

Fisheries agreements

Establishing a foothold

The European Union has an increasingly important role in the tuna fishery of the western and central Pacific Ocean

Pacific island States conduct their fisheries policies through a number of channels—at the national, subregional and regional levels. The two key bodies for co-ordinating fisheries policy are the subregional Parties to the Nauru Agreement (PNA) and the regional South Pacific Forum Fisheries Agency (FFA). Also important in terms of providing scientific and technical advice (for example on stock assessments) is another regional body, the Secretariat of the Pacific Community.

In September 2000, Pacific island States and distant-water fishing nations concluded negotiations to establish an international management and conservation regime for the tuna fisheries of the western and central Pacific. Among other things, this regime (dubbed the Tuna Commission) will seek to establish a total allowable catch or level of fishing effort for the region's tuna and other highly migratory fish stocks.

The tuna fishery of the western and central Pacific is primarily made up of industrial purse-seine, pole-and-line and longline operations. These occur both in the exclusive economic zones (EEZs) of Pacific States and on the high seas. The main species targeted by these fisheries are skipjack, yellowfin, bigeye and albacore tuna.

According to the Oceanic Fisheries Program of the Pacific Community, annual catches of the four main tuna species have increased significantly since 1998. The total tuna catch for 2000 was estimated at 1,862,269 tonnes. The purse-seine fishery accounted for 56 per cent of this total, followed by the pole-and-line fishery (19 per cent) and the longline fishery (12 per cent), with the remainder (13 per cent) taken by troll gear

and a variety of other artisanal gear, mostly in eastern Indonesia and the Philippines.

According to preliminary estimates, the purse-seine catch in 2001 was about 835,000 tonnes. Most of this was taken by distant-water fleets operating in the region, made up of 29 American, 41 Taiwanese, 35 Japanese, 27 Korean, 14 Spanish and 10 Filipino vessels—a total of 162 vessels. Domestically based purse-seine vessels in the Pacific island region accounted for an estimated 136,000 tonnes. The domestic fleet includes 19 vessels in Papua New Guinea (PNG), five in the Federated States of Micronesia (FSM), five in Marshall Islands, one in Kiribati, two in Vanuatu and three in New Zealand—former vessels of the United States (US) fleet. According to FFA, in 2001, the Spanish fleet recorded a catch of only 2,400 tonnes, a reduction of approximately 10,000 tonnes. Only ten vessels were licensed in 2001.

The tuna longline catch in 2000 was about 217,000 tonnes, which was a record catch for the region. Bigeye and yellowfin comprised 62 per cent of the catch, while albacore comprised 37 per cent. Most of this catch was taken by large-vessel distant-water fleets of Japan (216), Korea (166) and Taiwan (149). There were 108 Chinese longliners registered on the FFA Regional Register in the 2000-01 period. However, there has been a significant growth in the domestic and locally based longline fisheries in such countries as FSM, Fiji, Palau, PNG, Samoa, Solomon Islands and Tonga.

Japanese fleet

Much of the pole-and-line catch was taken by the Japanese distant-water fleet, comprising 40 vessels and accounting for about 65,000 tonnes. There are also

domestic pole-and-line fleets in Indonesia, Solomon Islands and French Polynesia. The general trend, especially for domestic operations, has been a gradual reduction in the number of vessels active in this fishery due to economic factors and technological advances in the purse-seine fishery. Pole-and-line fleets formerly operating in Palau, Kiribati and PNG are no longer active.

The following summary statements on the four key tuna species were adopted in August 2002 by the inaugural meeting of the Scientific Coordinating Group, which was formed to provide scientific advice to the Preparatory Conference for the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the western and central Pacific.

Skipjack tuna: appears to be capable of sustaining the current catch without adverse effects to the overall stock.

Yellowfin tuna: the stock is likely to be nearing full exploitation. Any increase in fishing mortality of juveniles is likely to move the yellowfin stock to an overfished state.

Bigeye tuna: indications are that the stock is nearing full exploitation. The catches and fishing mortality of juveniles have increased greatly over the past decade. Any increases in juvenile fishing mortality are likely to move the stock to an overfished state.

South Pacific albacore tuna: indications are that albacore appear to be only lightly exploited; therefore there are currently no concerns with respect to the status of the stock.

These summary statements are qualified, especially for yellowfin and bigeye tuna, by the issue of uncertainty. This follows, in particular, from the lack of monitoring of purse-seine catch of juvenile yellowfin and bigeye tuna, which tend to be confused with skipjack tuna. A further cause for uncertainty is the impact of climate change, in particular El Niño/Southern Oscillation events. This tends to affect catch distribution and stock abundance; however, the link

between climate variability and stock productivity is still unclear.

