

Fisheries agreements

Socializing costs, privatizing benefits

As more and more supertrawlers are being built, it is time to critically review the EU's fisheries policy

On his first official visit to France after winning the elections in March, president-elect Abdoulaye Wade called on French entrepreneurs and vessel owners to consider investing in the Senegalese fishery. According to the CFFA (Coalition for Fair Fisheries Arrangements) Newsletter No. 9, August 2000, he promised such investors "a highly liberal legal and fiscal framework" to facilitate their ventures.

Increasingly, European fishing companies are seeking 'private' deals to secure access to distant-water fishing grounds. This alarming trend was commented on four years ago, in an article written for SAMUDRA Report ("On to the next generation", 15 July 1996) by Helene Bours. "The trend is clearly towards privatization of the agreements and liberalization of trade..." which, "...appears to depart from 'classical' bilateral fisheries agreements, which have their faults, but which at least have been subject to some—although very limited—form of democratic control."

The conclusion of such deals is increasingly the norm for European fishing companies seeking alternative access rights to secure fish supplies in a context of dwindling local resources, increasingly strong (and unsatisfied) market demand, and decreasing access opportunities within European waters. A recent article in the French paper *Le Marin* highlighted the dependence of the Brittany fishing port of Lorient on *poisson avion* (fish by air) coming from Guinea, thanks to fishing activities secured through private French deals.

The article also said that such deals are, in fact, far from 'private'. Considerable amounts of European taxpayers' monies

are being used to subsidize them. In the case of Guinea, French trawlers have been transferred, thanks to subsidies from the 'structural funds'—the Fisheries Instrument for Fisheries Guidance (FIFG)—of the Common Fisheries Policy (CFP). In the words of one operator, "To get grants for building new trawlers, fishermen must sell their old boats outside Europe. Why shouldn't they go to fish in Guinea?"

Thanks to FIFG support, fishermen can now transfer their vessels to third countries rather than scrapping them. Such transfers may be temporary (joint ventures) or permanent (joint enterprises). In the latter case, they must be re-flagged. These subsidies provide the mechanism through which Europe is increasingly able to achieve two urgent objectives: reduce surplus domestic fishing capacity, and meet the supply needs of its market.

However, and as noted by Bours, at least in the 'classical' agreements, there is some form of democratic control. Such possibilities do not exist in the use of other financial instruments to subsidize 'private access agreements'. This lack of transparency came in for particular criticism in a 1998 European Court of Auditors report (No 18/98) on subsidized joint ventures which noted that, once funding had been transferred to the applicant country, it was extremely hard to trace how the monies were used.

Changing relations

In November 1999, CFFA documented the changing nature of European fishing relations with countries in the South in a brochure titled *A Fishy Business: ACP-EU Fisheries Relations: Who Benefits at What Cost?*. Based on six case studies from Mauritania, Senegal, Kenya, South Africa,

Argentina, Madagascar, and an analysis of European Union policies and instruments, it clearly shows that the trend is from 'fisheries agreements' (formal framework agreements) to 'fisheries arrangements' (less structured arrangements, which combine several policy and financial instruments).

In its introduction, *A Fishy Business* comments: "ACP fisheries are being integrated into the world economy through a wide variety of often overlapping ways. While trade relations are mainly responsible for this integration, various other mechanisms are also at play. These include: fisheries access agreements; private access agreements; various schemes for the promotion of joint enterprises and joint ventures; direct investment and, in some cases, outright illegal fishing."

The EU policies which directly affect the integration of ACP fisheries into the world economy include: EU Development Co-operation; the Lome Convention (a new agreement was recently concluded in Cotonou, Benin); Trade Policy; and the international and structural policies of the Common Fisheries Policy.

It was for this reason that that CFFA decided to change its name from the Coalition for Fair Fisheries Agreements to the Coalition for Fair Fisheries Arrangements.

With the signing of the United Nations Convention on the Law of the Sea (UNCLOS) in 1982, and its ratification in 1994, the unilateral declaration of national 200-mile Exclusive Fishing Zones received the full support of international law.

The UNCLOS process exerted considerable influence on the EU (the then European Economic Community) decision that all member States should extend their national fishing limits to 200 miles in January 1977, and that competency for all jurisdictional and policy matters should be ceded to the European Commission. This included providing the Commission with the authority to negotiate "with certain third countries with a view to concluding 'framework agreements' on fishing access." The first such 'framework agreement' to be signed with a developing country was with Senegal in 1979.

