

Discussion Paper

No. 120

September 2011

Fishing in troubled waters?

An analysis of the upcoming reform
of the Common Fisheries Policy from
the perspective of Policy Coherence for
Development

Niels Keijzer

www.ecdpm.org/dp120

Fishing in troubled waters?

An analysis of the upcoming reform of the Common Fisheries Policy from the perspective of Policy Coherence for Development

Niels Keijzer

September 2011

Table of contents

About this paper.....	4
List of acronyms.....	5
Executive summary	6
1.Introduction: the relevance of the Common Fisheries Policy to developing countries.....	9
2.The CFP reform package: preparations and contents.....	12
2.1. The process of preparing and adopting the CFP reform package.....	12
2.2. Failing the impact assessment exam - twice	13
2.3. Analysis of the EC's proposal for the basic regulation	16
3. Anticipating the response of the EP and the European Council to the reforms.....	27
3.1. European member states	27
3.2. The European Parliament.....	29
4.Conclusions and opportunities for improving PCD	30
Bibliography	32
Annex 1: Implications of the Treaty of Lisbon for EU fisheries policy	33
Annex 2: Bilateral Fisheries Agreements.....	35
Annex 3: Composition of the European Parliament Committee on Fisheries.....	36

Boxes

Box 1: Analysis of the external dimension as presented in the Regulation	14
Box 2: Representation of the links between the key objectives of the CFP (EC Impact Assessment)	17
Box 3: Non-tuna Regional Fisheries Management Organisations coverage	22
Box 4: Feed conversion in aquaculture	26

About this paper

In December 2010, the Netherlands' Ministry of Foreign Affairs (DEC/OC) asked the ECDPM to conduct a background analysis in relation to upcoming revisions in three important European policy domains: the Common Agricultural Policy, the Common Fisheries Policy, and the General System of Preferences. The studies were conducted from the perspective of developing countries, which meant that they focused on the external dimensions of the policy areas concerned and were based on a combination of document analysis and a limited number of interviews with key stakeholders. The findings of the three studies were presented to Dutch government officials, to inform the formulation of the government's position on the three policy revisions.

Following the completion of the studies, the Ministry encouraged the ECDPM to adapt those elements that were based on the analysis of policy documents, research data and other public documents and publish separate papers on each of the three policy domains. These papers aim to inform other interested actors about the implications of these policy revisions for developing countries. This particular paper is devoted to the Common Fisheries Policy.

For further clarification of the EU legal terminology used in this document, please see: Egenhofer, C., Kurpas, S., Kaczynski, P.M., Schaik, L. van (2011). *The Ever-Changing Union: an Introduction to the History, Institutions and Decision-Making Processes of the European Union* (2nd ed). Brussels: Centre for European Policy Studies.

http://www.clingendael.nl/publications/2011/20110300_cesp_paper_vanschaik.pdf

The author would like to thank Béatrice Gorez (Coalition for Fair Fisheries Agreements) and James Mackie (ECDPM) for their comments on the draft version of this paper. The views expressed in this paper are those of the author only, and should not be attributed to any other person or institution.

List of acronyms

ACP	African, Caribbean and Pacific (group of countries)
CAP	Common Agricultural Policy
CFP	Common Fisheries Policy
CMO	Common Market Organisation
COREPER	Committee of Permanent Representatives
CPC	Contracting Parties (or Cooperating Non-Contracting Parties)
CPR	Common Pool Resource
DEFRA	UK Department for Environment, Food and Rural Affairs
DEVCO	Directorate-General for Development and Cooperation
DEVE	Development Committee of the European Parliament
DG	Directorate-General
DG MARE	Directorate-General for Maritime Affairs
EC	European Commission
EEZ	Exclusive Economic Zone
EFF	European Fisheries Fund
ENVI	Environment Committee of the European Parliament
EP	European Parliament
EPA	Economic Partnership Agreement
FPA	Fisheries Partnership Agreement
IMP	Integrated Maritime Policy
MCS	Monitoring, Control and Surveillance
IUU	Illegal, unreported and unregulated fishing
MEP	Member of the European Parliament
MSY	Maximum sustainable yield
NAMA	Non-agricultural market access
NGO	Non-governmental organisation
PBL	Netherlands Environmental Assessment Agency
PECHE	Fisheries Committee of the European Parliament
RFMOs	Regional Fisheries Management Organisations
WTO	World Trade Organisation
PCD	Policy Coherence for Development
PECHE	European Parliament Committee on Fisheries
RAC	Regional Advisory Committees
SFA	Sustainable Fisheries Agreement
TFEU	Treaty on the Functioning of the EU

Executive summary

1. Europe's Common Fisheries Policy (CFP) uses less than 1% of the EU's budget for 2007-2013, with fishermen comprising less than 0.1% of the EU's labour force. Yet it is also one of the most visible EU policies and is frequently criticised on all sorts of grounds. In its 2009 Green Paper on the future of the CFP, the Commission itself identified several 'structural failings' of the EU's fisheries policy.
2. Europe is the world's largest importer of fish and fisheries products, of which an important part is caught in the territorial waters of developing countries. An important part of Europe's fishing fleet operates outside the EU's maritime borders. There were 718 EU vessels operating outside EU waters in 2007, which together represent almost 25% of total EU fishing capacity in tonnage. Just under half of the external fleet use negotiated fishing arrangements (affecting 314 vessels between 2004 and 2008). The rest of the EU distant-water fleet makes its own bilateral arrangements with third countries, the details of which are not available to the public although these vessels receive support from the EU budget (Tindall 2010).
3. Given the strong dependence of European consumers on imported fish, and the increasing demand for fish in other parts of the world, Europe sometimes faces a dilemma of choosing whether to source its fish from areas where sustainable exploitation cannot be guaranteed. In developing countries, governments often lack the capacity to adequately monitor and regulate economic activities within their territorial waters. As a result fishing vessels flagged to various countries can be tempted to fish in these 'troubled waters' without any consent given and as such threaten the long-term availability of fish in these areas. As this very much goes against the EU's own interests, the Union is now considering revising its own policies and measures to promote sustainable fishing in developing country waters.
4. Following a long period of extensive multi-stakeholders consultation, a 'package' of policy proposals (i.e. two proposed regulations, two Communications, one report, and two impact assessments) was adopted by the College of Commissioners and presented to the public by the Fisheries Commissioner on 13 July 2011. The entering into force of the Treaty of Lisbon in December 2009 has changed – and continues to change – EU fisheries policy and practice. This will be the first time that the EU member states and the European Parliament will have to 'co-decide' about the Union's future overall policy on fisheries.
5. The Commission's impact assessment which informed the EC's proposal for a Basic Regulation did not look in depth at the implications of the various reform options for developing countries. This was the conclusion drawn by the Commission's independent Impact Assessment Board on the basis of the draft impact assessment and a revised version. The final report of the impact assessment largely restricts the analysis of the external dimension to Fisheries Partnership Agreements (FPAs) and Regional Fisheries Management Organisations (RFMOs) and excludes from the analysis the majority of EU vessels that fish outside EU waters under private agreements or joint ventures. Given that the impact assessment itself observes that '(...) *any change in the management or fishing opportunities in one area will have a direct impact on the other*', the absence of this analysis makes it difficult to judge the full impact of the changes in the external dimension of the CFP.

6. This paper analyses a selection of key aspects of the CFP reform, in relation to the text of the proposed Basic Regulation. Out of the different elements of the CFP reform package, this is expected to have the greatest impact on developing countries. This paper particularly assesses to what extent the reform proposals take account of Europe's development objectives, as set out as a requirement for all EU policies in the Treaty of Lisbon, and commonly referred to as 'Policy Coherence for Development' (or PCD). The following key observations are made:
 - a. The EC's proposed objectives for the CFP apply to both internal and external dimensions (now called 'external policy'), but leave the current lack of hierarchy among the CFP's economic, social and environmental objectives untouched. Although it is clear that the environmental objective should be seen as the 'keystone' for the CFP's success, the lack of hierarchy inside the main objective complicates the 'evaluability' of the CFP.
 - b. A greater effort could be made to incorporate the objectives of cross-cutting policy objectives into the Basic Regulation (e.g. the Europe 2020 strategy), which currently only refers to the need to achieve consistency with these policies.
 - c. In a number of EU member states, the cost to their national budgets of managing and subsidising fisheries now surpasses the economic value of the catches. Notwithstanding these and other studies, 14 member states recently expressed a desire to maintain high fisheries subsidies, which create an uneven playing field for developing countries.
 - d. The draft Basic Regulation states that the EU should further its overall CFP objectives by engaging with and supporting Regional Fisheries Management Organisations (RFMOs), which govern the activities of distant water fleets in such areas. Some parts of the high seas are currently not adequately or even not at all covered by RFMOs.
 - e. The draft regulation suggests re-branding FPAs to 'Sustainable Fisheries Agreements' (SFAs). This name is to reflect the fact that fishing by EU vessels under these agreements would be allowed only if a surplus had been identified with the aid of scientific data on the overall fishing effort (i.e. including fishing by other third countries).
 - f. Although certain stakeholders have called for a de-linking or decoupling of the EU's support for fisheries governance in developing countries from direct payments for access to fisheries stocks, the proposed Regulation does not go beyond proposing to pay 'part of the access costs' through FPAs (Article 42). Full decoupling also has its problems, however, which the impact assessment recognises.
 - g. Fish farming in the EU focuses predominantly on predatory fish such as trout and salmon. While the proportion of fish meal in the diet of farmed fish is generally on the decline, the main species farmed in Europe are still more reliant on fish meal than species farmed elsewhere. Increased EU aquaculture investments could lead to more demand for fish meal which, when produced from fish caught in developing country waters, may compete with fishing by local fleets for local and regional food security. Fish meal and fish oil is also used a lot in the EU agricultural and food sectors.
7. The paper also includes an analysis of the likely topics of discussion between the EP and the European Council on the CFP reform package:
 - a. In the Council, there is a lack of shared interests among member states, who could otherwise easily form a 'critical mass' of support for the Commission's proposals. Rather, the interests of member states are highly divergent. These countervailing interests can easily become the source of conflicts and make bargaining very difficult. Another problem is that the Council is expected to decide unanimously.

- b. Notwithstanding its conservative reputation and some past resolutions, the EP Committee on Fisheries recently argued in favour of positive changes from a development cooperation perspective in the current legislative period, particularly in relation to FPAs. In addition to being debated by the Development Committee, the CFP has also been discussed by the Environment Committee and a cross-party group called 'Fish for the Future'.
8. The most obvious conclusion emerging from this paper is that the Union faces a formidable challenge in reforming its fisheries policy so that it looks beyond short-term economic interests. Yet an effective CFP – in terms of promoting the development of sustainable, equitable and economically viable fisheries outside EU waters – is clearly in Europe's own interests as a large exporter and consumer of fish from these regions. Another strong interest for the EU is to create, at a relatively low cost, a level playing field for EU fishermen claiming to face unfair competition from the distant-water fleets of other third countries which fish in a less sustainable manner.
9. In more specific terms the proposed changes to the CFP aimed at promoting the EU's fishing activities outside its own territorial waters seem more ambitious than the proposed changes to the measures to enforce and further these objectives. A particular danger would seem the prospect of a decrease in coverage and/or number of FPAs and future SFAs, given the current limited possibilities for the Union to monitor the activities and CFP compliance of its fishing vessels that operate through private arrangements, joint ventures or under non-EU flags.
10. The paper identifies six opportunities that could be explored to promote PCD in the reforms:
 - a. In line with the effort made by the Commission, both the European Parliament and the Council should be encouraged to invest in interdepartmental coordination or cooperation across committees, as applicable.
 - b. The Council or Parliament could ask the Commission to conduct an additional impact assessment of the possible effects of the proposed changes to the FPAs on the private agreements and joint ventures used by EU fishermen. The provisions in the Basic Regulation could be revised or expanded based on the outcomes of this assessment.
 - c. Stakeholders could explore whether the Basic Regulation could be revised to improve the 'evaluability' of the Common Fisheries Policy. This would benefit overall policy implementation and its external component. Evaluability could also be strengthened by further integrating key horizontal EU policy initiatives in CFP legislation.
 - d. Including a definition of the term 'stakeholders' in the Basic Regulation could improve transparency and participation in the implementation of the CFP.
 - e. As regards the SFAs, better aligning these future agreements with the existing structures and framework of the Cotonou Partnership Agreement can improve the dialogue with third countries on their fisheries policies and also avoid incoherence.
 - f. On aquaculture, the Council or Parliament could request the Commission to conduct an additional assessment of the possible impact the additional investments in aquaculture could have on food security in developing countries. Relevant provisions of the external policy in the Basic Regulation could be revised based on the outcomes of this assessment.
 - g. Finally, it should be emphasised that promoting PCD should not stop once a policy proposal becomes adopted. A more ambitious external policy of the CFP will require much stronger collaboration inside the Commission (particularly between MARE and DEVCO) in areas such as negotiating FPAs and providing financial support to the fisheries sector in developing countries.