In addition to concerns about biological limits being reached, at least for bigeye and yellowfin, there are concerns about economic limits being exceeded. This is due to the problem of overcapacity and a global oversupply of tuna, especially in the canning market. As a result, some vessel operators have taken steps to reduce fishing effort in order to restrict the supply of canning raw material and raise prices.

The tuna canning market improved in 2001 after several years of record low prices for skipjack tuna. Prices recovered in the Southeast Asian, European, Latin American and African markets. This was also the case—although less marked—for yellowfin prices. However, prices for albacore for the canning market fell significantly. The price of pole-and-line caught skipjack landed in Japan increased during 2001.

Imports of fresh yellowfin into Japan from Pacific island countries totalled more than 5,000 tonnes in 2001, an increase of 34 per cent compared with 2000. This was mainly due to the growth in imports from PNG and Fiji. Japanese imports of fresh bigeye in 2001 also increased to about 4,000 tonnes.

Most assessments suggest that there are too many purse-seine vessels operating in the tuna fisheries of the western and central Pacific. The recent growth in purse-seine capacity is due to new entrants (such as the Spanish vessels) and to the introduction of larger vessels. There is also an increase in the number of locally based vessels, with the development of shore-based processing facilities. Restrictions on purse-seine operations in the eastern Pacific are thought to be responsible for the growth of Spanish interest in fishing in the western and central Pacific.

Excessive fleet

The number of purse-seine vessels active in the region is considered excessive from both a conservation and economic point of view. This is despite a regional arrangement to limit the number of purse-seine vessels licensed by Pacific

island States (the Palau Arrangement) and despite a steady reduction in the number of US vessels operating in the western Pacific. Studies to date have shown that the profitability of the purse-seine and longline fishery could be greatly increased by reducing purse-seine fishing effort. A 20 per cent reduction in purse-seine effort, for example, would double the profitability of the fishery by improving catch rates. The impact of purse-seine fishing through use of deeper nets and free-floating fish aggregating devices (FADS) is also considered responsible for the falling longline catch rates for bigeye tuna in the western and central Pacific.

There has recently been increased interest by offshore investors in establishing tuna loining plants in the region. Domestic or locally based vessels are expected to supply these plants. This may put more pressure on increasing the number of licenses available for such vessels and staying within the limits set under the Palau Arrangement. Member States of the Palau Arrangement are at present considering a proposal to limit purse-seine fishing days rather than allocate a certain number of licences to various flag States.

Japan is the largest distant-water fishing nation in the region (active in all three major fisheries). It also has the longest established fishing presence in the region. Japan has bilateral fishing agreements

with eight Pacific island States. These are predominantly rollover types of agreements comprising a head agreement between the governments and subsidiary government to industry agreements. It is the subsidiary agreements that determine the rate of return and other conditions of fishing. Access fees are paid on a per trip basis wholly by the Japanese fishing industry. However, the Japanese government provides fisheries grant aid and technical co-operation as an indirect subsidy (or top-up) to the access fee. The access fee is on average about 5 per cent of the catch value, using the previous three years catch to calculate the fee level. Almost all Japanese-caught tuna is landed in Japan.

Bilateral agreements also exist between Pacific island countries and fleets from Taiwan and Korea. Fees are based on the catch and prices for the previous year and by applying the target rate of return (five or six per cent of the value of the catch). Taiwan, which has the second largest fleet presence in the region, has diplomatic ties with only four Pacific island States (Solomon Islands, Tuvalu, Marshall Islands and Palau).

Access agreements

Thus, access agreements tend to be between the coastal State government and fisheries associations. Taiwan is the one distant-water fishing nation actively expanding its fleet, both longline and

purse-seine. However, it has been the most difficult fleet to control and regulate. Taiwanese and Korean fleets offload their purse-seine catch to canneries in Fiji and American Samoa. Other catch is transshipped at Pacific island ports for the fresh-and frozen-tuna markets.

The US is the only distant-water fishing nation to have a multilateral fisheries access arrangement in the region. This is between the US government and the member States of the FFA and was first concluded in 1987. Recent negotiations saw the extension of the treaty for an additional ten-year period (to June 2013). The US fleet (purse-seine only) lands almost all its catch in American Samoa for processing in the two US canneries located there.

In exchange for access, the US tuna industry pays US\$4 mn per year as licence fees (to the Pacific island parties). The US government provides US\$14 mn annually under an associated Economic Assistance Agreement. Of this total package, about 85 per cent is allocated to countries according to catch volume within various EEZs. The remaining 15 per cent is apportioned equally to all parties irrespective of catch in the form of project aid and technical assistance.

