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**COMMUNICATION FROM THE COMMISSION**  
**ON AN INTEGRATED FRAMEWORK**  
**FOR FISHERIES PARTNERSHIP AGREEMENTS WITH THIRD COUNTRIES**

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## 1. INTRODUCTION

Fisheries agreements were concluded by the Community following changes to the Law of the Sea in the seventies. Member States agreed, in a Council Resolution of 3 November 1976, to transfer their competence in this domain to the Community

As stated in its Communication on the CFP reform<sup>1</sup>, the Commission believes it essential that an improved policy concerning the fisheries agreements must be established together with all partners, private and public, within the Community. This will be a major step to reconfirm the commitment of the Community to contribute to the sustainable development of fishing activities at the international level. At the World Summit on Sustainable Development (WSSD) in Johannesburg, the Community subscribed to the aim of global sustainable fisheries including the objective to “maintain or restore stocks to levels that can produce the maximum sustainable yield with the aim of achieving these goals for depleted stocks on an urgent basis and where possible not later than 2015.” This and the other commitments taken on by the EC in the Plan of Implementation adopted in Johannesburg will guide the future external dimension of the Common Fisheries Policy.

The Commission recognises, that the fisheries agreements must take into account the various and often complex circumstances of the third countries concerned, as well as the diversity of the stakeholders, on a case by case basis:

- The Community should first of all defend the legitimate objectives of its fishing industry and seek, within the international framework<sup>2</sup>, new alliances and partnerships with Coastal Developing States, through **multilateral actions** covering fishing on the high seas, straddling stocks and highly migratory species. The Community should as part of a sustainable fishery policy also promote international and regional co-operation for the sustainable exploitation of resources based on sound scientific advice, and better control and enforcement systems,. All these conditions are essential for an economically viable and competitive fishing industry;
- Where the fishing interests are traditionally shared and the relations are balanced, in particular with the neighbouring coastal states, the Community should consolidate these relations by co-operating with the third countries concerned to establish responsible fisheries management through **continuity agreements**. This will be done by adapting the fishing effort to the resources concerned, in conformity with the objectives of the Common Fishery Policy to provide sustainable development in environmental, economic and social terms, and in the line of the Conclusions of the Council of 30 October 1997<sup>3</sup>;
- In bilateral relationships characterised by economic, social or institutional differences, the Community will, through fisheries **partnership agreements** (APP) strengthen co-operation to ensure the implementation of a sustainable fisheries policy and a rational and responsible exploitation of the resources in the mutual interest of the Parties concerned. In order to allow the European long distant waters fishing fleet

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<sup>1</sup> COM (2002) 181 final of 28 May 2002.

<sup>2</sup> Concerning the participation of the Community to the regional fisheries organisations (RFO) cf COM 613 of 08/12/99 and Council Conclusions of 16 June 2000.

<sup>3</sup> Doc 11784/97 of 4 November 1997.

to consolidate its role the sustainable exploitation of global fishing stocks must be ensured.

This Communication focuses on **the fisheries agreements concluded with third countries that involve the payment of a financial contribution**. The Commission proposes that EU fisheries bilateral relations gradually move from access agreements to partnership agreements with a view to contribute to responsible fishing in the mutual interest of the Parties concerned. Since these agreements are mainly established with developing countries, in particular ACP countries, it is therefore necessary:

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

## **2. COMMUNITY COMMITMENTS WITH REGARD TO BILATERAL FISHERIES RELATIONSHIPS INVOLVING A FINANCIAL CONTRIBUTION**

### **2.1. A sustainable fisheries policy outside Community waters**

The fisheries agreements have allowed the EC to establish stable relationships with 15 Developing Coastal States. These agreements will provide, the necessary framework for the sustainable exploitation of fishing resources.

These fisheries agreements generate in Europe and the coastal states important, often vital, economic activities, not only through the exploitation of fishing resources but also through the development of associated activities. The positive impact of the new Partnerships agreements on the Developing Country's local economies should even be more important in the future<sup>4</sup>.