“Three out of four fish stocks are overexploited in the European Union; catches are only a fraction of what they used to be in the nineties – and still dipping year after year. Today, Europe has to rely on imports for two-thirds of its fish. Somewhere we have gone wrong.”
Maria Damanaki, Commissioner for Maritime Affairs and Fisheries, 13 July 2011¹

1. Introduction: the relevance of the Common Fisheries Policy to developing countries

The Lisbon Treaty, which entered into force in December 2009, states that the Union: ‘(...) shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries (Art. 188D/208).’

While the Treaty itself does not explicitly use the term ‘coherence’, various policy documents and Council Conclusions have in the past decade referred to this Treaty requirement as ‘Policy Coherence for Development’ (or PCD). The attempts made in 2010 to define clear objectives, targets and indicators for the EU’s efforts, so as to improve the EU’s accountability, have not been successful yet.² The greater prominence given by the European Parliament and member states to the need to make EU policies more coherent could encourage further result orientation – and indeed actually improve the *results* themselves – in the short to medium term.

Although the Common Fisheries Policy (CFP) only uses a marginal part of the European Union’s budget (i.e. less than 1% in 2007-2013), and even though the fish catching sector employs less than 0.1% of the EU’s labour force (with Spain, Greece and Italy taking up 60% of the sector), it is also one of the most visible EU policies and one of the most frequently criticised. In its 2009 Green Paper on the future of the policy, the European Commission referred to five ‘structural failings’ which seriously hampered the successful implementation of the CFP.³ A recent comprehensive report by the UK Government Office of Science entitled ‘The Future of Food and Farming’ also came to a blunt conclusion:

‘The inadequate governance of international fisheries, despite severe resource and market pressures, illustrates in microcosm many of the political and institutional obstacles to effective collective action’ (Foresight, 2011).

Given the strong dependence of European consumers on imported fish, and the increasing demand for fish in other parts of the world, Europe sometimes faces a dilemma of choosing whether to source its fish from areas where sustainable exploitation cannot be guaranteed. In developing countries, governments often lack the capacity to adequately monitor and regulate economic activities within their territorial waters. As a result fishing vessels flagged to various countries can be tempted to fish in these ‘troubled waters’ without any consent given and as such threaten the long-term availability of fish in these areas. As this very much

¹ Quote taken from the Commissioner’s speech published on the day of the Commission’s proposal for CFP reform. The full text is available here: http://ec.europa.eu/commission_2010-2014/damanaki/headlines/speeches/2011/07/20110713-speech-cfpreform_en.pdf

² See: <http://www.ecdpm.org/dp101>

³ These were: (1) a deep-rooted problem of fleet overcapacity; (2) imprecise policy objectives resulting in insufficient guidance for decisions and implementation; (3) a decision-making system that encourages a short-term focus; (4) a framework that does not give sufficient responsibility to the industry; and (5) lack of political will to ensure compliance and poor compliance by the industry.

goes against the EU's own interests, the Union is now considering revising its own policies and measures to promote sustainable fishing in developing country waters since the effectiveness of its past efforts have been found lacking.

The pressure exerted by the European Union on the world's wild and farmed fish stocks should not be underestimated, as was summarised in a recent study by the Netherlands Environmental Assessment Agency (PBL):

'Imports have steadily increased over the years to compensate for declining catches, while demand for fish and fish products has been rising. The EU imported 5.6 million tonnes of fish and shellfish in 2008, with a value of over 16 billion euros, from all over the world; in particular, from Norway, China, the United States, Iceland, Vietnam, Peru, Argentina and Thailand (figure 6.7) (EC, 2010). EU imports have risen by a third since 1995. The fish species imported most are salmon, pangasius, tilapia and tropical shrimp' (Westhoek et al 2011).

A study commissioned by the UK Department for Environment, Food and Rural Affairs (DEFRA) highlighted the importance of the European Union as a fish producer and consumer:

"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).' (Tindall, 2010)

The study also provides details on the EU's distant fleet, which catches a large share of the fish imported into Europe:

- There were 718 EU vessels operating outside the EU waters in 2007.
- Although this is a relatively small number out of a total of 88,000 units operating within EU waters, the vessels represent almost 25% of total EU fishing capacity in tonnage.
- It is estimated that the external fleet contributes 21% of the community's total catches for human consumption, equivalent to 12% of the fish products available on the market.
- Just under half of the external fleet use negotiated fishing opportunities (covering 314 vessels between 2004 and 2008).⁴ The rest of the EU distant-water fleet makes its own bilateral arrangements with third countries, the details of which are not available to the public, even though these vessels receive support from the EU budget.

An OECD paper containing a political economic analysis of fisheries policy reform included a rather damning statement on the prospects for change:

'One of the features that distinguishes the fishing industry from other regulated activities is that often there are no strong property rights, and regulation seeks to prevent overexploitation of a common pool resource (CPR). Fishers, in effect, impose costs on each other rather than on

⁴ A horizontal evaluation of FPAs commissioned by DG MARE and completed in 2009 referred to an '(...) anticipated reduction of negotiated fishing opportunities, especially in the demersal sector under mixed agreements'. See pages 178-180: http://ec.europa.eu/dgs/secretariat_general/evaluation/docs/final_aer_2009_en.pdf

consumers, in the absence of regulation. A laboratory experiment was designed to simulate lobbying to influence regulation of a CPR. Results show that competition for fishery earnings weakens the incentive to effectively lobby for regulations that maximise group well-being. More experienced participants believe that their contribution to changing a regulation are not worthwhile. Instead, they focus more on competing for earnings from their use of the CPR.'

Interestingly, the recommendations put forward by the OECD paper for correcting or mitigating government failure are not very different from those in the Green Paper that the EC published in 2009 to launch a public consultation on the future of the CFP. These include cost recovery and various forms of sustainable financing mechanisms that could restructure incentives to induce resource users to act in the public interest (Sutinen, 2008).

This paper concentrates on the CFP's 'external dimension'. At the same time, certain key aspects of the policy's 'internal dimension' (i.e. legislation relating to the use of the EU's own territorial waters) are also important from a PCD perspective, as they affect investments by and the behaviour of the EU fishing industry outside EU waters:

- The EU's reputation for managing its own resources defines its legitimacy for improving fisheries governance on the international stage (Tindall, 2010). Linked to this, the successful recovery of fish stocks in EU waters in the medium term through an effective CFP might also lead to a decline in EU fishing in developing countries' waters.
- The EU structural policy which promotes European economic and social cohesion defines what subsidies the external fleet can benefit from, while the fisheries control policy⁵ goes a long way towards controlling the activities of the EU external fleet (*ibid.*).
- Member states play an important role in improving global fisheries governance by implementing the control policy and the new EU regulation to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU), and through their engagement in FPA negotiations and RFMOs (where they have overseas territories), as well as their financial and technical contributions to fisheries development (*ibid.*).
- In the past, various public campaigns (financed by member states or the EU) have sought to promote fish consumption in Europe. In particular, those campaigns that have advocated the health benefits of the regular consumption of fatty fish (Omega 3 oil) are widely believed to have boosted fish consumption in the EU. This implies that not only the Basic Regulation and the Communication on the external dimension are relevant for PCD, but so is the proposal for the Common Market Organisation (CMO). For example, there should be consistency between the overall objectives of the CFP and the CMO, which can put forward various measures that can change the marketing, import and export of fisheries products in the EU as well as seek to affect consumer behaviour.
- As a more general point, the distinction between an 'internal' and 'external' dimension is more a matter of history than of logic (i.e. it is linked to the accession of member states with big distant-water fleets). For this reason, both from a PCD perspective and for the purpose of the effective implementation of the CFP, it is unclear whether the distinction is in fact desirable.

In terms of structure, section 2 of this paper analyses the Commission's preparations for the CFP reform package, the contents of the package and the process awaiting for the next few months. Section 3

⁵ Information on the control policy can be found here: http://ec.europa.eu/fisheries/cfp/control/index_en.htm

analyses the decision-making structures and possible elements of the positions of the European Parliament and the Council. Based on the analyses in sections 2 and 3, various conclusions and opportunities for improving PCD in the reform are set out in section 4.

2. The CFP reform package: preparations and contents

2.1. The process of preparing and adopting the CFP reform package

The following legislative proposals for the reform of the Common Fisheries Policy were adopted by the College of Commissioners on 13 July 2011:⁶

1. COM(2011) 417: Communication on the Reform of the Common Fisheries Policy
2. COM(2011) 425: Regulation of the European Parliament and of the Council on the Common Fisheries Policy
3. COM(2011) 416: Regulation of the European Parliament and of the Council on the Common Organisation of the Markets in Fishery and Aquaculture Products
4. COM(2011) 424: Communication on the External Dimension of the Common Fisheries Policy
5. COM(2011) 418: Report on Reporting Obligations under Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy
6. SEC(2011) 891, SEC(2011) 883: Impact Assessments conducted in preparation of both regulations

In addition to these six key elements of the CFP reform package, separate impact assessments were published that had been conducted as preparation for the two draft regulations. One missing part of the package, the proposal for a Regulation for the European Fisheries Fund, is expected to be published by the EC in November of this year.

Process-wise, these elements of the package were adopted step-by-step through the inter-service consultation procedure in the EC, by which all Directorates General (DGs) are consulted on the contents of a policy proposal drafted by a leading DG before it is proposed to the College of Commissioners for adoption.

Given that the European Parliament went into recess on 18 July, its 'first reading' of the Commission's proposals (with a first vote in the Fisheries Committee, then in plenary session) will take a while to conclude. A decision made on 13 July to allow three political groups to appoint rapporteurs for the six parts of the CFP reform package was effectively cancelled on the 31st of August 2011.⁷ During this first meeting of the Fisheries Committee in the European Parliament after the recess, it was agreed that the decision on the allocation of the reports was delayed until the next coordinators meeting of 19 September. After their now delayed reports are adopted, the amendments have to be considered by the European Council and a revised proposal from the EC can be considered for adoption or for a second reading. Since the Treaty of Lisbon entered into force in December 2009, the use of the 'ordinary legislative procedure' (previously

⁶ All documents are available at: http://ec.europa.eu/fisheries/reform/index_en.htm

⁷ The meeting follows an unusual deal that went outside the regular procedure, in which three political groups (EPP, ECR and ALDE) divided the rapporteurship of the reports in the CFP package between themselves. More info: <http://www.cfp-reformwatch.eu/2011/08/ep-fisheries-committee-to-vote-on-cfp-report-allocation/>

called the 'co-decision' procedure) in fisheries policy is entirely new for the EC, Council and Parliament alike. Annex 1 presents a brief analysis of the implications of the Treaty of Lisbon for EU fisheries policy-making, as well as a brief analysis of proposals made to 'regionalise' or 'decentralise' the CFP as was explored by the EC in preparing the policy package.

