu/scadplus/glossary/fisheries\\_en.htm](http://europa.eu/scadplus/glossary/fisheries_en.htm)

<sup>7</sup> UN, United Nations Convention of the Law of the Sea of December 1982, Part V: Exclusive Economic Zone.

of UNCLOS, and in accordance to the principles of the CFP, the EU concluded fisheries agreements with different third countries, many of them developing countries.

The CFP and fisheries agreements were fiercely criticized for their promotion of unfair trade, subsidizing EU fleets directly and indirectly and for being too short term with their policies, drastically damaging the environment and over-exploiting their own as well as foreign fish resources.<sup>8</sup> Therefore in 2002 the CFP as well as the fisheries agreements were reformed to be more long term (sustainable) and to phase out subsidies. The traditional fisheries agreements, mostly based on the principle of pay, fish, and go, meant to be changed to a more comprehensive and cooperative approach.<sup>9</sup> The partnership in fisheries partnership agreements (FPA) was added. This was done to strengthen partner countries capacity to ensure sustainable fisheries in their own waters.

The objectives of the 2002 FPAs was threefold; 1) to create opportunities for the European fleet, 2) to supply fish to the European market, 3) to promote sustainable fisheries in the contracting state.<sup>10</sup>

Despite the reforms made in 2002 (as explained in box 1), the CFP and the FPAs have not made much progress. The CFP and FPAs are more harmful than ever before due to even lower remaining fish stocks. Currently there are 20 EU FPAs with countries in Africa and in the Indian and Pacific Oceans. The most important FPAs for the EU fish sector are with Mauritania, Morocco and Guinea-Bissau. Most of these contracting countries have been losing out, being a weaker party within the agreement negotiations, due to their dependency on EU cooperation for economic survival. In at least two countries, Mauritania and Guinea-Bissau, the governments are currently almost completely dependent on the income from FPAs.<sup>11</sup> The fishing communities in these third states are the biggest losers within the FPAs because they see very little from the FPA funds and their fish stocks are being depleted by large EU fleets. Furthermore they cannot compete with the foreign competitors, whose fees and fuel taxes are being paid for, and whose technological advancements are being subsidized.<sup>12</sup> All in all the critiques on the CFP continue.

## **Unfair Politics**

Although development has become a clearer objective since the reforms in 2002 and improvements have been made, the FPAs remain based on the commercial relationship

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<sup>8</sup> ADE, Evaluation of the Relationship between Country Programmes and Fisheries Agreements, Final Report (2002).

<sup>9</sup> Mikael Cullberg, Report to draw the line: EU fisheries agreements in West Africa, Swedish Society for Nature Conservation, Stockholm 2009.

<sup>10</sup> EC, On an integrated framework for fisheries partnership agreements with third countries, COM (2002) 637.

<sup>11</sup> Mikael Cullberg, Report to draw the line: EU fisheries agreements in West Africa, Swedish Society for Nature Conservation, Stockholm 2009.

<sup>12</sup> ACP, ACP Position on EUs Common Fisheries Policy (CFP) Reform, Brussels 16 Decemeber 2009.

between seller and buyer and remain incoherent with international law and development policy. Local and Small-scale fishing communities do not receive priority access, as they should according to the FAO Code of Conduct for Responsible Fisheries,<sup>13</sup> and they are still facing difficulties competing with subsidized EU vessels that overexploit the fish stocks available, despite their potential to combat poverty. In addition, new non-tariff barriers have been introduced that are making export to the EU almost impossible for developing countries. Without extra technical assistance to comply with criteria of the EU market or efforts in promoting good governance concerning the fishing sector, the EU is forgetting about the third objective of the FPAs, namely to promote sustainable fisheries in the contracting state.

The EU fisheries policy does not include any incentives to encourage ship owners to avoid overexploitation or threaten species. In short the main problem is a lack of knowledge and a lack of control.<sup>14</sup> Considering the lack of knowledge: the UNCLOS clearly states that agreements can be made in waters that are not exploited, but little research is done prior to the conclusions of FPAs on whether the resources have not already been overexploited. The scientific knowledge that does exist, is not taken into account when making political decisions (in 2008 for example, the catch limits agreements were on average 48% higher than scientific advice).<sup>15</sup> With fish stocks being depleted and unfair competition millions of people are being pushed into further poverty. On the lack of control: the EU CFP has many regulations about the size of the vessels, the amount of vessels and the amount of fish that can be caught. Nevertheless, these European regulations are not applied or penalized. There is widespread illegal, unreported and unregulated (IUU) fishing activity in the EEZs of developing countries.<sup>16</sup>

Furthermore, fisheries relations are not only formed through fisheries agreements. Negotiations in Economic Partnership Agreements (EPAs) determine the design of political relations and in turn also how fisheries will be managed and who will benefit. For example raw materials are important for the EU fisheries industry, therefore the EU is trying to limit the possibilities for African countries to impose export taxes. In this way they can indirectly make it even cheaper for themselves to exploit the fish resources in contracting states. Unlike the EPAs, the FPAs are negotiated on a bilateral level, which leaves the developing countries with even less bargaining power than usual.<sup>17</sup> Due to their dependence on FPA income and good relations with the EU in general, developing

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<sup>13</sup> FAO, Code of Conduct for Responsible Fisheries, 1995, 1996, 2000.