The Green Paper on the CFP<sup>5</sup> set out a clear and undisputed diagnosis on the current situation of the long distant waters fleet (LDWF) policy. The situation is amplified by the fact that the LDWF is evolving in a global context of scarcity and overexploitation of some fish stocks and is becoming less and less competitive vis-à-vis the fleets of new emerging fishing nations which are operating at lower costs. In the mean time, the generalisation of flags of convenience, illegal fishing, lack of transparent rules, effects of direct or indirect public subsidies leads to an increasing distortion of competition and the development of practices that offer fewer guarantees for the maintenance of a sustainable global fishing activity<sup>6</sup>.

In the meantime, the EC has committed itself to

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<sup>4</sup> To this end Community will undertake sustainability impact assessments of FPAs and impact assessment studies in order to evaluate the impact on the local economy .

<sup>5</sup> Doc. COM (2001) 135 final du 20 mars 2001, point 3.9 "International dimension".

<sup>6</sup> see Commission Communication "Action Plan with a view to eradicating illicit, undeclared and unregulated fishing COM (2002) 180 final of 28.5.2002.

- increase its contribution towards sustainable development in its environmental, economic and social aspects <sup>7</sup>,

- improve global good governance at political and financial levels,

- contribute to the eradication of poverty in line with the objectives of sustainable development and the gradual integration of the ACP States into the world economy <sup>8</sup>, including the WTO Doha Development Agenda negotiations trade in fisheries products <sup>9</sup>.

### **The Objective of the European Community:**

The European Union has agreed on many occasions that it will contribute to sustainable fisheries inside and outside Community waters. Different European Policies should contribute together to this **overall objective** while following their own **specific objectives**:

- The specific objective of the Common Fisheries Policy is to maintain the European presence in distant Fisheries and to protect European fisheries sector interests
- The specific objective of the European Development Policy is to foster Developing Countries Capacities to exploit their marine resources, to increase local value added and to obtain the fairest price for access rights to their EEZ by foreign fleets.

Other European Policies like Research, Trade, Environment, contribute also through their own objectives to the overall objective of sustainable fisheries.

In order to guarantee the long term future of LDWF activities, fisheries policy commitments should be taken on the same basis as for the CFP with regard to sustainable exploitation of fishing resources and integration of environmental protection.

A lack of political initiatives at EU level would, in the medium term, lead to the gradual reduction of the Community LDWF. This would not occur by scrapping vessels, , but probably rather by a change of flag, and in particular a change to a flag of convenience and/ or an increase in private fishing arrangements. The experience of the past years has shown that with the departure of the Community fleet from third country fishing grounds the amount of fishing does not decrease, but stays the same or is even increased, as Community vessels are replaced by vessels from other third countries or by vessels flying flags of convenience. In cases where private licenses are sold to operators, there is also no guarantee that the financial counterpart benefits the fisheries industry and their employees in the third country in the way that the Community targeted actions do.

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<sup>7</sup> Cf; Communication from the Commission to the Council, to the European Parliament, to the Economic and Social Committee and to the Committee of the Regions "Towards a world partnership for sustainable development" COM (2002) 82 final of the 13.02.02.. Furthermore EC contribute to the World Summit on Sustainable Development, cf in particular the Plan of Implementation for the WSSD and in particular by paragraphs 29, 30 and 31.

<sup>8</sup> Cf. Cotonou Agreement in particular Article 18, 23, 34, 53, 69, and 74 to 78 and the Council Resolution on Fisheries and Poverty Reduction of 8 November 2001 (doc. 13398/01 of 14 November 2001).

<sup>9</sup> Cf. WTO Ministerial Conference Fourth session Doha 9-14 November 2001 WT/MIN(01) /DEC/W/1 "... in this context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries ...".

This situation should be avoided, since it would result in a substantial reduction of the role of the EC external fisheries policy and the disappearance of the European LDWF and subsequently by reducing the ability of the Community to honour and implement its commitments taken within the framework of bilateral and multilateral fisheries agreements. This would also lead to a situation whereby the European LDWF will be replaced by other LDWF, whose criteria and conditions may not conform to those of a global sustainable fisheries policy.