Based on the assumption that the Council will accept the proposals for the future CFP following the EP's second reading, the legislative proposals should be adopted during 2012. However, if certain proposals cannot be adopted after the second reading, they will have to go through the conciliation procedure. This may make it difficult to get them adopted during 2012.

During the period up to the expected date on which the new regulations take effect, the current Basic Regulation enacted in 2002 and the related legislation will continue to guide decisions. However, it is worth remembering that the entering into force of the Treaty of Lisbon in December 2009 represented a reform of the CFP in itself (see annex 1). The EP's changed involvement are already visible, including a greater say in the use of the budget dedicated to the CFP, and several EP resolutions on Fisheries Partnership Agreements (FPAs), have changed the way in which the current policy works.

2.2. Failing the impact assessment exam - twice

Each year, the Secretariat-General of the European Commission, working in conjunction with the Impact Assessment Board and the Commission departments, screens all forthcoming initiatives and decides which of them require impact assessments. Impact assessments are performed for the most important initiatives and those with the most far-reaching impacts.

An Impact Assessment Board serves as a central quality control and support function working under the authority of the Commission President. It was created at the end of 2006 and is chaired by the Deputy Secretary General responsible for Better Regulation. The Board examines and issues opinions on the quality of individual draft impact assessments prepared by the Commission departments. The Board can also draw on external expertise. The Board also provides advice to Commission departments on methodology at the early stages of preparation of impact assessments.

Following the introduction of the system in 2003, the EC's Guidelines on Impact Assessments were revised in 2005 and 2009. The most recent version now pays more attention to assessing impacts on developing countries.⁸ Given the structural failings of the CFP described by the Commission in its Green Paper, an impact assessment would be an ideal tool for making a systematic, thorough assessment of the options for reform.

First drafts of the impact assessments of the Basic Regulation of the CFP (COM 425) and the Common Market Organisation (COM 416) both received 'bad marks' from the Impact Assessment Board, and had to be revised.⁹ In the case of the Basic Regulation, the Board's opinion referred to additional more detailed comments that would be sent to DG MARE separately. After revised versions of both assessments had

⁸ In addition to other parts of the guidelines, pages 40 and 41 state that every impact assessment should establish whether the policy options affect relations with non-EU countries. Among the aspects examined should be: *'impacts on developing countries – initiatives that may affect developing countries should be analysed for their coherence with the objectives of the EU development policy. This includes an analysis of consequences (or spill-overs) in the longer run in areas such as economic, environmental, social or security policy.'* The guidelines are available here: http://ec.europa.eu/governance/impact/commission_guidelines

⁹ The documents are available at: http://ec.europa.eu/fisheries/reform/impact_assessments_en.htm

been submitted, the Board again indicated that, in both cases, further work was required to improve the report, though this time they did not ask for a second revised draft.

In the case of the Basic Regulation, the Board's overall assessment was that the authors of the report should improve the analysis of the external aspects of the Common Fisheries Policy. It also made the following more specific recommendation:

'The report should more thoroughly assess the problems in implementing Fisheries Partnership Agreements (FPAs), in particular those related to surplus stocks, EU funding and payments for fishing rights that are eventually not used. It should also clarify the relative importance of the FPAs for the EU fisheries sector.'

The Board's opinion on the revised impact assessment again noted that the analysis of the external dimension needed to be improved:

'(...) by providing more analysis on how the identified policy options would address the current implementation problems (e.g. surplus stocks, poor enforcement) and what their major impacts would be on fish sustainability, third countries and the EU fleet.'

Although the implementation problems were described in one of the annexes to the report (annex 12), the Board clearly felt that inadequate use had been made of this description in the wording of the main text, and thus in the analysis of the possible options for policy change that subsequently informed the proposed Regulation.

The introduction to the impact assessment of the Basic Regulation notes that the Board did not request a further submission, and adds that its comments were taken into account in producing the revised draft. There was no recognition that a large part of the comments concerned the policy's external dimension. The chapter on 'the structure, performance and problems of the current CFP' in the Board's report contains four pages of more detailed analysis of the external dimension. This is summarised in the following box.

Box 1: Analysis of the external dimension as presented in the impact assessment of the Basic Regulation

Key points from the analysis:

- The external dimension refers to the management of vessels that have access to resources whose management is beyond the jurisdiction of the Council of the EU.
- Fishing rights outside EU waters are obtained in three ways: (a) in accordance with Fisheries Partnership Agreements (FPAs), (b) by bilateral agreement between the EU and individual third countries, or (c) under access rights granted by Regional Fisheries Management Organisations (RFMOs). The analysis noted that there are currently 718 EU vessels fishing outside EU waters, but did not present any figures on the use made of the three different approaches to securing fishing rights.
- The text also recognises that *'ultimately, it is up to the third country to set the limits for access of the EU fleet to its marine resources, as concerns the quantity of fish to be caught, technical conditions (e.g., gear type), and fishing zone.'*
- The remaining part of the text subsequently only discusses approaches (a) and (c). On FPAs, the

analysis looks at the approach to negotiating these agreements, their commercial and development dimensions, and monitoring methods, and presents some data on their economic value as well as a list of problems associated with FPAs.

- RFMOs provide the formal framework for the required cooperation on a multilateral basis. The analysis examines the RFMOs' approach to decision-making, and observes that they have not reversed the decline in international fish stocks. As with FPAs, there is a long list of challenges and problems experienced by RFMOs.

This section of the report ends by observing that any change in the management of fishing opportunities in one of the three approaches outlined in Box 1 will have a direct impact on the others, '(...) *as the fleets are able to react relatively swiftly in the pursuit of the most profitable fisheries under most favourable conditions.*'

The remainder of the report, however, does not look at the possible effect of the policy changes concerned on the use of the three methods by EU fishing vessels to obtain access to fisheries resources, apart from a few brief comments on the phasing out of mixed fisheries agreements on pages 49 and 51. In view of the higher ambition of the CFP's external dimension, it would be important to anticipate any possible reduced interest on the part of developing countries for signing FPAs, given the EU's proposals to change the terms for their negotiation (e.g. only fishing surpluses, remaining above Maximum Sustainable Yield, see Art. 41 of the draft basic regulation).

As a result, the impact assessment only judges two aspects of the five policy options¹⁰ as far as the external dimension is concerned, as summarised in table 11 on page 36 of the report:

- (1) concerns about the sustainability of fishing in third countries and about the effectiveness of funding for their fisheries policy (both in relation to FPAs);
- (2) lack of governance in RFMO.

This is especially problematic for FPAs, given that their nature and operation have been analysed without looking at the implications that any changes in FPAs – as business opportunities – would have for third countries and the ability of EU fishermen to make use of them. An evaluation by DG MARE of all FPAs, which is referred to in the impact assessment, referred to an '(...) *anticipated reduction of negotiated fishing opportunities, especially in the demersal sector under mixed agreements*'.

Given that already more than half of the EU's distant-water fleet currently fishes outside an FPA context, effectively excluding private agreements and joint ventures from the impact assessment (and, as discussed in the next section, from the Basic Regulation itself) and making FPAs stricter could lead to more fishermen no longer fishing under FPAs. With the impact assessment failing to explore how the EU could ensure that its fishing vessels operating in developing countries' national waters outside FPAs act in keeping with the Common Fisheries Policy, an even higher proportion of the fleet operating in such waters could result in the *de-facto* partial deregulation of the CFP's external dimension.

¹⁰ Option 0: the preservation of the status quo, i.e. the continuation of the current CFP. Option 1: Achieving environmental sustainability within a flexible time horizon in order to strike the best feasible balance between environmental, economic and social sustainability. Option 2 (the radical option): Achieving environmental sustainability without any flexibility regarding time horizon. Option 3: Achieving environmental sustainability within a time framework consistent with the minimisation of negative social impacts. Option 4: Achieving environmental sustainability within a flexible time horizon in order to strike the best feasible balance between environmental, economic and social sustainability.

Reference should be made here to the 2008 EU Regulation on Fisheries Authorisations, which deals with the control of EU vessels fishing outside EU waters and of third country vessels fishing in EU waters. This Regulation states that EU fishing vessels can only fish outside EU waters after they have been authorised to do so by the competent authority. Item 4 of the preamble spells out the responsibilities of the Commission and member states regarding the procedure in this regard, and states that the Commission should be in a position to ensure compliance with international obligations and the provisions of the CFP.

Article 14 of the Regulation states that:

'member states shall ensure compliance with the obligations regarding the reporting of catches and, where required, of fishing effort, as laid down in the agreement concerned.'

The Communication on the External Dimension (COM 416) notes that the EC will put forward a proposal for a revision of the Regulation in 2012.

Page 3 of the study by Tindall (2010) contains an overview of existing private agreements and joint ventures, and observes that there is currently no strict obligation for member states to inform the Commission of these agreements. If a larger proportion of the EU's distant-water fleet made use of such agreements, this might necessitate a stricter and more actively enforced policy on reporting to the Commission if it is to truly monitor compliance with the CFP.¹¹

2.3. Analysis of the EC's proposal for the basic regulation

Although all six components of the CFP reform package are very relevant here and will undoubtedly be discussed in great detail in the coming months, it is the proposed Basic Regulation that will become the 'Bible' of EU fisheries policy for the next few years. For this reason, we need to examine it more closely. The following sub-sections present an analysis of key aspects of the CFP reform that are considered key for developing countries and, where relevant and possible, analyse relevant provisions of the proposed new Basic Regulation, as well as those of the current Regulation adopted in 2002.

2.3.1. The main objectives of the CFP

The impact assessment performed for the Basic Regulation derives the objectives of the CFP from Articles 3(d) and 39 of the Treaty on the Functioning of the EU (TFEU). Under Article 3(d), the Union has exclusive competence in the conservation of marine biological resources under the CFP. Article 39 defines the objectives of the EU's Common Agriculture Policy, yet the impact assessments argues that one can also these objectives in the context of the specific characteristics of the fisheries sector:

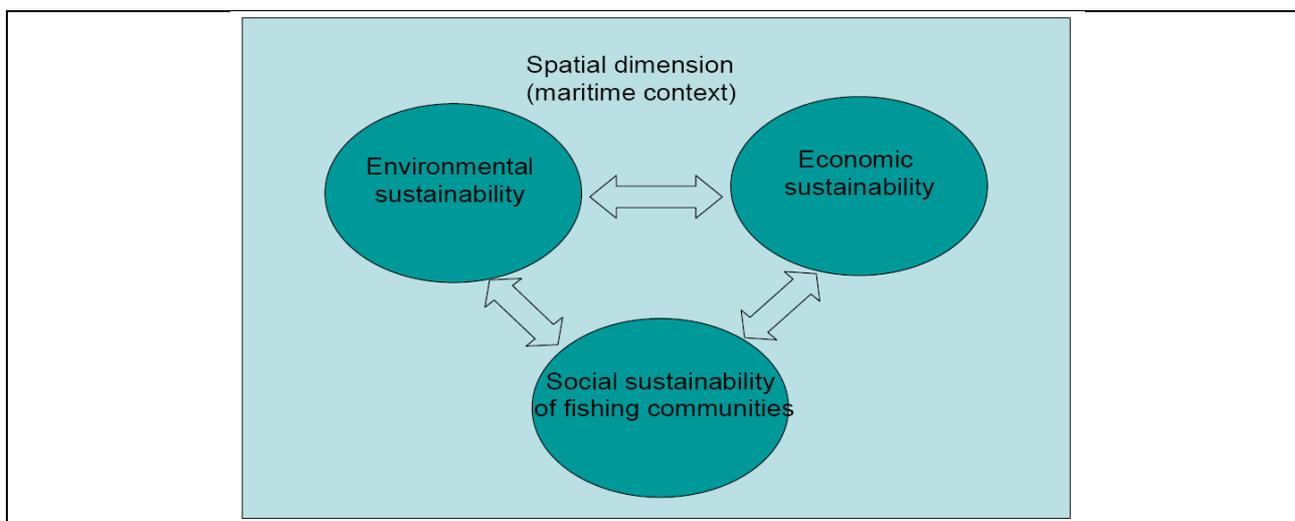
1. to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;
2. to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
3. to stabilise markets;

¹¹ This point might be taken up when the Regulation outlining the system for monitoring and enforcing the rules of the CFP is revised in 2013.