<sup>14</sup> European Commission, EUs Green Paper: Reform of the Common Fisheries Policy, Brussels COM(2009) 163, p.21.

<sup>15</sup> OCEAN 2010 contribution to Parliamentary Hearing on the CFP Reform, 1 December 2009.

<sup>16</sup> A report by the fishersubsidies.org reported that the EU is heavily guilty of subsidizing vessels guilty of IUU fishing (<http://fishersubsidy.org/infringements>).

<sup>17</sup> Mikael Cullberg, Report to draw the line: EU fisheries agreements in West Africa, Swedish Society for Nature Conservation, Stockholm 2009.

countries are quick to agree to less than they deserve. The ACP position on the Common Fishery Policy declares that the compensation paid by the EC is generally considered inadequate compared to the value of the fisheries resources to which EU fleets have access.<sup>18</sup> Better coherence is needed between the different instruments used by the EU to form its fisheries relations with contracting states. Fisheries agreements should be agreed upon in a regional framework, based on the EUs Coherence Policy and the development goals for an environmentally, socially and economically sustainable development for fisheries communities in developing countries.<sup>19</sup>

Article 53 of the Cotonou Partnership Agreement states: The Parties declare their willingness to negotiate fishery agreements aimed at guaranteeing sustainable and mutually satisfactory conditions for fishing activities in ACP states. In the next CFP that will be reformed in 2012, the policies need to not only be coherent for development on paper, as the green paper (which has been launched by the Commission see box 2) shows promising progress for, but also in practice. In accordance to the Cotonou Agreement as well as Development Policy of the EU, the fisheries and trade policies need to be mutually satisfactory and combat poverty by supporting the development of an environmentally and socially sustainable local fisheries sector in the third countries.

### **Box 2 Promising words; The Green Paper on the reforms of the CFP**

With all the criticism on the CFP, the European Commission published a Green Paper in 2009, on the reform of the CFP in 2012. It mainly questions the two first policy objectives, to create opportunities for the EU fleets and to supply fish to EU market, as well as emphasizing the importance of the third objective. It expresses its concerns with internal as well as external failures of the CFP of 2002. Externally it expresses its concerns in lack of compliance to EU policies of EU fleets, but also emphasizes that the external fisheries policies should better take into account the food security strategies of the third countries. The paper asks some open questions to all stakeholders and leaves space for an open discussion and suggestions on the future of the CFP.

The responses to the Green Paper, from Civil Society, the EU parliament and ACP countries, were generally positive:

**Civil Society** very much appreciated the observations and acknowledgement in the Green Paper of the harms done to developing countries as well as the difficulties for the European fishing sector within the current framework and fisheries policies of the EU. In response to the paper, Civil Society further stresses the importance of knowledge for

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<sup>18</sup> ACP, ACP Position on EUs Common Fisheries Policy (CFP) Reform, Brussels 16 Decmeber 2009; p.2.

<sup>19</sup> Regional FPAs are difficult to implement because of allocation of financial compensation for the FPA is problematic. Furthermore, one does need to be cautious of regional FPAs because local civil society has more difficulty giving their input. It is therefore less democratic (Béatrice Gorez, CFFA).

improvement. The politicians need to make their decisions strictly based on scientific evidence; it is unacceptable that the EU does not take responsibility to research whether there is excess fish before they sign agreements in accordance to the UNCLOS. The consumer in Europe also needs to be better informed on the fish that they buy. Promotion, labelling and ensuring fair prices for fish that is caught environmentally and socially sustainable could raise the value of the fish, supporting the EU vessels that fish sustainably. Civil Society also pushes for the introduction of strict conditions for access to third countries waters: access should be restricted to those operators who can demonstrate that their operations fit with EU sustainable fisheries development criteria. In line with the FAO Code of Conduct for Responsible Fisheries, priority access must be given to small scale fisheries. Finally and most importantly, subsidies also have to be abolished because it is not helping any side of the industry.<sup>20</sup>

**The European Parliament** also welcomed the commissions initiative for submitting the Green Paper. The Committee on Fisheries responded by writing their own report on the Green Paper, which was adopted on the 27th of January 2010. This paper focussed on how to ensure the long-term sustainability and viability of fisheries. Although there is little focus on the effect on developing countries they do highlight the importance of an environmentally sustainable and socially fair fisheries sector internally and externally and that the CFP must be in line with EU external policy (which includes development policy). Concerning FPAs, the Committee on Fisheries explains their importance for the promotion of sustainability internationally, enhancing local employment in the sector, reducing poverty levels and hence reducing the number of immigrants to the EU.<sup>21</sup> The report calls for more transparency and that partnership agreements should be negotiated on a sound scientific basis.