In July 2002, a bilateral agreement was concluded between the EU and Kiribati. This followed a bilateral agreement concluded in late 1999 between Kiribati and a Spanish industry group. It is expected that the European-flagged vessels operating under the industry agreement will in future operate under the EU agreement (since it provides generous concessions to the industry).

The agreement is initially for three years and allows purse-seine and longline vessels to operate in the Kiribati EEZ. For the immediate future, it is likely that only purse-seiners will fish under the agreement. The agreement is heavily subsidized by an EU financial contribution (set at Euro 546,000 for the first year, corresponding to 8,400 tonnes of tuna). Approximately 19 per cent of this contribution will be allocated to 'targeted measures' to support Kiribati

participation in fisheries organizations and its institutional capacity.

Until the mid-1990s, the only EU involvement in regional fisheries was through regional funding programmes, for example the South Pacific Marine Resources Development Programme funded under the European Development Fund. While the EU provided important assistance, the relationship was not without problems. For example, in 1996, differences between the EU and the member States of the FFA led to the termination of a financing agreement under which the EU was to have funded a regional surveillance programme and a position in the FFA.

The prospect of a fisheries agreement between the Pacific island States and the EU was first mooted in 1997. It was first discussed within the regional fisheries forums (FFA and PNA) in 1998. Two developments at that time are likely to have had an important influence on the timing. The first was the move taken in mid-1997 by Pacific island States and distant-water fishing nations to begin negotiations towards establishing a management regime for the region's tuna stocks, in line with recent developments in international law of the sea. This was known as the Multilateral High-Level Conference (or MHLC process). It is likely that the EU (particularly Spain) was keen to establish a foothold in the region and establish a 'real interest' in the Pacific's tuna fishery in anticipation of the fishery becoming subject to an international management and conservation regime.

The second development at that time was the beginning of negotiations for a successor to the Fourth Lomé Convention between the EU and the African, Caribbean and Pacific (ACP) group of nations. It seems that there was a view among Pacific island trade officials that a link should be drawn between fisheries access and post-Lomé trade and development co-operation.

Links rejected

Their strategy may have been to use the lure of fishing access to secure a more favorable outcome for the region in the negotiations with EU. However any link between fishing access and the post-Lomé

negotiations was emphatically rejected by Pacific island fisheries policymakers in their meetings in 1998 and 1999.

Much of the discussion on the EU fishing interests in the region by the Forum Fisheries Committee (FFC, the governing council of the FFA) centred on the possible impact of such an agreement on EU funding arrangements in the region.

Officials were especially concerned about possible linkage between fisheries access and the negotiations for a successor to the Lomé Convention. There were also questions raised about the EU's commitment to the 1995 UN Fish Stocks Agreement, given that the EU had entered reservations regarding the high-seas boarding and inspection provisions.

Overall, there was a reluctance to enter into an access arrangement with the EU at this time as it would possibly provide a pretext for full participation of the EU in the MHLC process. Forum island countries were generally averse to opening up the MHLC process to newcomers who did not have an established fishing presence in the region.

They were also wary about the EU, given its reputed behavior in other regional fisheries management organizations and reputation for poor compliance in many fisheries arrangements.

At the fourth session of the MHLC process in Honolulu in February 1999, the EU was formally admitted as an observer. Meanwhile, the FFC succeeded in getting the MHLC to adopt a resolution "calling on all States and entities to exercise reasonable restraint in respect of any regional expansion of fishing effort and capacity". This resolution was followed up at the fifth session of the MHLC in September 1999 by an even stronger stand. The Conference, "noting the advanced stage of negotiations towards a Convention..." decided not to increase the number of new participants in the MHLC process. Nor would new members be admitted until after the convention entered into force. This would preclude the EU from membership of the interim regime to be established following the adoption of the convention.

Despite these resolutions, Kiribati concluded an agreement with a Spanish fishing company OPAGAC—the first such agreement with a European fishing fleet. Under this agreement, 14 purse-seine vessels would have access to Kiribati waters for a period of 12 months from October 1999.

Interim regime

In the lead-up to the sixth and penultimate round of the MHLC in April 2000, the EU made a strong bid for full membership of the interim regime. It made its claim on the grounds that the EU was a full contracting

party of other regional fisheries organizations and that flag vessels of the EU were already fishing in the area to be covered by the convention.

The issue of EU membership of the interim regime provoked heated debate at both the sixth MHLC and the FFC meeting convened on the sidelines. In a strongly worded statement to the conference, the FFC group reaffirmed their support for the moratorium on new members that was adopted at the previous session.

The EU decided to abandon the idea of a multilateral approach to fisheries access in the Pacific region, deciding instead to pursue bilateral access agreements with certain island States.

Letters were sent in late 1999 to six FFA member States, seeking to formalize EU interest in bilateral fisheries access.