'Framework agreements' were based on the issue of the 'surplus stocks' not caught by the local sector (UNCLOS Article 62.2), and the other UNCLOS provisions (for example, those listed in Articles 61 and 62) relating to the conservation and management of living marine resources.

First-generation agreements

These so-called 'first-generation agreements' came to be the norm for all subsequent fisheries access agreements negotiated between Europe and

The coherence commitment

Under Article 130v of the Treaty of the European Union, the EU has a legal obligation to take into account the objectives of its development co-operation policy "in the policies that it implements which are likely to affect developing countries."

These objectives are set out in Article 130V of the Treaty of European Union and commits the EU to:

- the sustainable economic and social development of developing countries, particularly the most disadvantaged;
- the campaign against poverty;

- the smooth and gradual integration of developing countries into the world economy;
- respect for human rights, fundamental freedoms and the rule of law;
- the promotion and consolidation of democracy.

This means, in effect, that all EU policies which affect fisheries sectors in ACP countries should contribute to sustainable economic and social development to the benefit of the most disadvantaged.

developing countries. They are, in the words of Bours, "pay, fish and scoot" agreements. Initially, they were seen as providing a kind of 'manna from heaven' to the revenue of developing country governments, in the form of 'no-strings attached' funding for depleted State coffers.

In this regard, they became powerful tools for subverting the spirit of the UNCLOS provisions. Instead of providing a transitory bridge to enable coastal States in the South to develop their fisheries, they used fisheries resources as a bargaining chip, to be negotiated against other interests (political, foreign exchange, commercial, etc.). In effect, the first generation of fisheries agreements have created a State dependency on foreign access to provide necessary foreign exchange and other patronage, and reduced development concerns to the market value of fisheries resources to the fleets of the North.

The signing of the Maastricht treaty in 1995 (The Treaty of the EU) with its 'coherence clause' (see box), provided citizens' groups with important opportunities to influence EU policies, and led them to campaign for coherence in fisheries agreements (see CFFA Report *Squaring the Circle*, 1995). This campaign sought to find ways to ensure coherence between fisheries agreements practice (under the provisions of the Common Fisheries Policy), on the one hand, and, on

the other, the policy objectives for development co-operation.

Consequently, the importance of achieving coherence was addressed by a Council of Development Ministers Regulation on Fishery and Development in June 1997. This "stressed the need for an integrated policy approach to sustainable fishing in third countries, which takes into account, besides the interests of the EC, the interests of the local fishery sector, as well as the principle of sustainability of the resources."

The importance "of achieving coherence between these agreements and European development policy" has also been acknowledged by the EU Council of Fisheries Ministers (CFFA Newsletter No. 6, 1998). They also proposed that the Commission carry out a full cost-benefit analysis of fisheries agreements, urging that this exercise take into account "non-quantifiable elements such as the Union's political relations, the strategic importance of the Community's fleet presence in the waters of the third country..."

Simplistic conclusion

However, disappointingly, the consultants chosen to carry out this work—the prestigious French Government Marine Research Institute, IFREMER—have hardly addressed the 'non-quantifiable aspects'. Rather, they draw the simplistic conclusion that

fisheries agreements provide two million tonnes of fish annually, with most of the value being added in Europe. Also, in their estimation, fisheries agreements provide the EU fishing industry some 2000 million euros annually. Fisheries agreements are, therefore, 'a good thing' for the EU!

Such positive conclusions are in sharp contrast to the conclusions of a report by the same institution commissioned by the Development Committee of the European Parliament. This study on co-operation in the fisheries sector between the EU and ACP States by IFREMER and Cofrepeche concludes that such value-added processing should be carried out in the ACP States themselves.

However, the debate on coherence could become a dead-end if the existing trends towards privatizing agreements continue, and research is not objective and independent. There is a need to ensure that agreements are transparent and parties to them are held accountable, and that research is in the public domain. Also that, as CFFA has emphasized in the introduction to *A Fishy Business*, "policies need to be set in place to ensure that the poor, resource-dependent and vulnerable communities increasingly benefit from the exploitation of fisheries resources and the integration of the country fisheries sectors into the world economy."

While they still remain the norm for EU-ACP fisheries agreements, it is clear that the days of the first generation of fisheries agreements are over. In 1996, Emma Bonino, the then Commissioner for Fisheries was quoted as saying: "New agreements will replace an unfair system... where we arrive, fish, pay almost nothing and leave—with zero control. I share the opinion of those who say that the first-generation accords simply wiped out the fish, as has happened in Senegal and Guinea, because, generally, there is no control. We must set out from the basis that such (developing) nations, both those interested in developing their fishing capacity, and the ones that have other priorities, sell their resources, and thus hold bilateral accords. But I think that the old and unfair accords are gone forever."