4. to assure the availability of supplies;
5. to ensure that supplies reach consumers at reasonable prices.

The assessment also makes reference to Article 11 (integration of environmental protection) and Article 208 (taking account of development objectives), but essentially argues that the Articles 3(d) and 39 imply that ensuring environmental, economic and social sustainability are three equally important objectives, and that none can be achieved in isolation of the other two. Directly after making this point, the impact assessment adds: “*However, environmental sustainability is the keystone of success of the CFP*”.¹² This is presented as follows:

Box 2: Representation of the links between the key objectives of the CFP (EC Impact Assessment)



Thus, the EC’s proposal for the Basic Regulation does not propose radical changes in the overall objectives compared to the 2002 regulation, but leaves the current lack of hierarchy between economic, social and environmental objectives of the CFP intact. It only changes the order of the three by placing the environment first. Although references to the precautionary approach and the need to restore fish capture above Maximum Sustainable Yield (MSY) levels *de-facto* create a hierarchy, a failure to recognise the need for prioritising between the three key objectives could mean a continuation of the problems in monitoring and evaluating the successful implementation of the CFP. The EC’s Green Paper indicated that in the past one objective (i.e. the economic objective) effectively took precedence over the other two.

Key stakeholders in the reform, including the Fisheries Commissioner,¹³ have argued that EU fisheries are currently not socially and economically viable given subsidised fishing and illegal activities. This implies that preserving the lack of a hierarchy in the objectives could jeopardise long-term ecological sustainability. It can also be argued that some of the additional sub-objectives that were added in the Basic Regulation’s main objectives article (Art 2(2-4)) can ensure that the environmental objective is ‘more equal’ than the other two. Past problems with the relatively unchanged main objective however point to a need to improve the ‘evaluability’ of the CFP as a basis for evidence-based decision-making.

¹² Emphasis as in the original.

¹³ See the Commissioner’s speech to the EP on 3 May 2011.

2.3.2. The links between the CFP and horizontal EU policy initiatives

Various stakeholders also emphasise the need to look at the relation between the CFP and attempts at more integrated and joined-up policy-making, such as the Water Framework Directive, the Integrated Maritime Policy (IMP), the Marine Strategy Framework Directive, and EU2020. The CFP is presently a fairly disconnected policy, given that there is only one phrase in the current Basic Regulation which relates to interaction with other policies (under good governance principles, expressing the need for ‘consistency’ with these policies).¹⁴ Similarly, Article 4(f) of the proposed Basic Regulation currently refers to the need for ‘consistence [sic] with the integrated maritime policy, and with other Union policies.’

As one of the above ‘horizontal’ policies, the Europe2020 strategy defines three key drivers for growth, to be implemented through concrete actions:¹⁵

- smart growth: fostering knowledge, innovation and education;
- sustainable growth: making our production more resource-efficient while boosting our competitiveness;
- inclusive growth: raising participation in the labour market, the acquisition of skills and the fight against poverty.

In addition to providing direction for the EU’s Multi-Annual Financial Framework for 2014-2020, the Europe2020 strategy also identifies seven ‘flagship initiatives’ that can help to reform Europe’s economy. One of these EU 2020 flagship projects, which is concerned with ‘a resource-efficient Europe’ and sets an ambitious objective for EU fisheries policy, is defined as follows:

‘Using resources more efficiently will help us achieve many of the EU’s objectives. It will be key in making progress to deal with climate change and to achieve our target of reducing EU greenhouse gas emissions by 80 to 95% by 2050. (...) It will help us ensure that the agricultural and fisheries sectors are strong and sustainable and reduce food insecurity in developing countries.’

2.3.3. Fisheries subsidies

The Green Paper included a critical analysis of the functioning of fisheries subsidies:

‘Public financial support to fisheries is substantial, whether through EU fisheries funds or various Member State aid and support measures, including tax exemptions. It also often contradicts with CFP objectives, in particular the need to reduce overcapacity, and has sometimes appeared as compounding structural problems rather than helping to solve them.’

¹⁴ There is no requirement, for instance, for conducting Environmental Impact Assessments in preparation of fisheries policies decisions, although Council statements made in January 2011 do refer to the possibility for future decisions to require such assessments: <http://register.consilium.europa.eu/pdf/en/11/st05/st05038.en11.pdf>

¹⁵ http://ec.europa.eu/europe2020/index_en.htm. The earlier Communication on the reform of the EU budget pointed to the need for an integrated framework to manage the Cohesion Fund, the European Regional Development Fund, the European Social Fund, the European Fisheries Fund and the European Agricultural Fund for Rural Development. Such a framework would identify investment needs in relation to the EU2020 headline targets and flagship projects: http://ec.europa.eu/budget/reform/library/communication/com_2010_700_en.pdf

The 2010 Annual Economic Report on the EU fishing fleet, released in June 2011, in fact signals a decline in the economic performance of the EU fishing sector in recent years. In the foreword to the report, the EU Fisheries Commissioner thus argued:

*'From an economic and social perspective, it is critical that we move towards the creation of better incentives for making the fleets more self-sufficient and economically efficient in the long term.'*¹⁶

Notwithstanding these research findings, 14 member states out of 27 recently expressed a desire to maintain strong fisheries subsidies post-2013.¹⁷

Overcapacity is both a quantitative and a qualitative challenge, given that different fleet segments and gears have different impacts on the marine environment, different fuel requirements, deliver different quality of fish and result in different social outcomes (OCEAN2012 2009). The CFP currently allows for EU fisheries subsidies to be granted whilst at the same allowing member states to manage national subsidy schemes.

Subsidy discipline has been high on the agenda of the World Trade Organisation (WTO) in recent months, after a G20 meeting in January helped to move forward the debate on prohibiting certain forms of fisheries subsidies that contribute to overcapacity and over-fishing. Negotiations on fisheries subsidies in the WTO came to a halt in April. Observers expect that, even if a text were agreed, this would contain many loopholes allowing many WTO members to continue subsidising fisheries (given the strong pressure from countries like Japan and Korea).

The EU has taken a backseat on practically all dossiers in the recent WTO negotiations. In the case of the debate on fisheries, EU negotiators used the 2002 CFP Regulation as the main basis for the EU's negotiation mandate, given that no agreements on offensive and defensive interests in fisheries subsidies were reached in the Trade Policy Committee in Brussels. This lack of progress is mainly due to differences between member states, and the impossibility of getting a critical mass of EU member states behind more fundamental proposals put forward by members of the so-called 'Friends of Fish' group, composed of Argentina, Australia, Chile, Iceland, New Zealand, Norway and the US.

A particularly thorny problem holding back the talks on fuel subsidies for the fisheries sector is the issue of 'specificity'. In most cases, a subsidy must be specific to a particular industry in order to fall under the WTO's legal definition of a subsidy. Thus, with the exception of export subsidies, a subsidy that is available to other sectors in society is not generally considered actionable under the subsidies code. Because many countries, such as the United States, provide fuel subsidies in the form of tax rebates that are available to industries other than fisheries, they are not considered 'actionable'.¹⁸

In their contributions to the EU public consultation, some member states are more critical of the use of fisheries subsidies than others, while very few openly advocate their abolition.¹⁹ There have also been calls

¹⁶ https://stecf.jrc.ec.europa.eu/c/document_library/get_file?p_l_id=53222&folderId=44854&name=DLFE-10701.pdf

¹⁷ <http://www.cfp-reformwatch.eu/2011/06/eight-more-member-states-ask-for-fisheries-subsidies/>

¹⁸ The WTO agreement on subsidies considers subsidies 'actionable' if it 'injures' the domestic industry of another country, or causes 'serious prejudice' to the interests of another country. For further analysis on recent discussions on fisheries subsidies, see: <http://ictsd.org/i/trade-and-sustainable-development-agenda/102524/>

¹⁹ Only a few of the contributions to the Green Paper by MS emphasise the need to phase out subsidies in the long term (e.g. Denmark and UK), while it's not clear what is meant with this period. Different studies emphasise that boats would not fish in some areas if they had not been subsidised, hence suggesting that subsidising encourages actions which in principle are not profitable at all. Rising oil prices might be a bigger incentive for reform than the CFP itself.

for excluding vessels and companies from fishing subsidies if they fail to comply with the CFP requirements. The CAP already has a principle of conditioning public aid through 'cross-compliance', which links direct payments to farmers to their respect of environmental and other requirements set at EU and national levels.²⁰

A recent study commissioned by the EP includes a number of critical comments on the impact of EU fisheries subsidies (Usubiaga, 2011). This study estimates subsidies in the European Union as accounting for about 46% of the landed value of fisheries and claims that, in a number of EU member states, the cost to the national budget of managing and subsidising fisheries now surpasses the economic value of the catches. The study puts forward the following specific recommendations in relation to the CFP:

- Support to the fisheries sector should be subject to the achievement of the objectives of the CFP and to the fulfilment of reporting requirements by Member States.
- There is a need for more transparency to assess the extent to which the subsidy helps to achieve the objectives of the CFP.
- Certain subsidies that can be seen to contribute to promoting 'public goods' should be provided, e.g. scientific research for stock assessments; research and training in the use of environmentally friendly fishing techniques or aquaculture activities; and retraining fishermen for alternative employment opportunities.
- Potentially harmful subsidies shall be phased out, such as contributions to operating costs, processing activities or price support; aid for individual fishing operations and vessel modification; and payments for fishing access in third country waters.

The proposed EU regulation contains improvements on cross-compliance, with funds being withheld from both member states (Article 50) and operators (Article 51) in the event of serious infringements. Two other provisions related to fisheries subsidies can also be highlighted here:

- The definition of 'fishing capacity' in Article 5 is in fact a definition of a vessel's weight and engine power. It is unclear what this has to do with how well it can be used for fishing.
- The description of legal elements on page 5 of the Basic Regulation refers to '*the organization of the industry including measures for stabilisation of the markets and marketing standards*'. Measures for the stabilisation of markets might also include *ad-hoc* interventions to compensate fishermen in case of poor harvests or otherwise. This is currently not allowed for the CFP and hence looks like a backward step.

2.3.4. Improving transparency and monitoring of CFP implementation outside EU waters

A recent study commissioned by the UK's Department for Environment, Food and Rural Affairs (DEFRA) concludes that, although certain countries such as Namibia do not have Fisheries Partnership Agreements, they have put in place appropriate and functioning Monitoring, Control and Surveillance (MCS) systems and mainly work through joint ventures. Successful investments by the EU in MCS in developing countries' waters thus depend primarily on whether there is sufficient political will and interest among developing country governments and society to make this happen. It is worth pointing out that a relatively large proportion of countries with which the EU has signed FPAs are on the 2011 failed states index (e.g. Guinea, Guinea Bissau, Mauritania and Madagascar).²¹ This means that their ability to policy their territorial

²⁰ More information: http://ec.europa.eu/agriculture/capreform/infosheets/crocom_en.pdf

²¹ http://www.foreignpolicy.com/articles/2011/06/17/2011_failed_states_index_interactive_map_and_rankings

waters is perhaps doubtful, as well as that support provided through FPAs has to be implemented under difficult conditions.

