

Goodbye to irresponsible fishing?

The new fisheries partnership agreements being advocated by the European Union may eliminate irresponsible fishing practices

In December 2002, after a lengthy and gruelling process of review, consultation and negotiation, the European Union (EU) put the finishing touches to a package of long-overdue fishery reforms. The previous year, in its analysis of the European Common Fisheries Policy (CFP), the European Commission (EC) had acknowledged that, after 20 years, the CFP “has not delivered sustainable exploitation of fisheries resources”. In particular, it noted that:

- available fishing capacity of the Community fleets far exceeds that required to harvest fish in a sustainable manner;
- the overcapacity in EU fleets has resulted in overexploitation of target stocks and excessive pressure on non-target species; and
- the fishing industry is economically fragile as a result of over-investment, rapidly rising costs and a shrinking resource base.

The reforms were announced on 23 December 2002, following a five-day meeting of the Council of Fisheries Ministers from the 15 EU Member States. According to the press release issued by them, the reforms would place more emphasis on “the sustainable exploitation of living aquatic resources, based on sound scientific advice and on the precautionary approach to fisheries management, on the one hand, and on sustainable aquaculture, on the other. The CFP has now been firmly integrated within the Community’s policy on sustainable development, taking account of environmental, economic and social aspects in a balanced manner.”

Fine sounding words these may well be, but there is a highly uncompromising underlying message: if Europe wishes to maintain a healthy fishing sector in the long term, drastic short-term reductions in fishing capacity are needed. The implications are as plain as they are stark. Without fish stocks, there can be no fisheries. And if European fish stocks are collapsing, then either the fishery sector has to follow suit or find alternative resources outside Europe. Likewise, fish consumers will have to depend increasingly on fish caught outside Europe, or face up to eating less wild-caught fish. Much greater emphasis will, therefore, have to be placed on Europe’s international policy if the balance between supply and demand (for fishing opportunities and fishery products) is to be maintained.

The package of reforms for Europe’s international fishing policy is to consist of three main elements:

- an action plan to eradicate illegal, unregulated and unreported (IUU) fishing;
- an integrated framework for fisheries partnership agreements (FPAs) with third countries; and
- a research initiative towards assessments of resources in external waters.

Eagerly awaited

The public announcement of the finer details, particularly about fisheries agreements, has been eagerly awaited. The ground has been well laid. In 1997, acknowledging the growing crisis in Community waters and a growing fish supply deficit, the Council of Fishery Ministers had confirmed that fisheries

agreements would remain an integral part of the CFP.

Past fisheries agreements negotiated by the EU have come in for some stinging criticism. In addition to providing subsidized access for Europe's fishing industry, thereby encouraging fishing beyond sustainable levels, it has been argued that, in many cases, fisheries agreements conflict directly with the development of the local fishing sector. Furthermore, scientific advice about overexploited stocks has often been ignored. This has caused many observers to claim that such agreements were incoherent with the EU's policies for both development co-operation and for sustainable development, and, as such, were "illegal" under the terms of the European Treaty.

In response to such criticisms, in 2000, the EC issued a Communication on Fisheries and Poverty Reduction. For the first time, a link was officially made between the policy objectives for development co-operation and those of fishing. A number of key issues were identified as prerequisite for the sustainable development of the fishing sector in developing countries. Then, in 2001, during the CFP reform process discussions, the EC committed itself to ensuring "sustainable and responsible fisheries outside Community waters with the same commitment as in its own

waters"; and "sustainable exploitation of fisheries resources both in its own external fisheries activities and in international trade in fisheries products."

The European Commission has now taken this a step further by proposing that EU fisheries bilateral relations move from access agreements to fisheries partnership agreements (FPAs), which contribute to responsible fishing in the mutual interest of the parties concerned. They contend that FPAs will ensure both that the interests of the EU distant-water fleet (DWF) are protected and that the conditions to achieve sustainable fisheries in the waters of the partner concerned are strengthened.