**The ACP countries** are concerned with the different management and control regimes for EU fleets than those enshrined in national laws.<sup>22</sup> EU operators are not reporting catches and they are not getting sanctioned by their Flag States when laws or codes of conduct are broken. The IUU practices by some EU operators in ACP waters need to be controlled in the future. ACP countries also worry about continuation of unfair competition with subsidized and technologically superior EU fleets. ACP countries clearly expressed their concerns for their own local fisheries and how the resources are of strategic significance to their societies and economies. They urge the EU to consider some points when debating the reform of the CFP. The importance of scientific information in future agreements and the importance of combating unsustainable and

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<sup>20</sup> Coalition for Fair Fisheries Arrangements, Comments on the Green Paper for the Reform of the Common Fisheries Policy, December 2009.

<sup>21</sup> Paragraph 124 and 128 in the report of the PECH Committee on the Green Paper on the Reform of the CFP.

<sup>22</sup> ACP, ACP Position on EUs Common Fisheries Policy (CFP) Reform, Brussels 16 Decmeber 2009; p.2

illegal fishing activities are two examples. Finally ACP Countries respond to the Green paper with concerns for new non-tariff barriers to ensure sustainable fishing, like eco-labelling or other conditionality to access the European markets.<sup>23</sup>

## Conclusion

With the debate concerning the CFP and the future of the worlds fisheries that is presently heated, issues like environmental as well as social sustainability are high on the agenda. The EU is showing willingness to deal with the incompetence of the present CFP and its FPAs and the current incoherence between the EU Development Policy, the fisheries policy and reality.

There are no effective legal possibilities for the EU or its member states to prohibit businesses from running their own operations in countries outside of the EU, and it is probable that private settlements would be agreed if the EU would retreat itself from FPAs. If this were to happen transparency and public control would be even less likely, therefore it cannot be denied that fisheries agreements are important and should stay in place. But with the reform of the CFP in 2012 some extreme changes need to be made in order for the agreements to be mutually satisfactory for all stakeholders, most importantly for the small-scale fisheries in developing countries in order to combat poverty. In line with the current debate, in the blue box to the right our recommendations are presented for the changes to be made in the 2012 reform.

## Policy Recommendations

- In order to improve PCD, the negotiations of the fisheries agreements must be based on the contracting countrys priorities for suitable development of its fishing sector and its country as a whole (food security strategies for example).
- Conditions and prioritization needs to be introduced for access to third countries waters; In line with the FAO Code of Conduct, priority access should be reserved for the national fleets, especially small scale and artisan fishing activity. Further access should be restricted to those operators who can demonstrate that their operations fit with EU sustainable fisheries development criteria.
- The EU should respect the surplus principle as concluded in the UNCLOS; the EU should not fish in countries where a surplus is not proved and the prevention of overexploitation cannot be guaranteed.

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<sup>23</sup>ACP, ACP Position on EUs Common Fisheries Policy (CFP) Reform, Brussels 16 Decmeber 2009; p.2.

- The EU should step up efforts and provide the necessary resources to help contracting countries develop more effective national resource management systems in order to prevent overexploitation.
- The EU should ensure better adherence to laws and codes of conduct of EU fleets. Illegal, unreported and unregulated (IUU) fishing must be tackled.
- In accordance to the Cotonou Agreement as well as Development Policy of the EU, the fisheries and trade policies need to be mutually satisfactory and combat poverty by supporting the development of an environmentally and socially sustainable local fisheries sector in the third countries.
- EU fisheries subsidies, directly or indirectly need to be phased out where they are proven not to be socio-economically profitable for any of the stakeholders. The EU should raise the price of fishing licences to its fleets and technological progress of the vessels needs to finance itself through the market, in order to abort any hidden subsidy that hurts poor fishermen.
- Fisheries Agreements must be negotiated, concluded or extended based on a scientific basis and reliable data. The reviewed CFP should define a decision-making framework ensuring that decisions are taken at the appropriate levels (maximum sustainable amount of catch and total allowable catch need to be set by scientists for example).

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