Various contributions to the public consultation on the reform of the CFP have emphasised the need for governance reform outside the EU waters, and call for more participation and greater transparency. A number of contributions, as well as open letters recently sent to the Commission, have deplored the low levels of accountability in the management of commercial fisheries in many countries and island states of the developing world. The actors in question argue that a lack of transparency undermines the quality of decision-making processes and stifles the political voice of marginalised stakeholders.

One of the EC's proposals for reforming FPAs, which it communicated at various public events ahead of the reform package (including a seminar on transparency held in the EP on 26 January 2011), was to negotiate for the inclusion of a transparency clause.²² This clause should ensure that the full cumulative fishing effort (by local and all foreign fleets active in a given Exclusive Economic Zone) is known. One way of doing so would be by publishing updated lists of all licensed vessels (as countries such as Gabon and the Seychelles have already done). However, in order to ensure transparency about the cumulative fishing effort, credible and exhaustive data on the various fleets fishing efforts is also needed (i.e. primary data collection and research).

Some observers have argued that investments in governance and transparency in relation to other natural resources are far more advanced than in the case of fisheries, as is illustrated by the Extractive Industries Transparency Initiative.²³

As far as the proposed Basic Regulation goes, Article 4 proposes as one of the key good governance principles that there should be a '*broad involvement of stakeholders throughout at all stages, from conception to implementation of the measures.*' This sounds quite ambitious, though translating this principle in practice might prove difficult given that the term 'stakeholders' is not covered by Article 5, which defines all the Regulation's key concepts. Furthermore, Article 54 on the advisory councils speaks of '*fisheries operators and other interest groups*', yet it is not clear whether 'interest groups' are the same as 'stakeholders', or whether these should instead be seen as the fisheries operators.²⁴

In addition to using a portion of the CFP budget for sectoral reform outside FPAs to improve participation and transparency, more and more funds from non-CFP budget lines for MCS, such as the Development Cooperation Instrument or the European Development Fund, might also be used in the future, especially if food security becomes a higher priority in EU development cooperation (as the EC has proposed).²⁵

2.3.5. Strengthening regional cooperation between developing countries in management and research

If the external and internal CFP dimensions shared the same objectives, this would imply a need for the EU to do more to support endogenous capacity-development processes of RFMOs. By helping to strengthen

²² FPAs are already far more transparent than other negotiated fisheries agreements (e.g. Asian-Pacific bilateral agreements), which remain entirely confidential. The EC publishes the FPAs themselves and in some cases also the notes of the joint committee meetings overseeing their implementation. Nevertheless, *ex-ante* and *ex-post* evaluations of FPAs are not released to third parties, and the negotiations on these agreements are held behind closed doors.

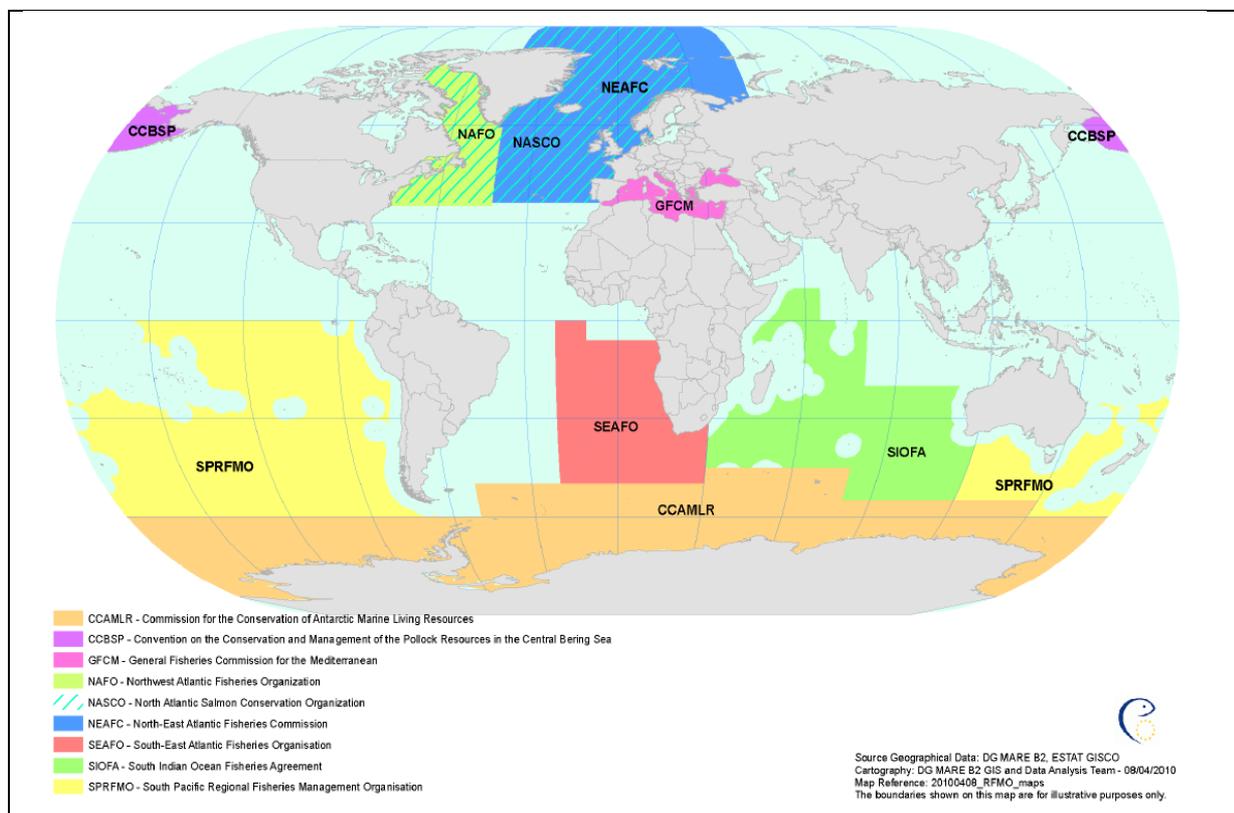
²³ For further information, see: <http://eiti.org/>

²⁴ Despite this lack of clarity in the draft Regulation, in practice the advisory councils are likely to remain composed of sector groups (accounting for two-thirds) and other interests groups, e.g. NGOs (accounting for one third).

²⁵ http://ec.europa.eu/development/icenter/repository/GREEN_PAPER_COM_2010_629_POLITIQUE_DEVELOPPEMENT_T_EN.pdf

performance in areas such transparency, accountability, participation and assessment, the EU might help ensure that RFMOs do more to advance the CFP's objectives. One key point here is that several areas in which the EU's distant-water fleet is active, notably West Africa, are not well covered by RFMOs and/or have ineffective RFMOs. This is shown by the following map (DG MARE data) of non-tuna RFMOs:

Box 3: Non-tuna Regional Fisheries Management Organisations coverage



A recent Working Document drafted by a member of the European Parliament's Fisheries Committee provides a clear picture of the differences between RFMOs in terms of how they regulate fisheries in general and Illegal, Unreported and Unregulated (IUU) fisheries in particular.²⁶ According to this report, one key factor hampering the effective functioning of RFMOs is the general practice of unanimous voting by Contracting Parties or Cooperating Non-Contracting Parties (collectively known as CPCs). Individual CPCs may veto decisions that go against their industry's interests, or in case of majority voting, seek deals. Based on its findings, the MEP's report recommends that RFMO performance should be evaluated by independent experts. The EP working document also argues that the RFMO concerned should be obliged to adopt any measures proposed in the evaluation.

An ongoing debate is taking place in the RFMOs on how access to fish could be regulated. Some members have suggested basing regulation on 'historical catches'. In a recent RFMO meeting in Nairobi, the Seychelles proposed to that all past catches in their EEZ should be counted as theirs. This would enable them subsequently to 'lease' out fishing rights to distant-water fleets at higher fees.

Studies have pointed out that a growing number of developing states are claiming their right to exploit fish stocks under the management responsibility of RFMOs, while many fish stocks are showing signs of

²⁶ See document dated 4 January 2011:

<http://www.europarl.europa.eu/activities/committees/workingDocsCom.do?language=EN&body=PECH>

overexploitation. New entrants cannot be accommodated, and overcapacity cannot be reduced, unless current players, such as the EU, give up part of their access share and reduce the capacity of their fleet.

A press release by the European Commission on the overall package argued that, within international bodies and in its relations with third countries:

'(...) the EU will act abroad as it does at home and promote good governance and sound management of the sea in the rest of the world'.²⁷

This is elaborated in Articles 39 and 40 of the draft Regulation, and is definitely an improvement on the 2002 Basic Regulation, which defines separate objectives for the external dimension of the CFP. The latter is essentially geared to securing access to fish and to fishing opportunities.

2.3.6. Fisheries Partnership Agreements

Although the number of bilateral fisheries agreements has fallen in the past two decades, Fisheries Partnership Agreements (FPAs) continue to play a prominent role in debates on the functioning of the CFP. This paper has already referred to a horizontal evaluation of FPAs commissioned by DG MARE and concluded in 2009. In addition to pointing to the decline in the absolute number of FPAs, this evaluation also identified a tendency to narrow the scope of fisheries agreements. The study suggested that there was a possibility of FPAs focusing in future on tuna and small pelagic fishing. As a result, they would become less substantial in terms of their scope and accompanying sector support.

As was already pointed out above, FPAs do not presently appear to be an attractive option for most ACP (African, Caribbean and Pacific) countries. This is illustrated by the low number of FPAs agreed in practice (see also Annex 2). For this reason, we need to look at how FPAs could be made more attractive to developing countries. In the past, some ACP regions (e.g. the Pacific) or groups of countries (e.g. the Indian Ocean island states) have proposed negotiating on a regional basis, but the European Commission has only been willing to negotiate bilateral agreements.²⁸

It is often argued that the alternatives to FPAs (e.g. joint ventures, bilateral agreements with individual countries and 're-flagging' of vessels²⁹) are less desirable and more difficult to regulate as they are 'secret' agreements not normally available to the public.³⁰ For example, if the new Mauritanian FPA becomes a tuna-only agreement, Spanish shrimp/octopus trawlers could simply re-flag to Mauritania.³¹

As discussed in section 2.3.4, the most important factor for the sustainable exploitation of fisheries in third country waters is the willingness or leadership of these countries to go down this route. To date, some FPA

²⁷ <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/873&format=HTML&aged=0&language=EN&guiLanguage=en>

²⁸ Regional negotiations would not be without certain challenges, however. For example, national interests tend to diverge, and regional negotiations would also make it more difficult for local stakeholders to participate.

²⁹ The OECD Glossary of Statistical Terms puts forward the following definition: 'A flag state in relation to a fishing vessel, is the state under whose laws the fishing vessel is registered or licensed' <http://stats.oecd.org/glossary/detail.asp?ID=1001>

³⁰ Recent Ocean 2012 figures indicate that 460 Spanish boats operate under foreign flags.

³¹ Some countries under FPAs have other more pressing interests than developing the fisheries sector, e.g. Mauritania where FPA funds are needed to pay civil servant salaries. There are also FPA countries where bad governance means such investments are not made, e.g. in Guinea Bissau patrol vessels purchased with FPA funds were allegedly used for drugs trafficking, while in the same country teachers have not been in school for a year because salaries are not paid.

funds have been used for entirely different purposes (e.g. accumulating foreign reserves, paying off external debt, spending in other sectors) and DG MARE appears unable to effectively monitor the use of the funds meant for sectoral support. At the same time, a limited number of countries have used the FPA support to invest effectively in their fisheries sector, e.g. the Seychelles. Increasing investments in Monitoring, Control and Surveillance through FPAs can only be achieved by greater earmarking or even the ‘projectising’ of FPA funds.³² The greater earmarking of CFP funds might be against ACP countries’ interests, however. This is the case, for example, if developing the fisheries sector is not a high government priority or if there is scant political interest in change.³³

Inside the European Commission, DG Development and Cooperation (DEVCO) is not always on the same wavelength as DG MARE as far as support for fisheries sector development in third countries is concerned. As Tindall explains (Tindall, 2010), countries with whom the EU has agreed an FPA may not receive additional funding through the DG DEVCO—managed development project ‘ACP Fish 2’.³⁴ It is relatively safe to argue that DG DEVCO has greater expertise in managing financial assistance to developing countries compared to DG MARE, and its performance has recently been assessed by the Court of Auditors. This could merit more structural action to ensure that DG MARE learns from DEVCO in the context of FPA funding. DEVCO could for instance also advise DG MARE on the possibilities for earmarking some of the FPA funds (similar to Sector Budget Support or through projectised modes of cooperation), as suggested by certain actors.