The EC proposal makes a number of claims, assertions and propositions. Of prime significance is that the EU has no intention to diminish its presence in international and third-country waters. It contends that the experience of the past years has shown that with the departure of the Community fleet from third-country fishing grounds, the amount of fishing does not decrease, but stays the same or is even increased, as Community vessels are replaced by vessels from other third countries or by vessels flying flags of convenience.

European fleets

Furthermore, this would also lead to a situation whereby the European DWF will be replaced by other DWFs, whose criteria

and conditions may not conform to those of a global sustainable fisheries policy. For those familiar with the behaviour of European fleets in many third-country waters, this contention is surprising.

In the past, and even where there are formal agreements between the EU and third countries, there have been serious violations. For example, in Madagascar two French tuna vessels operating under the EU-Madagascar fisheries agreement were recently caught fishing illegally by the Malagasy authorities. The reaction of COBRECAF, the company that owns the vessel, to the fine imposed (some 530,000 Euros) has been to threaten to boycott the Malagasy ports.

In early January 2003, in Mauritania, several Spanish octopus trawlers, in a serious breach of the agreement, were caught with considerable quantities of undersize octopus. Last year, the organization owning these vessels was quoted in the Spanish press as admitting that often up to 80 per cent of the catch of their vessels consisted of juveniles—a clear violation of the terms of the agreement.

These examples highlight the highly irresponsible approach of a “bandit” section of the European fishing industry, and a policy framework that is clearly highly unsatisfactory. It is hoped that the new FPA approach being advocated by the EU will make such irresponsible European fishing practices a thing of the past.

The EC also proposes that FPAs integrate the objectives of sustainable fisheries development, including components related to the management of resources, control and fleet management.

In particular, the evaluation of the available surplus in third-country waters must be in line with the principle of ownership of the fishing policy by the coastal State and be based on sound scientific and technical advice, as defined in Article 62 of the United Nations Convention on the Law of the Sea (UNCLOS).

Fishing possibilities must be in line with, and based on, best available scientific data, so as to avoid overexploitation of

stocks, and in the interest of the local populations and for the long-term sustainability of their fishery sector.

Such an approach is to be welcomed, but the EU must take into account scientific advice from sources other than its own concerning the issue of surplus resources. In the past, its fisheries agreements have been a major factor in resource overexploitation simply because other sources of scientific advice have been ignored or disputed.

For this approach to be successful, the EU and its partners must also ensure that a common framework exists for similar partnership agreements to be signed by competing distant-water interests, and that coastal States do not trade off their surplus resources several times over. FPAs assume that the partnerships include both the resource owners and the other, competing, resource seekers.

The EC proposal argues that management of the (third-country) fleet may cover the eventual inclusion of European DWF into the fishing fleet of the partner. FPAs can provide the appropriate legal framework and financial instruments reflecting the development objectives of partners, and encouraging the transfer of technology, capital and knowhow by the promotion of joint enterprises between Community interests and those from the coastal States concerned.

Directly linked to this is the Commission policy to phase out subsidies for vessel transfers to third countries by December 2004. The new regulation governing the structure of the European fleet notes that “consistency should be ensured between the policy for restructuring the fisheries sector and other aspects of the Common Fisheries Policy, in particular, the objective of achieving a stable and enduring balance between the capacity of fishing fleets and the fishing opportunities available to them in Community waters and outside Community waters.

Financial support

Since this balance can be achieved only by capacity withdrawal, Community financial support to the fisheries sector through the Financial Instrument for Fisheries Guidance (FIFG) should be

concentrated mainly on the scrapping of fishing vessels and public aid for fleet renewal should be permitted only until 31 December 2004.”

This regulation also restricts subsidized vessel transfers to situations where there exists a fisheries agreement between the EC and the third country of transfer. It also demands that appropriate guarantees exist and that international law is not likely to be infringed, particularly with respect to the conservation and management of marine resources or other objectives of the CFP and with respect to working conditions of fishermen.