Positive responses were received by all (except Marshall Islands) and exploratory talks were held with Kiribati in late March 2000.

At the same time, France, through its territories, also pursued discussions with PNG and Solomon Islands on possible access arrangements and a Memorandum of Understanding establishing a framework for access was signed with PNG in mid-2000. This would

allow purse-seine vessels access to its waters.

At the seventh and final session of the MHLC process in September 2000, the Convention for the Conservation and Management of Highly Migratory Fish in the western and central Pacific was formally adopted. A resolution establishing a preparatory conference, to lay the groundwork for the new regime that would be established once the convention entered into force, was also adopted. As expected, this resolution restricted full membership to those States and entities that had participated as full members in the MHLC process. Perhaps as a sign of its disapproval, the EU was not present at this final session.

The first session of the Preparatory Conference (PrepCon 1) was convened in New Zealand in April 2001. In advance of this meeting, the EU again sought to participate as a full member. In requesting full membership, the EU stressed the contribution that it had made to regional tuna assessment programmes. Some FFC members (for example, Kiribati) were by now sympathetic to this EU request, and willing to support full EU membership. But there remained strong reservations from a number of others.

The second session of the PrepCon was convened by PNG in February 2002. This meeting was immediately preceded by an informal consultation on "mechanisms to promote participation". The informal consultation spent most time addressing the issue of EU participation. Once again, the EU had written in advance of the meeting stating its case for admission as a full participant to the PrepCon process. Once again, it emphasized its support for the development of the Pacific island States, in fisheries and in other fields. According to the EU head of delegation, this support and commitment "distinguishes (the EU) from other potential aspirants for membership of the PrepCon".

Issue debated

The issue of EU participation was debated at length in the FFC meeting held prior to PrepCon 2. The focus of discussion was a US proposal that would allow the EU a seat at the table of PrepCon (hence full rights

to contribute to the proceedings), while retaining its status as an observer. It would not be able to accede to the convention until its entry into force, nor have voting rights within the PrepCon.

While there remained reservations about setting a precedent for others to follow, there was also some support for the US proposal as it applied to the EU, especially as the EU had pledged in its letter to the PrepCon not to support a reopening of the convention text. On these grounds, the EU was allowed a seat at the table and it participated fully in the deliberations of PrepCon 2.

This development may be regarded as a political victory for the EU. It signalled a major elevation in its status within the PrepCon process. It also reflected an improvement in its relations with PrepCon members compared to the previous session, when it was viewed with some scepticism, if not suspicion especially by some members of the FFC.

The conclusion in July 2002 of an access agreement between Kiribati and the EU had immediate consequences for the allocation of purse-seine licences under the Palau Arrangement. The agreement provides for a minimum of six purse-seiners and a maximum of 11 purse-seiners. Given that the EU now has an allocation under the Palau Arrangement (albeit a very small one), it is possible for the EU to conclude access agreements with other Pacific island countries. However, it would be required to use the same vessels as licensed under the Kiribati agreement in order to comply with the Palau Arrangement. This may change if there is a further reduction of the US fleet (freeing up more licenses) or a shift to allocation by fishing days and not by flag.

There appears to be interest among a number of other Pacific island countries in concluding access agreements with the EU. This reflects a desire by countries to increase revenue from access fees but also to facilitate domestic industry development. The perception among some fisheries officials in the region is that the terms of the Kiribati agreement are better than those of other bilateral

partners, in terms of access fees and the potential for development of shore-based facilities and fishing capacity. The Kiribati agreement also provides for the employment of local seamen on the EU vessels.

The Kiribati access agreement has been hailed as a model fishing agreement by EU officials, as it is based on principles of sustainability and good governance. The agreement meets the various regional minimum terms and conditions of access (including observer coverage and use of a vessel monitoring system). It is also claimed that the Kiribati agreement has a strong scientific review base, using regional scientific advice and stock assessment.

Beyond these positive assessments, there are broader considerations that arise from the formal entry of the EU into the western and central Pacific fishery. This includes the economic impact of increased fleet capacity, especially of the purse-seine fleet. Any benefits that may have been derived from a reduction of the US purse-seine fleet have been offset by the EU vessels and other new entrants. This underscores the weakness of existing regional regimes to effectively control the size of the purse-seine fishery and the competing pressures on Pacific island States (to maximize revenue while conserving the stocks). The failure to negotiate a multilateral access agreement with the EU was in part due to competing national interests among Pacific island States and a reluctance to 'give up' potential benefits from bilateral agreements. Similarly, the failure to realize significant gains in domestic industry development in Pacific island States (and domestic basing of fleets) may, in part, be attributed to the incentives that island States continue to give foreign offshore fishing arrangements.

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