The draft regulation makes a number of suggestions for future FPAs, which it also proposes to re-brand as Sustainable Fisheries Agreements (SFAs). This new name is intended to indicate that fishing by EU vessels under these agreements is allowed only if a surplus has been identified with the aid of scientific data on the total fishing effort (i.e. including fishing by third countries). Whereas many stakeholders, including the Commissioner herself and the EP Fisheries Committee, had previously called for a de-linking or de-coupling of the EU’s support for fisheries governance in developing countries from direct payments for access to fish stocks, the proposed Regulation does not go beyond proposing to pay ‘part of the access costs’ through FPAs (Article 42). This decision was informed by the findings of the impact assessment. On the possibility of full decoupling, the impact assessment noted that one of the risks of having vessel owners pay 100% of access costs is that it may be less attractive to fish under an EU flag – particularly for some segments where EU is currently paying most of the costs (e.g. trawlers) – so this may become an incentive for re-flagging to third countries.

Finally, item 41 of the preamble to the Basic Regulation reads as follows:

‘(41) Respect for democratic principles and human rights, as laid down in the Universal Declaration of Human Rights and other relevant international human rights instruments, and for the principle of the rule of law, should constitute an essential element of Sustainable Fisheries Agreements and be subject to a specific human rights clause.’

The use of the term ‘essential element’ is noteworthy, given that the Cotonou Partnership Agreement (which seeks to improve ACP-EU cooperation) defines ‘essential elements’ of human rights, democracy and the rule of law. Where a given violation to the essential elements cannot be addressed by political dialogue (Article 8), cooperation can be suspended under Article 96. The link between the Cotonou

³² As discussed in more detail later, earmarking may reduce a country’s willingness to sign up to an FPA.

³³ The next question is whether the EU should negotiate FPAs with these countries in the first place. This is dealt with below.

³⁴ See: <http://acpfish2-eu.org/>

agreement and the FPAs seem clear, yet in the past, Mauritania has continued to receive FPA funding after development cooperation had been suspended following the invocation of Article 96.

Contrary to the Caribbean Economic Partnership Agreements and the interim EPAs, which refer to the Cotonou Partnership Agreement, the absence of any reference to Cotonou in the SFAs could be seen as deliberate.³⁵ Yet the ACP-EU institutions created under the Cotonou Partnership Agreement could form an ideal vehicle for pursuing a dialogue on fisheries policy with ACP countries, as well as provide a means to improve cooperation with the DG for Development and Cooperation in relation to support for the fisheries sector in developing countries.

2.3.7. Aquaculture

Fish farming in Europe by means of aquaculture (i.e. on-land or off-shore, freshwater or saltwater) depends to a large degree on fish meal. Fish meal is easy to digest for fish, and from a purely economic viewpoint is therefore seen as the most 'efficient' feed, which is also why it is used a lot in animal feed.³⁶ Another advantage of fish meal is that, under the Uruguay WTO round, fisheries products were defined as non-agricultural, or industrial, products and are dealt with under 'Non-Agricultural Market Access' (NAMA). This also means that fish meal can be included in animal feeds as 'non-agricultural input', thus circumventing some of the restrictions applying to 'bio' or organic labelling.

In February, five EU member states issued a joint declaration on aquaculture in the Agriculture and Fisheries Council of Ministers meeting. As part of this declaration, they (i.e. Austria, the Czech Republic, Hungary, Luxembourg and Slovakia) called for a larger portion of the CFP budget to go to aquaculture.³⁷

Item 47 of the Preamble of the proposed Basic Regulation notes that:

'the Common Market Organisation for fishery and aquaculture products should ensure a level playing-field for all fishing and aquaculture products marketed in the Union.'

Vietnam is a major exporter of pangasius to the EU market. Other developing countries export tilapia and other farmed species. However, a recent study commissioned by DG MARE concluded that, for the majority of fish species for which there is high dependence on imports, these imports do not damage EU production.³⁸ EU fishermen's organisations (e.g. Europêche) emphasise the importance of improving product labelling and visibly separating defrosted fish from freshly caught fish.

Fish farming in the EU focuses predominantly on predatory (i.e. carnivorous) fish such as trout and salmon. The PBL study concluded that:

³⁵ Two of the existing FPAs have been signed with countries that are not part of the ACP group (i.e. Morocco and Greenland), but there is no reason why this should prevent a reference being made to the Cotonou Partnership Agreement in the Regulation. The Communication on the External Dimension of the CFP (COM 424) does refer to the Cotonou Partnership Agreement.

³⁶ Although fish meal has been used in animal feed for a long time, animal proteins cannot generally be used for farmed fish because it is difficult for fish to digest land-animal proteins in large doses. Hence, the EU decision to allow animal proteins back into animal feed is unlikely to have implications for aquaculture (and to lead to a lower demand for fish meal). In addition, trials have been performed with the use of insect meal, but this needs time for further development. Other alternatives include worm meal and meal from single-cell protein (i.e. bacteria and yeasts).

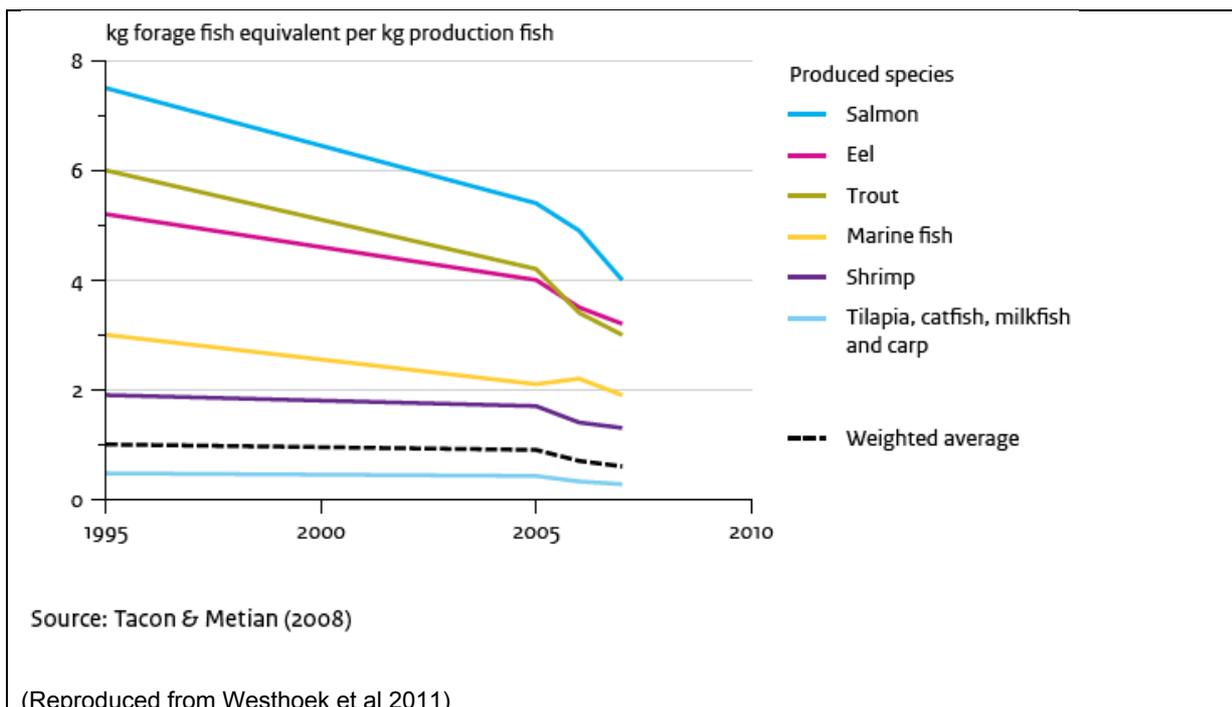
³⁷ See <http://register.consilium.europa.eu/pdf/en/11/st08/st08081.en11.pdf>

³⁸ See http://ec.europa.eu/fisheries/documentation/studies/study_market/index_en.htm

‘the farming of predator species such as salmon requires ten times more wild-caught fish than is needed to feed herbivore species such as tilapia.’³⁹

While the proportion of fish meal in the diet of farmed fish is generally declining (with some studies raising concerns about the effects of a vegetarian diet on fish health), the main species farmed in Europe are still more reliant on fish meal than species farmed elsewhere, as is shown in the following graph (Westhoek et al, 2011).

Box 4: Feed conversion in aquaculture



More relevant from a PCD viewpoint is wild fish caught outside EU waters for the purpose of EU fish farming. An increase in EU aquaculture investment could lead to the increased use of fish meal produced from small pelagics such as sardines and anchovies. Such species are caught for fish meal production mainly by non-EU vessels in West Africa. This practice may compete with local fleets fishing the same stocks for local and regional food security, for example in Senegal.

As far as fish meal is concerned, however, it might be expedient to devote more energy to the reform of the CAP and related agricultural regulations than to the CFP. The PBL study noted that the use of fish meal in aquaculture has increased over time, and that the EU used around 60% of its fish meal for aquaculture in 2006. The remainder is used mainly in livestock feeds, especially for pigs and poultry. (Seafish in: Westhoek et al, 2011).

³⁹ While species such as carp or catfish (such as ‘clausse’, which is farmed in the Netherlands) might thus be seen more sustainable, herbivore fish are sometimes also fed a relatively large amount of fish meal for faster growth.

3. Anticipating the response of the EP and the European Council to the reforms

While the Green Paper is almost unrivalled as an example of a DG openly distancing itself from its own policy⁴⁰ and advocating a 'sea change', there are signs that the member states and the EP will be much more conservative. Especially in the context of the EU budget discussions, the compartmentalised EU decision-making processes could induce many actors to try and consolidate the relative size of sector budgets within the overall budget. The following sections present a brief analysis of the possible reactions by the EP and Council to the Commission's proposals.

3.1. European member states

Outside the Agriculture and Fisheries Council, only the Environment Council Working Group has taken some interest in agriculture and fisheries policy. The Agriculture and Fisheries Council is the main body where EU agreements on fisheries policy are adopted, yet the CAP dominates the agenda. Due to the fact that fisheries subsidies are not discussed by the Trade Policy Committee (formerly Committee 133), the EU mandate and position on fisheries subsidies at the WTO Doha Development Round is still determined by the contents of the 2002 Regulation.

Council working groups prepare Council decisions on the CFP, and four are exclusively dedicated to fisheries. For development issues and the FPA, the most important working group from a PCD perspective is the Working Group on External Fisheries Policy.

The nature of the CFP is such that one cannot speak of common interests shared by all member states, who could easily form a 'critical mass' supporting certain proposals put forward by the Commission. Instead, member states' interests are highly divergent. This has the effect of their positions playing off against each other and makes bargaining extremely difficult. The following differences between member states were referred to in the documents or mentioned by interviewees:

- In general, the engagement of many member states in the reform is relatively 'mono-sectoral' and driven primarily or exclusively by fisheries experts and interests. This is for instance shown by the preference of certain member states for adding new elements to the future European Fisheries Fund (or equivalent), despite the fact that the overall size of the budget (about €4.3 billion for 2007-2013) is likely to come under pressure in the future.
- Those member states whose vessels fish outside EU waters (primarily Italy, Portugal, France and Spain, who together account for around 80% of the vessels fishing outside EU waters)⁴¹ have completely different interests from those who do not.⁴²

⁴⁰ The Green Paper published in preparation for the 2002 reform was equally direct and critical of the functioning of the CFP. It also analysed two additional variations on options 1 and 2.