On the issue of subsidies, the EC contends that the financial contribution (for access) made available by the Community cannot be considered as a subsidy to the European fishermen. This contribution is justified by the need for the Community, by mutual interest, to provide adequate support to the development and the management of a sustainable fishing policy in the third countries where the European DWF fleet is operating. A clear distinction will be made between the part of the financial contribution given in exchange of fishing possibilities for European vessels and the part of the financial contribution devoted to fisheries partnership actions, such as stock assessments, and monitoring, control and surveillance activities. The

private sector shall progressively assume greater responsibility for the financial contribution.

For the future, the Community financial contributions will have to be regarded as investments for the improvement of responsible and rational fishing and, therefore, based on new considerations. This contribution mainly covers expenses linked to management costs, the scientific assessment of fish stocks, fisheries management, control and monitoring of fishing activities, as well as expenses for the follow-up and evaluation of a sustainable fishing policy.

Implicit in this proposition is that the amount invested in the improvement of responsible and rational fishing will not be linked to the levels of access granted to the European DWF. There will, therefore, need to be a fixed level of investment agreed to by the EU, while the amounts paid by the vessel owners will vary according to the access granted.

Cash for access

Perhaps the most significant change between the former “cash for access” fisheries agreements and the FPAs proposed, concerns the commercial nature of the agreements. In the past, access was achieved through a commercial negotiation process, where significant and highly inequitable differences existed between the

negotiating partners. The EC is now proposing that FPAs be concluded only after a process of political dialogue, where it is necessary:

- first, to examine the political objectives of the Community commitments to promote policy dialogue in fisheries matters; and
- second, to identify and define the measures that should be set up in order to achieve the political objectives jointly identified by the EC and its partners.

In response to the FPA proposal, the Coalition for Fair Fisheries Arrangements (CFFA) has initiated a wide consultation and, based on this, has put forward a position statement. This notes that development and environment non-government organizations (NGOs) favour fair and sustainable partnerships between the EU and third countries, that promote the long-term viability of marine ecosystems and fish stocks, securing sustainable livelihoods and food security in third countries. Therefore, NGOs welcome the communication from the Commission on FPAs, in as much as it proposes to establish responsible fishing on a sustainable basis. This is an important shift from the more commercial approach applied until now. Of particular importance is the commitment to conduct sustainability impact assessments as an integral part of the FPAs.

However, the communication fails to take into account the conflict of interests that may exist between the two parties, given the potentially contradictory objectives of these FPAs (which, on the one hand, wish to secure access to third countries' waters, while, on the other, wish to promote sustainable fisheries). This needs to be clearly spelt out, and the political decision-making process needs to establish how such conflicting interests can be resolved. Provisions also need to be put in place for public consultation both in the EU and in the third country that involve the primary stakeholders (that is, fishing communities).

While the communication advocates a change of approach, it is short on concrete, operational actions. Our welcome to the

Prerequisite Conditions

Establishing an equitable framework for fisheries partnerships between the EU and ACP States for sustainable and responsible fisheries, and with both fisheries and development objectives, will require full transparency *vis-à-vis* access rights granted to other distant water fishing nations (DWFNS).

It is, therefore, prerequisite for their success that FPAs are built into a wider fisheries and development framework that addresses the issue of foreign fleets as a whole (and not just restricted to EU fleets), while paying heed to the regional aspect of certain issues.

It is also important to recognize that there are some contradictory interests between the EU and developing countries, and that some political arbitration will be necessary to clarify the priorities. Therefore, there is a need for a wide-ranging discussion of these issues (of contradictory interests) in the parliaments, while consulting with the fisheries sector stakeholders. In the case of the ACP States, organizing such a debate with proper participation must be supported by appropriate means.