As noted above, there are worrying signs that new arrangements are already in place, having slipped in through the back door. The writing is no longer on the wall. New arrangements are a fact of life, and NGOs, fishworker organizations and other promoters of socially and environmentally responsible and sustainable fisheries need to move with the times or get left behind.

New-generation agreement

The first and only 'new generation' of agreements was signed between the EU and Argentina in 1993. The

environmental, political and social impacts of this agreement have been far-reaching. As noted in the CFFA Fishy Business case study on Argentina, “Overall, the agreement has resulted in: the severe depletion of the hake resource, the emergence of a substantial overcapacity in the Argentine fishing fleet, the emergence of stock depletion in the inshore fishery, and a socioeconomic crisis in the local fisheries sector.”

Argentinean hake stocks were already a cause for concern at the time of the signing of the agreement in 1993. For this reason, strict ceilings were applied to the numbers of hake licences and quotas, with the agreement making a clear demarcation over access rights between hake (non-surplus) and non-hake (surplus) species.

CeDePesca, a local citizens’ group based in Mar del Plata, noted in several reports that EU fishing companies were systematically abusing the provisions of the agreement. And, according to an official Argentinean government report, “each incoming vessel licensed to catch surplus (hake) species has tried, with or without success, to diversify into catching non-surplus species or species not included in the original licence.”

The EU vessels were able to abuse the provisions of the agreement mainly

thanks to the lack of proper monitoring, control and surveillance (MCS), but also because the Fisheries Sub-Secretary was himself the Director of the Gallician trawler owners’ society—the biggest interest group in Argentinean fisheries.

When the authorities tried to take corrective measures, they were challenged in the courts by the Gallician shipowners of “applying discriminatory measures” against them. This led to prolonged legal battles, while the pillage of the hake and other Argentine fish stocks continued with impunity. The cost to the Argentinean marine environment and the resource-dependent fishing communities has been high. It will take time and further costs to rectify the structural, political, socioeconomic and environmental damage caused by this EU agreement.

There are, however, signs of hope. Twelve months after the EU-Argentine fisheries agreement ended, Argentina’s new President promised to ban hake fishing by foreign-owned vessels. This essentially refers to the Spanish-owned vessels transferred to the Argentine register through the 1992 EU-Argentine fisheries agreement.

Socioeconomic objectives

It is clear that if the fisheries of developing countries are to continue to contribute to social and economic objectives, then the environmental and social costs of fisheries

arrangements with distant-water nations must be fully taken into consideration.

In the context of Europe, CFFA are calling for full environmental and social impact analyses to be carried out prior to any new fisheries initiative being approved. Fisheries access arrangements should also conform to a set of independently agreed criteria, or a Code of Conduct for Responsible Fisheries Arrangements. CFFA propose that such a code should be based on the FAO Code of Conduct, including five basic principles from the FAO Code:

- the principle of protecting the livelihood rights of coastal communities;
- the principle of ensuring the use of selective and non-destructive fishing gear and practices;
- the principle of ensuring effective monitoring and control;
- the principle of transparency and stakeholder participation;
- the principle of guaranteeing safe and adequate working conditions aboard distant-water fishing vessels.

Also, and particularly in the case of shared stocks, a regional approach should be adopted. This issue was the subject of a recent meeting in Guinea Conakry, jointly organised by CFFA and the local NGO ADEPEG (see CFFA Newsletter No. 9, September 2000). Involving organizations from Mauritania, Senegal, France, Benin and Guinea, the meeting highlighted the need for a full involvement of the artisanal fisheries sector in the decision-making processes. One of the invited guests was a representative of the Sub-regional Committee on Fisheries, an organization represented by the Fisheries Ministers of six West African States (Mauritania, Cape Verde, Guinea Conakry, Guinea Bissau, Senegal, and Gambia). A shared stock of particular concern is the sardinelle, which migrates between Morocco, Mauritania and Senegal.

Recent catches of this species in West African waters have risen from 300,000

tonnes to 500,000 tonnes. Of this, some 300,000 tonnes is the estimated catch of the artisanal fishing fleet of Senegal and Mauritania, employing around 100,000 fishermen. For them, sardinelle is the 'staple of the poor'. A further 150,000 tonnes is the estimated catch of five Dutch supertrawlers.