⁴¹ Tindall, 2010.

⁴² Member states who do not have a large external fleet or who are landlocked may nevertheless still have certain interests. It was recently reported, for instance, that an investment group from Luxembourg had become the third largest shareholder in Spain's Pescanova: <http://en.mercopress.com/2011/07/06/luxembourg-group-becomes-third-largest-share-holder-of-spain-s-pescanova>.

- Aquaculture (generally at sea) is dominated by the three largest Mediterranean member states (i.e. Spain, France and Italy) and the United Kingdom, which together account for two thirds of EU production (Ernst and Young, 2009). Some member states have fish meal production facilities (e.g. the United Kingdom, Denmark and Ireland), whilst others (such as the Netherlands) do not.
- Some member states fish mostly in EU waters, whereas other member states hardly have a fishing fleet to speak of or are land-locked. The latter group is among the countries that would prefer the CFP to focus on and invest more in freshwater aquaculture. The recent declaration by five of them, i.e. Austria, the Czech Republic, Hungary, Luxembourg and Slovakia, during the 14 April Council meeting demonstrates that a larger share of CFP resources may well have to be dedicated to aquaculture. Such a concession might be offered by other member states so as to win support in other areas.
- Certain member states are not large producers of fish in the form of aquaculture, but have processing industries which depend on fisheries products 'farmed' elsewhere. This affects their views on CFP reform: mussels (the Spanish canning industry), salmon and trout (the fish-smoking industry in Poland, France, Germany and Denmark) and eel (the fish-smoking industry in the Netherlands and Denmark) are all good examples (Ernst and Young, 2009).
- While three of the five member states who supported the aquaculture declaration joined the Union in 2004 and are thus sometimes still referred to as 'new member states', they do not share a common interest in other respects. States such as Malta and Cyprus fish mainly in their regional waters or are engaged in tuna farming, whereas the Baltic states maintain external fleets. Again, others are less interested in the expansion of aquaculture.
- Finally, there is a difference between member states in the proportion of their national diets accounted for by fish. While, on average, only 10% of all animal proteins consumed come from fish, there are wide variations between member states (PBL, 2011). This could well translate into differing views on the reform of the Common Market Organisation.

This is not to say that there are no issues on which consensus can be found. Rather, these differences in interests between member states will effectively produce a great deal of 'horse-trading' in arriving at an agreement on the CFP reform. Notwithstanding this element of the decision-making process, it is still possible for countries to rise above their national interests and promote views that are seen to be in the wider European interest – though there is no evidence of this ever having occurred in previous discussions on EU fisheries policy. Despite the many differences, the Council should push for adopting fisheries policy decisions by consensus.

Another key element is the existence of a broad consensus that the CFP cannot be effectively reformed without investments through the European Fisheries Fund (EFF). Assuming that the level of resources remains constant, at €4.3 billion (and this will be supported by a critical mass of member states involved in the CFP),⁴³ the distribution and allocation of the subsidies is likely to be affected by the following factors:

- Changes in the allocation of subsidies, with the majority paid to small-scale fisheries and a smaller amount to big vessels.
- Greater emphasis on 'greening' and innovation as the central focus of the new EFF, as desired by most member states (although the term 'greening' has yet to be fully defined).
- A minority of member states are still expected to push for scrapping and investments schemes.
- More funds for governance (i.e. to accompany and facilitate regionalisation) and science, perhaps by saving money on market intervention.

⁴³ That said, a smaller group of member states are expected to push for the reduction of fisheries subsidies, in accordance with their contributions to the public consultation.

- Some member states may push for earmarking part of the budget for freshwater aquaculture, so that not all subsidies are granted to member states with fishing fleets.
- While this point was not raised specifically by the member states, it is clear that the EU fisheries control and enforcement policy (see box 2) requires more spending on control and enforcement, both inside and outside EU waters, compared with the 2007-2013 Financial Perspectives. This would have implications for the overall size of the EFF or equivalent.
- Finally, most EFF funds are now allocated 'bilaterally' from the EC to stakeholders in individual member states. However, they could also be allocated to groups of stakeholders from different member states with shared interests.
- Finally, there are also opportunities for raising efficiency (for example, by adopting result-based rather than process-based management) and lowering the regulatory costs for the EFF.

3.2. The European Parliament

The European Parliament Committee on Fisheries (PEECHE) is not widely perceived as an innovative or a change-oriented actor, given that its members include a lot of big member states and representatives of conservative parties (see Annex 3). The PEECHE Committee is perceived by the European Commission as being not always cooperative and relatively protectionist. For example, one own-initiative report by MEP Alain CADEC (French MEP and vice-chair) called for a rather protectionist policy on fish imports.⁴⁴ The PEECHE Committee also recently called on the EC to raise the *de minimis* aid⁴⁵ ceiling from €30,000 to €60,000, so that member states could give more aid to firms in the fisheries industry.⁴⁶

The small number of Committee members means that the voting process is unpredictable. The resolution on the FPA with Guinea is a good example (adopted by 13 against 11), with a majority of Committee members voting against the adoption of an FPA. This vote also set the 'tone' for future FPAs, resulting for example in a resolution on the EC negotiating mandate for the FPA with Mauritania, which was voted on in Strasbourg on 12 May 2011.⁴⁷ While the EP can formally only give or withhold its 'assent' (i.e. vote 'yes' or 'no') to trade agreements including FPAs, such resolutions enable the EP to state its priorities in advance. If these were subsequently met, the EP would be more likely to give its assent after the conclusion of negotiations.

In addition to the EP's DEVE Committee, which is monitoring developments in relation to FPAs, the ENVI Committee is also becoming more interested in the topic of fisheries. Some MEPs are taking an individual interest, and there is also heightened interest in 'environmentally unsustainable subsidies'. Commissioner Damanaki has occasionally attended ENVI Committee meetings, and apparently regards the Committee as an ally in relation to certain aspects of the reform. Current cross-committee EP initiatives (such as Fish for the Future) will hopefully encourage non-PEECHE members to take a more active interest in the reform. It

⁴⁴ The report suggested ideas such as placing the EU Fisheries Commissioner in charge of fisheries-related trade negotiations and taking fisheries out of the NAMA list of the WTO. It also claimed that imports damaged the EU's own wild fish catching and aquaculture practices, even though studies indicate otherwise. The report is available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2010-0207+0+DOC+XML+V0//EN&language=EN>

⁴⁵ The EU Treaty requires (member) state aid to be notified to the European Commission so that it can assess whether the aid is compatible with the common market. The *de minimis* rule was introduced in order to exempt small aid amounts. More information: http://europa.eu/legislation_summaries/competition/state_aid/126121_en.htm

⁴⁶ The UK Foresight study also noted that 'the financial viability of fishing (particularly capture fisheries) is also strongly affected by fuel price.'

⁴⁷ <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=P7-RC-2011-0193&language=EN>

remains to be seen, though, whether these initiatives will influence the plenary vote, given the strong discipline in the political groups.

Some MEPs are also concerned by the lack of direct, digital access to FPA evaluations following the entering into force of the Treaty of Lisbon.⁴⁸ Following an appeal by NGOs, the European Commission has released several previously confidential evaluations of EU fisheries agreements with developing countries in July 2011.⁴⁹

4. Conclusions and opportunities for improving PCD

The most obvious conclusion emerging from this paper is that the European Union faces a formidable challenge in reforming its fisheries policy so that it looks beyond short-term economic interests. The challenge is particularly tough given the financial crisis currently affecting the eurozone as well as the economic and social turmoil in various member states. Yet what is also clear is that an effective and sustainable CFP – in terms of promoting the development of sustainable, equitable and economically viable fisheries outside EU waters – is not simply a charitable move. Rather, it is clearly in Europe's own interests as a large exporter and consumer of fish from these regions. Another important interest for the EU is to create, at a relatively low cost, a level playing field for EU fishermen claiming to face unfair competition from the distant-water fleets of other third countries which fish in a less sustainable manner.

Though not without its shortcomings, the European Commission has invested heavily in internal coordination and in ensuring that different policy perspectives inform the reform proposals. Based on the analysis of key elements of the proposed reforms in section 2 of this paper, it can be concluded that the proposed changes to the CFP as regards the EU's fishing activities outside its own territorial waters are more ambitious than the proposed changes to the measures to enforce and further these objectives. A particular danger would seem the prospect of a decrease in coverage and/or number of FPAs and future SFAs, given the present limited possibilities for the Union to monitor the activities and CFP compliance of its fishing vessels that operate through private arrangements, joint ventures or under non-EU flags.

In the policy discussions that will now follow, both the European Parliament and the Council should be encouraged to avoid taking a 'mono-sectoral' approach to formulating their positions on the reform proposals, and instead invest in interdepartmental coordination or cooperation across committees, as applicable.

Based on the analysis presented in sections 2 and 3, the following opportunities are available to stakeholders with an interest in promoting PCD in the legislative and policy proposals:

- i. The Council or European Parliament could ask the Commission to conduct an additional assessment of the impact that the proposed changes in the FPAs (rebranded as 'Sustainable Fisheries Agreements') could potentially have on the use of private agreements and joint ventures by EU fishermen.⁵⁰ The provisions of the external policy in the Basic Regulation could be revised or expanded, based on the outcomes of that assessment.

⁴⁸ It should also be noted that some member states were already making the evaluations available under 'freedom of information' acts, such as Denmark and Sweden.

⁴⁹ See: <http://transparentsea.co/2011/07/27/european-commission-grants-access-to-confidential-files/>

⁵⁰ Page 7 of the EC Guidelines for Impact Assessments mentions the following as the 13th and final step in an impact assessment: 'In the light of new information or on request from the Council or the EP, the Commission may decide to

- ii. Stakeholders could explore whether the Basic Regulation could be revised to improve the 'evaluability' of the Common Fisheries Policy, which would benefit overall policy implementation as well as its external component. Linked to this point, evaluability could also be strengthened by further integrating key horizontal EU policy initiatives in the CFP legislation, notably the Europe 2020 targets.
- iii. Including a definition of the term 'stakeholders' in the Basic Regulation would help to secure the involvement of all stakeholders in the implementation of the policy, as desired by the EU institutions.
- iv. As regards SFAs, stakeholders could explore whether future agreements could be aligned with the existing structures and framework under the Cotonou Partnership Agreement, as a means of engaging in dialogue with third countries on their fisheries policies as well as of avoiding incoherence in the actions pursued by the Commission in these countries (notably the interaction with development cooperation).
- v. On aquaculture, the Council or Parliament could ask the Commission to conduct an additional assessment of the potential impact that the proposed additional investments in aquaculture could have on food security in developing countries. Relevant provisions of the external policy in the Basic Regulation could be revised or expanded based on the outcomes of this assessment.
- vi. Finally, it should be emphasised that promoting PCD does not stop once a policy proposal becomes adopted. A more ambitious external policy of the CFP in terms of 'promoting sustainable, equitable and economically viable fisheries in developing countries' territorial waters will for instance require much stronger collaboration in the Commission (particularly between MARE and DEVCO) in areas like negotiating FPAs and providing financial support to the fisheries sector.

update the IA report' http://ec.europa.eu/governance/impact/commission_guidelines/docs/iag_2009_en.pdf Although a recent assessment by the European Court of Auditors noted that the Commission's impact assessments were not updated as the legislative procedure progressed and the European Parliament and Council rarely performed impact assessments on their own amendments, it is clearly possible and could be perceived by some member states as relevant.