It is also important that, if partnerships for sustainable fisheries are to be developed on a long-term basis, the "access" component of the FPA must be temporary, and should decrease (and disappear) if and when the local capacity to exploit fisheries resources is developed. In particular, socioeconomic and environmental impact assessment studies should be made public and widely debated prior to any renewal of the FPA.

communication is, therefore, cautious, and we reserve judgement until the FPAs are put into practice.

The CFFA statement urges the EU to establish guidelines for FPAs, rather than negotiate from scratch with each partner. Based on the experience and shortcomings of current fisheries agreements, these guidelines would include the following aspects:

Resource Management: The rationale for EU-ACP relations is strongly driven by the EU's internal fisheries problems and concerns (for example, overcapacity and resource depletion problems), and

securing supplies for its growing market (with raw material the priority), so that the benefits of adding value accrue to EU Member States.

The issue of the surplus resources to which the EU fleets may have access raises potential contradictions between EU and third-country interests.

On the one hand, the EC proposes that “wherever possible...the FPA shall support measures aiming at promoting the creation of joint ventures, transfer of technologies, investments and capacity management for the benefit of the fishing industry...”, but, on the other, that “financial contribution will be justified by a mutual interest of the two parties to invest in sustainable fisheries policy and not just as a payment for access rights to fishing possibilities for the benefit of European fishing enterprises.”

The amount of financial contribution invested should, therefore, not be linked to the level of fishing possibilities given by the third State.

Control/Surveillance: Many ACP countries with fisheries agreements with the EU have large exclusive economic zones (EEZs) to police and control, and they often lack the material capacity to do so effectively. This leaves the door open to catch and by-catch under-reporting.

Through the existing fisheries agreements, EU boatowners are able to evade meeting their obligations to embark an observer by paying a small compensation. Observers, when embarked, are directly paid by the boatowners, and not by an independent body. These are also reasons why control and monitoring of EU fleets’ activities are difficult.

The use of vessel monitoring systems (VMS), introduced in some of the last agreements, even if not a panacea, has been a positive step forward. NGOs feel that measures for surveillance and control should be obligatory in all agreements.

Optimizing Post-harvest Arrangements: Even in cases where the natural capital is not under threat, the benefits generated by EU fishing operations still flow mainly to EU operators.

There are three main constraints to maximizing local benefits that need to be addressed:

- **Compulsory landings:** Although most of the fisheries agreements have provisions for local landings, very seldom are these landings obligatory (with notable exceptions like Senegal).
- **Lack of onshore infrastructure:** Often, onshore infrastructure

(cold chain, warehouses, etc.) is insufficient to deal with the landings, which constrains organizing value-adding activities.

- The EU is the main market for fisheries products for many developing countries having an EU fisheries agreement. Access to the EU market is increasingly conditional on meeting hygiene standards, which developing countries are not always able to comply with.

The following measures should, therefore, be taken:

- Compulsory landings should be applied to situations where local capacity exists to process fish caught by the EU. Quality specifications should be established for the landings (type of fish, size, quality status, etc). Where the species landed are those traditionally caught and traded by the artisanal sector, a socioeconomic impact assessment should be carried out. If the result is negative, the FPA should contain specific provisions to prohibit the landing of such species.
- Where there is a lack of onshore infrastructure, support should be provided to third countries that may wish to develop value-adding fish processing capacity. This should be linked to the phased introduction of obligatory fish landings.
- Assistance to comply with EU hygiene standards should be provided, particularly when the species imported by the EU are caught by local artisanal fleets. In the case of species not caught by the local sector (tuna, for example), support to processing plants to comply with hygiene standards should be coupled with increasing levels of obligatory landings.
- The impact of international trade on food security needs to be assessed, particularly the potential

impact of increasing the export trade of fish products on the food security of the local population in the third country. The negotiations of the FPAs should take advantage of the research and discussions being conducted by the Food and Agriculture Organization of the United Nations (FAO) on this issue. 3

This article has been written by Brian O'Riordan (briano@skypro.be), based on a compilation of CFFA materials