## **2.2. The raison d'être of the Community commitments**

For these reasons, the Commission believes that the Community, as a public player in the negotiation and management of fisheries partnerships agreements (FPAs), must continue its activities in this domain in order to promote the implementation of the Code of Conduct for Responsible Fisheries (FAO-1995) and the Compliance Agreement with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO 1993). This position is included in the Council Resolution of 8 November 2001<sup>10</sup> which acknowledged the potential role of fisheries agreements in contributing to the reduction of poverty when they are designed and implemented in the respect of the sustainability principles.

The Commission believes, therefore, that the European contribution to responsible fisheries policy requires the definition and the implementation of a binding framework between the Community and the Developing Coastal States concerned.

With the aim of establishing a policy dialogue in fishery matters, all the means to implement such a binding framework will have to be clearly defined by mutual agreement and be subject to adequate control mechanisms in line with Community policies and actions.

For this purpose, the “coherence” principle enshrined in the Treaty<sup>11</sup> must be strictly respected. Each policy area follows its own objectives through the instruments and procedures at its disposal<sup>12</sup>, but consistency of the European external activities must be ensured. The Community FPAs will therefore be in conformity with the principle of coherence.

FPAs must as well as integrate the objectives of sustainable fisheries development including components related to the management of resources, control and fleet management. The following should be taken into account :

- the management of resources is a sensitive issue in our relations with developing countries and the evaluation of the available surplus in the waters of these countries must :
  - be in line with the principle of ownership of the fishing policy by the Coastal State<sup>13</sup>

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<sup>10</sup> Document 13938/01 of 14 November 2001.

<sup>11</sup> Cf. Article 178 of the Treaty, Community shall take into account in the policies that it implements which are likely to affect Developing Countries the objective defined in the sphere of Developing co-operation.

<sup>12</sup> Cf. the second part of this Communication.

<sup>13</sup> The Community recognises the legitimate right of the coastal developing countries to implement a national and/or regional policy of fishing aiming (i) to sustainably exploit their fishing resources (ii) to increase local added value and (iii) to obtain the fairest price for access rights to the resource that they

- be based on sound scientific and technical advice as defined in article 62 of the UNCLOS<sup>14</sup>,
  - be coherent with the Community objective to avoid the overexploitation of the stocks concerned, in the interest of the local populations and for the long term sustainability of their fishery sector, therefore fishing possibilities must be in line with and based on best available scientific data,
  - assess the likely environmental impact of fishing, with a view to adopting the necessary remedial measures.
- The control, monitoring and surveillance activities are weak points in the implementation of FPAs. This will be remedied through partnership actions in fisheries control with the countries concerned in conformity with the lines of the reform of the CFP.
  - The management of the fleet may cover the eventual inclusion of European LDWF fleet into the fishing fleet of the partner. FPAs can provide the appropriate legal framework and financial instruments reflecting the development objectives of our partners, encouraging the transfer of technology, capital and know how by the promotion of joint enterprises between Community interests and those from the coastal states concerned<sup>15</sup>.

Moreover, the Community will ensure that public funds are used to support the principles of good governance by the relevant Coastal State which aims to implement a sustainable fisheries policy.

### **2.3. Purpose of Community financing**

The payment by the Community for access rights for Community fleets was originally mainly justified by the appropriation of resources from coastal states. The financial compensation was based on the access to the fishing possibilities offered by the coastal state concerned.

Now, due to the difficulties of resource scarcity, overexploitation, illegal, unreported or unregulated fishing practices, which are exacerbated by the lack of means in the Developing Coastal States to ensure sustainable management of fish resources in the waters under their jurisdiction, the Community is confronted with further challenges.

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do not have the capacity to harvest. These policies must respect the rights and obligations arising from the United Nations Convention on the Law of the Sea.

<sup>14</sup> As has been pointed out in the Communication on the reform of the CFP, this question will be raised in an Action plan which specifically addresses the evaluation of the fish stocks outside Community waters.