Bibliography

- Egenhofer, C. (et al.). 2006. Policy Coherence for Development in the EU Council - Strategies for the Way Forward. Brussels: Centre for European Studies.
- Ministry of Economic Affairs, Agriculture and Innovation (2011). High Level Conference 'The future of the CFP' Grand Hotel Huis ter Duin, Noordwijk, the Netherlands, 9-11 March 2011. The Hague: Ministry of Economic Affairs, Agriculture and Innovation. <https://zoek.officielebekendmakingen.nl/blg-109123.pdf>
- Ernst and Young (2009). Study on the supply and marketing of fishery and aquaculture products in the European Union. Brussels: DG MARE.
- Foresight. The Future of Food and Farming (2011) Final Project Report. London: the Government Office for Science.
- MRAG Ltd. (2010). Estimation of the cost of illegal fishing in West Africa. Washington: the World Bank.
- OCEAN2012 (2009). Responses to the Green Paper Reform of the Common Fisheries Policy COM(2009)163 final. Brussels: OCEAN2012.
- Westhoek, H. et al (2011). The Protein Puzzle: The consumption and production of meat, dairy and fish in the European Union. The Hague: PBL Netherlands Environmental Assessment Agency.
- Sutinen, J.G. (2008). Major challenges for fishery policy reform. A political economy perspective. OECD food, agriculture and fisheries working paper no.8. Paris: OECD.
- Tindall, C. (2010). Baseline study on the CFP external dimension and global fisheries governance. Technical Report. London: DEFRA.
- Usubiaga et al. (2011). EU Subsidies for polluting and unsustainable practices. Report commissioned by the European Parliament's Committee on Environment, Public Health and Food Safety. Brussels: European Parliament.
- Contributions received by the EC during the public consultation of the future of the CFP (including by the ACP group): http://ec.europa.eu/fisheries/reform/consultation/received/index_en.htm.

Annex 1: Implications of the Treaty of Lisbon for EU fisheries policy

The entry into force of the Treaty for European Union in December 2009 has changed – and continues to change – EU policy-making and practice in relation to fisheries. The Treaty of Lisbon has given the European Parliament greater say in EU fisheries policy. At the same time, there is still considerable scope for the interpretation of Articles 43(2) and 43(3), the interpretation of which has led to ongoing disagreements between the Council and the Parliament on certain issues. This disagreement is mainly due to the fact that the use of the ‘ordinary legislative procedure’ (previously called the ‘co-decision’ procedure) in fisheries is entirely new for all parties concerned. Agreement will also have to be sought on how future transferable fishing shares or other approaches to fisheries management (which can be agreed at Council level or by individual member states) can be made coherent with longer term policy orientations adopted by the Council and the EP.

The EC’s 2009 Green Paper on the reform of the CFP argued that decision-making is presently too centralised, and that ‘Lisbon’ requires a reform of the current centralised decision-making processes. Decision-makers are now exploring how to restrict decision-making in the EP and the European Council to overarching and long-term decisions, allowing more technical issues to be dealt with at lower levels. The Commission has suggested one particular approach in its proposed Basic Regulation (see 3.2).

Some EU member states are in favour of regionalising or even ‘decentralising’ the CFP and giving more responsibilities to the Regional Advisory Committees created after the 2002 reform (RACs) or to new decision-making structures at the same level. It is unlikely, however, that the RACs will become more involved in decision-making, given that large member states such as Spain and France are against this. Moreover, they were created as advisory bodies and are simply not organised in order to operate as decision-making bodies. Although still young and struggling with a dense agenda, the long-distance RAC in particular could potentially inform decision-making on the EU’s distant-water fleet.⁵¹

The relevance of the RACs also lies in the fact that, contrary to the EU-focused Advisory Committee on Fisheries and Aquaculture (ACFA), they can advise both the EC and the member states and hence act as a platform for regional policy learning processes. Whereas the ACFA has been criticised for being expensive and not inclusive (NGOs have only two of the 21 seats), most are in favour of maintaining a forum for a structured dialogue on horizontal issues from a European perspective. The RACs only allow for a regional perspective.

Despite the ideas that have been put forward and the acceptance at a technical level of the need to decentralise and ‘depoliticise’ decision-making,⁵² the current political trend towards ‘a big society and a small government’, plus the fact some member states may find it hard to invest in additional manpower in the civil service (since decentralisation could increase the number of meetings and locations where these are held), means that the reform as ultimately agreed might not be very ambitious. It is clear from the report on the Noordwijk meeting, for instance, that many participants (albeit not a majority of them) feel that decentralisation should not increase their workload. Moreover, higher ‘overhead’ expenses resulting from decentralisation could also be a bigger drain on the budget for the CFP, and hence leave fewer resources

⁵¹ See <http://www.ldrac.eu/en>

⁵² The use of the term ‘depoliticising decision-making’, which sounds awkward as a concept, is most often used by people to argue for the need to make decision-making more ‘evidence-based’. For info, see this two-pager produced by the EP, titled ‘The politics of fishing: how Council sets TACs’: http://www.cfp-reformwatch.eu/wp-content/uploads/2011/05/The_Politics_of_Fishing_2011_final.pdf

for other items. Finally, one possible argument why some member states may be against further decentralisation is that it would make it difficult for them to blame unpopular decisions on 'Brussels'.

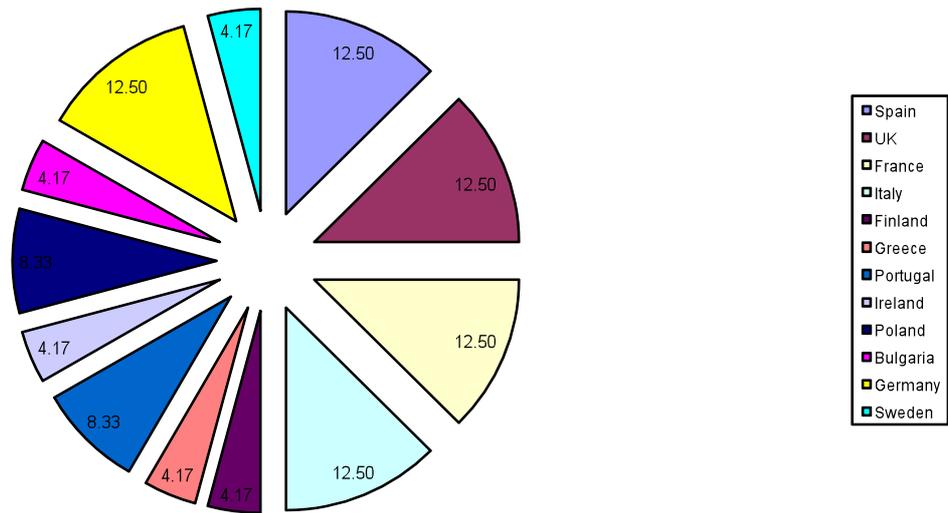
Annex 2: Bilateral Fisheries Agreements⁵³

TYPE OF AGREEMENT	PARTNER COUNTRY	PROTOCOL IN FORCE UNTIL	EU'S ANNUAL FINANCIAL CONTRIBUTION
Multi-species ('mixed') agreements	Greenland	31 December 2012	€14 307 244
	Guinea Bissau	15 June 2011	€7 500 000
	Mauritania	31 July 2012	From €86 000 000 (1 st year) to €70 000 000 (4 th year)
	Morocco	27 February 2011 (extension until 27 February 2012 to be ratified)	€36 100 000
Tuna agreements – West Africa	Cape-Verde	31 August 2011	€385 000
	Gabon	2 December 2011	€860 000
	Ivory Coast	30 June 2013	€595 000
	São Tomé and Príncipe	End 2013	€682 500
Tuna agreements – Indian Ocean	Comoros	31 December 2013	€615 250
	Madagascar	31 December 2012	€1 197 000
	Mozambique	31 December 2011	€900 000
	Seychelles	17 January 2014	€5 600 000
Tuna agreements – Pacific	Kiribati	15 September 2012	€478 400
	Micronesia	25 February 2010 (new Protocol of 5-year duration in the ratification process)	€559 000
	Solomon Islands	8 October 2012	€400 000
Dormant agreements	Angola		
	Gambia		
	Equatorial Guinea		
	Mauritius		
	Senegal		

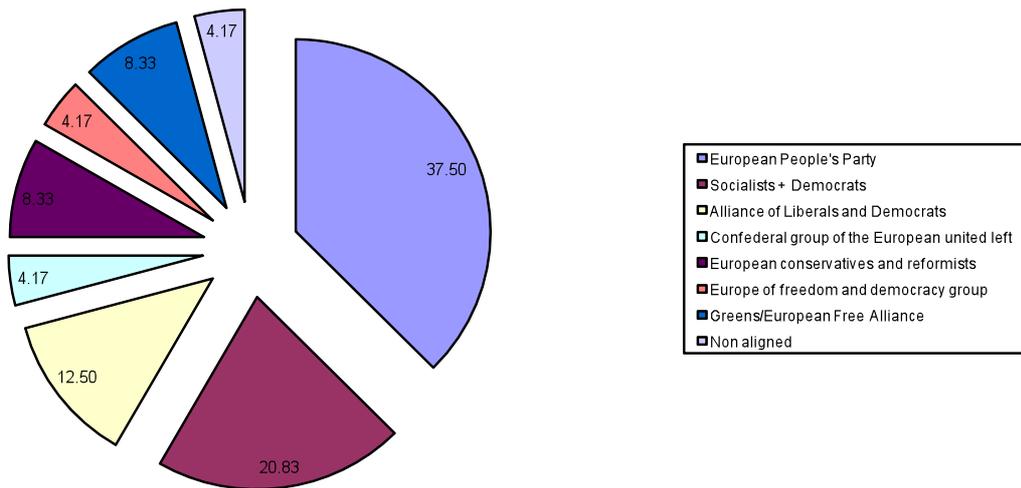
⁵³ Source: COM(2011) 424

Annex 3: Composition of the European Parliament Committee on Fisheries

Representation of EU member states on EP PECHÉ Committee (as %, excluding substitutes)



PECHÉ MEPs: political groups as % of total members (excl. substitutes)



The European Centre for Development Policy Management (ECDPM) aims to improve international cooperation between Europe and countries in Africa, the Caribbean, and the Pacific.

Created in 1986 as an independent foundation, the **Centre's objectives** are:

- to enhance the capacity of public and private actors in ACP and other low-income countries; and
- to improve cooperation between development partners in Europe and the ACP Region.

The Centre focuses on **three** interconnected thematic programmes:

- Development Policy and International Relations
- Economic and Trade Cooperation
- Governance

The Centre collaborates with other organisations and has a network of contributors in the European and the ACP countries. Knowledge, insight and experience gained from process facilitation, dialogue, networking, infield research and consultations are widely shared with targeted ACP and EU audiences through international conferences, focussed briefing sessions, electronic media and key publications.

ECDPM Discussion Papers

ECDPM Discussion Papers present initial findings of work-in-progress at the Centre to facilitate meaningful and substantive exchange on key policy questions. The aim is to stimulate broader reflection and informed debate on EU external action, with a focus on relations with countries in the South.

This publication benefits from the generous support of ECDPM's core and institutional funders:

The Netherlands, Belgium, Finland, Ireland, Luxemburg, Portugal, Sweden, Switzerland and the United Kingdom.

ISSN 1571-7577

European Centre for Development
Policy Management

ecdpm

HEAD OFFICE SIÈGE

Onze Lieve Vrouweplein 21
6211 HE Maastricht
The Netherlands *Pays Bas*
Tel +31 (0)43 350 29 00
Fax +31 (0)43 350 29 02

BRUSSELS OFFICE BUREAU DE BRUXELLES

Rue Archimède 5
1000 Brussels *Bruxelles*
Belgium *Belgique*
Tel +32 (0)2 237 43 10
Fax +32 (0)2 237 43 19

info@ecdpm.org
www.ecdpm.org
KvK 41077447



Printed on FSC certified paper.