In the light of the recent new building in Europe of more pelagic supertrawlers (the largest and most powerful fishing vessels in the world), and the activities of European companies to secure subsidized access through a number of 'backdoor' arrangements, the question arises as to whether the activities of such large and powerful vessels should be made illegal.

The EU is currently reviewing several aspects of its CFP. Of particular interest are two aspects:

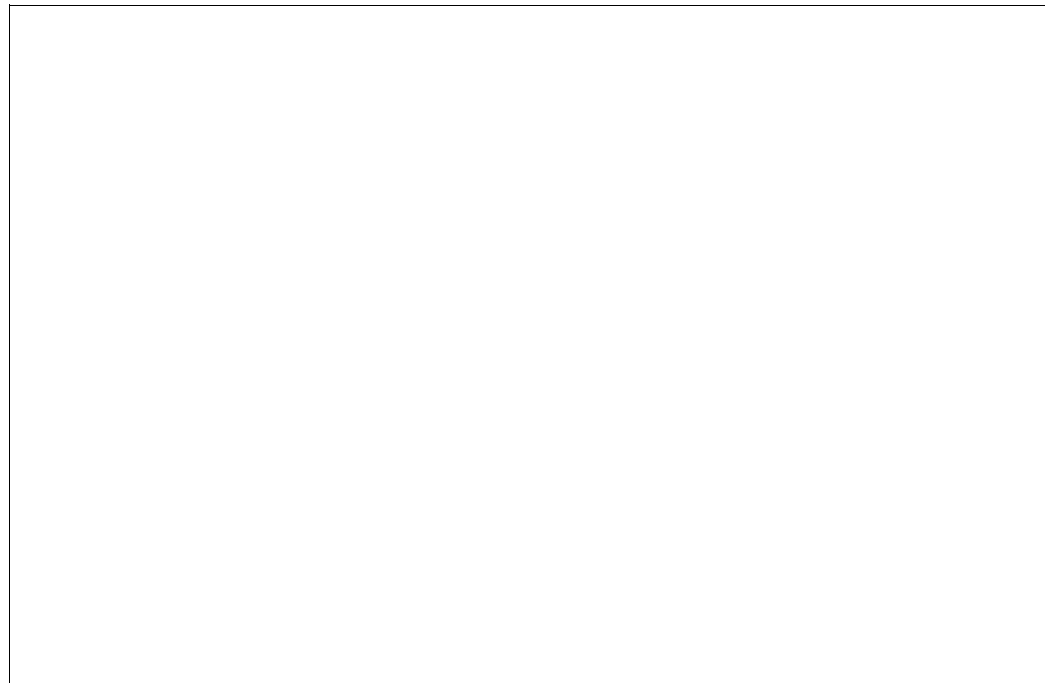
- the conclusions and recommendations that will be applied as a result of the 'cost-benefit analysis of fisheries agreements';
- the framework through which EU subsidies will be applied to the restructuring of Europe's overcapacity in fishing fleet;

The common thread running through these review processes is how European taxpayers' monies will be used to arrange European fisheries sector access to resources, in domestic, third-country and international waters.

Since June, European development and environmental NGOs have been participating in the European Commission's Advisory Committee on Fisheries and Aquaculture (ACFA). Thanks to a large extent to the efforts of the previous Fisheries Commissioner, Emma Bonino, this mainly industry-interest group has recently been opened up to other interests (including NGOs, consumer groups, trade unions, etc).


NGO collaboration

The common platform of the NGOs is sustainable development, where environmental and social aspects are seen as two sides of the same coin. Their collaboration is trying to address the



question of whom and what 'sustainable fisheries development' is for. Both groups recognize the central role of coastal communities and artisanal fisheries in achieving sustainable development. For this reason, the seat allocated to development NGOs has been taken up by Daniele le Sauce, President of the French Branch of the World Forum of Fish Harvesters and Fish Workers, and the wife of a French fisherman who takes an active role in the promoting role of women in fisheries.

In the next few months, the Commission will publish a 'green paper' which will set the scene for the CFP review. Delegates of development and environment NGOs in ACFA are being asked to participate in the production and formal approval processes of this document. On the development aspects, their inputs include the CFFA proposals for fisheries arrangements outlined above (Code of Conduct and Environmental and Social Impact Assessments).

It is too early to assess whether the involvement of NGOs in the formal Commission processes will lead to improvements in fisheries policies and access arrangements. But it could be a step in the right direction, particularly with regard to getting access to information. To a certain extent, information is power, and being forewarned is being forearmed. Watch this space! 

This article is by Brian O'Riordan (icsfbrussels@yucom.be), Secretary of ICSF's Brussels office