<sup>15</sup> In addition to CFP financial instruments other support may be provided by instruments such as PRO-INVEST (an EU-ACP partnership programme for the promotion of investment and technology flows in the ACP countries), ESIP (an EU-SADC Investment Programme) which is complementary and closely co-ordinated with PRO-INVEST, or the Investment Facility (jointly monitored by the EIB and the Commission) may encourage and support investments and inter-enterprise co-operation agreements in the fishing industry in ACP countries, by raising the quality of local production and exports or by providing adequate resources for investment financing. These instruments may also play an important role in ensuring that local operators and their associations use and respect international standards, thus contributing to the implementation of the Fisheries Partnership Agreements (FPA) and therefore to the sustainability of local fishing activities

An evolution must therefore be envisaged which must strengthen Developing Coastal States capacities to implement incorporated in the sustainable fisheries development strategy of the Community Partner Countries. This policy should be applied until the countries concerned acquire the capacity to manage their own fisheries policy effectively.

It is necessary to widen the scope of the Community financial contribution. In the future, this financial contribution will be justified by a mutual interest of the two parties to invest in sustainable fisheries policy and not just as a payment for access rights to fishing possibilities for the benefit of European fishing enterprises. The Community financial compensation will be envisaged while the Developing Coastal States will continue to make some of their surplus available to the Community stakeholders.

The Commission considers that the financial contribution made available by the Community cannot be considered as a subsidy to the European fishermen. This contribution is justified by the need for the Community, by mutual interest, to provide adequate support to the development and the management of a sustainable fishing policy in the third countries where the European LDWF is operating.

A clear distinction will be done between:

- The part of the financial contribution given in exchange of fishing possibilities for European vessels. The private sector shall progressively assume greater responsibility for the financial contribution.
- The part of the financial contribution devoted to fisheries partnership actions such as stock assessments, control monitoring and surveillance activities.

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

This approach requires the calculation of a new proportionality in the definition of the financial contribution. The relative weight of the fishing opportunities becomes of secondary importance, with the main element being the mutual interest of the Parties in establishing responsible fishing on a sustainable basis.

In future, with respect to the principle of ownership of the development policy by the Coastal State, the amount of the EC financial contribution under the CFP should take into account the means necessary to implement sustainable fishing. Among the parameters, on a case by case basis, the EC financial contribution should be defined according to the following :

- the relative share of the Community interests in the exploitation of the surplus and the local added value<sup>16</sup> of the European activities in the Partner's fishing industry. The fishing rights should be set at a level that is coherent with the objective of sustainable exploitation of fish stocks and that is realistic to be achieved. In the event of the renewal of FPA, the utilisation rates of the fishing opportunities will be taken into account ,

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<sup>16</sup> Value added of the businesses allied to the fishery industry other than those engaged in fishing.

- specific, targeted measures agreed between the parties and their implementation

and

- the commitments of the Coastal State to achieving sustainable fishing and to implementing the necessary measures in the mutually agreed interest of the Parties involved.

The levelling of the fees paid by the shipowners must be part of the FPA's which establishes the rights and obligations of the Parties <sup>17</sup>.

The Community must ensure greater transparency and consistency with the overall Community ruling on budgetary and development policy. The Commission will develop an approach on how to implement, monitor and control the funds envisaged for the part of the financial contribution devoted to fisheries partnership actions.

### **3. FISHING PARTNERSHIP AGREEMENTS (FPA) OBJECTIVES AND THEIR IMPLEMENTATION**

#### **3.1. Why are Fisheries Partnership Agreements necessary ?**

The CFP's overall objective is to ensure the sustainable management of fisheries resources from an economic, social and environmental point of view, also outside Community waters and in particular in the framework of FPAs concluded with Third Countries. To this end, the Community will undertake sustainability impact assessments on FPAs on the basis of the best available data and in consultation with the relevant stakeholders.

To ensure the coherence between the CFP in its external and internal dimensions, as well as the coherence between CFP and Community Co-operation for Development Policy the instruments and procedures of each policy must contribute to the achievement of the overall objectives of sustainability of fishing activities in the waters of our Partner Coastal States <sup>18</sup>.

The FPA concept must be at the root of the external dimension of the CFP in order to contribute to the establishment of the conditions for sustainable fisheries beyond Community waters as underlined in the Commission Communication entitled "Towards a world partnership for sustainable development"<sup>19</sup>.

The Commission proposes to establish a sectorial partnership in fishing with Developing Coastal States in line with the co-operation programmes provided for under the Cotonou Agreement.

#### **3.2. Implementation of FPAs**

The policy dialogue should allow, upstream of the FPAs and while respecting the principle of ownership of the development policy by the Coastal State concerned, for the definition of the

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<sup>17</sup> The Commission will analyse the fishing licences fees on a micro-economic basis taking into account the characteristics of each fisheries

<sup>18</sup> This will be done through synergy between the national and regional programming process under Cotonou and FPAs.

<sup>19</sup> COM (2002) 82 of 13 February 2002.

conditions of a policy of sustainable development of fishing activities in the waters of the country concerned.

This will allow for the identification of :

- the assessment of the national policy for the fishing sector/industry as defined by the Coastal State;
- the needs expressed by the Coastal State for the sustainable development of its fishing sector taking into account the local economy;
- the financial resources required at Community level, either for aid to development or for the FPA respecting the specificity of each financial instrument and their nature;
- the necessary scientific and technical assessments in relation to the state of the resources that could potentially be exploited in the waters of the Coastal State concerned;
- the existence and the conditions of access to the surplus which can be exploited by the distant water fishing fleets;
- the share of this surplus that the coastal state is prepared to allocate to Community fishermen;
- the possible threats to the environment posed by fishing, with a view to adopt the appropriate remedial action;
- the definition of an overall framework of common interest and of the adequate measures and modalities for its implementation and evaluation;
- the legal and institutional framework which takes into account the obligations and political commitments both to achieve responsible fishing and to allow for the rational exploitation of fish resources from an environmental, economic and social point of view;
- synergies to be gained at a regional level from regional co-operation in fisheries policy;
- the contribution of the public authorities to responsible fishing; to establish a positive atmosphere for investment and to encourage the necessary technical, scientific, economic and social transfers for the fishing industry;
- the activities of the economic operators that would respect and contribute to the achievement of the political initiatives of the public authorities concerned;
- the concerns of civil society.

Whenever it is possible, in accordance with the mutual interest of the Parties and the objectives of the co-operation agreement, the FPA shall support measures aiming at promoting the creation of joint-ventures, transfer of know-how, transfer of technologies, investments and capacity management for the benefit of the fishing industry and in accordance with the objectives and guidelines of the co-operation partnership agreement between EC and the Third Country concerned.

FPA will have to be incorporated into the logic of the development strategies of coastal states as they will result from the Development programmes constructed at National or Regional levels with the help of the Community. The Development Co-operation should also be mobilised to ensure the formulation of fishing policy by the Developing Coastal State concerned, the follow up of the actions undertaken, including those undertaken for long distant water fleet operating in the waters under their jurisdiction, in order to assess the impact of the sustainable development of fishing activities.

FPA will continue to be negotiated and managed according to the existing institutional rules. The legal basis for the negotiation and approval of agreements will remain Article 300 of the EU Treaty in combination with Article 37 of this Treaty.

#### **4. CONCLUSION**

The Commission, recalling the conclusions of the Council in October 1997, reaffirms that the external dimension of the CFP is an essential component of this policy.

The Commission considers that the political principles of EC commitments for its LDWF fleet should be adjusted with a view to contributing to the sustainable development of fisheries in the mutual interests of the Parties. The bilateral commitments should respect the international EC commitments and be based on the principles of the CFP, i.e. establishing sustainable fisheries policy from an economic, social and environmental point of view and based on the best available scientific data.

The Commission proposes, therefore, according to the general lines of the Reform of the CFP, the implementation of instruments and procedures based on fishing partnership agreements in order to define an integrated and binding framework between the Parties, to ensure the coherence of its external fisheries policy towards Coastal States with which it has relations in the fishing sector. The Commission will develop clear rules for establishing the different parts of the fisheries agreements.

Provided that there is a political agreement on the present Communication and proper respect of current Community commitments, in particular concerning the agreements and protocols now being negotiated, the Commission considers that this approach should be promoted and progressively implemented, so that starting in 2003 sustainability impact assessments will be conducted for the negotiations for new fisheries partnership agreements.