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WORKING DOCUMENT

on the European Court of Auditors' Special Report No 11/2015 (2014 Discharge): Are the Fisheries Partnership Agreements well managed by the Commission?

Committee on Budgetary Control

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Introduction

Along with the Common Fisheries Policy (CFP), the European Union has developed other instruments in the sector, such as the Fisheries Partnership Agreements (FPAs), through which the EU negotiates agreements with non-EU coastal countries in order to obtain access rights for the EU external fleet to these countries' fishing grounds.

The distant water fleet¹, which is a significant provider of fish to the European market, provides about 15 % of the total catches in the EU. It accounts for less than 1 % of the EU fleet², its fishing capacity accounts for 18 % of the gross tonnage and delivers 4 % of the EU fleet employment.

In 2014, the amount of payments from the EU budget for FPAs was at EUR 69 million, representing a significant decrease compared to the payments made in the 1990s. In 2015, there are 13 FPAs in force for an amount of EUR 71 million: mixed agreements for different fish stocks, tuna agreements and other highly migratory species agreements around Africa and the Indian and Pacific Oceans. In addition, other FPAs in force but without current protocols were concluded with Gambia, Equatorial Guinea, Solomon Islands, Micronesia, Mauritania and Mozambique. These 'dormant' agreements without renewed protocols are not allowing the EU fleet access to the fishing areas of a particular country following the exclusivity clause, by which EU vessels can only operate in the waters of a partner country if they have a fishing authorisation issued under the framework of a protocol for the agreement in particular.

The fisheries agreements for which a financial contribution is made from the EU budget were audited, whereas the agreements based on fishing quota exchanges were excluded. The Court examined four of the 12 agreements in force at the time of the audit: Mauritania, Madagascar, Mozambique and the Seychelles. These four FPAs represented 77 % of FPA payments in 2013.

In concluding an FPA, the EU and the partner countries negotiate an agreement and its implementing protocols. Such agreement supplies the framework for long term cooperation in the fisheries, which includes general principles and standards regarding the access for EU vessels to the partner countries' waters. The protocols establish terms and conditions such as fishing opportunities and species, financial contribution, level of fees paid by ship owners, number and size of vessels authorised and specific areas where they are allowed to fish.

The FPAs are decoupled into access rights and sectoral support, which aims to promote sustainable fisheries development in the partner countries. In 2014, the reform of the CFP introduced the concept of sustainable fisheries partnership agreements (SFPAs).

FPAs are centrally managed by the Commission and responsibility for the day-to-day management of FPAs lies with the central offices of the DG Maritime Affairs and Fisheries and the six fisheries attachés. The responsibility of the partner countries concerns mainly monitoring and checking the activities of the fishing vessels. Member States must run the monitoring centres in order to ensure the legality of the activities of their fishing vessels. On the other hand, the Joint Committees (formed by representatives from the Commission and from the partner countries) act as a forum and are in charge of monitoring FPA performance,

¹ fishing vessels that fish outside their national waters

² 355 vessels out of 86 283

interpretation and application.

ECA Conclusions

The Court's audit concluded that FPAs are generally well managed by the Commission, but that there are still several areas for improvement.

Certain weaknesses in the negotiation process were identified, in particular with regard to the length of the process. The whole negotiation process for the four protocols included in the audit lasted between 74 and 134 weeks. In the case of Mauritania, negotiations only lasted 71 weeks and the previous protocol expired nearly 5 months before a new one was signed, which provoked the temporary cease of fishing for certain categories and inconsistency with the exclusivity clause as fishing authorisations were submitted in the absence of a signed protocol.

The Court concluded that the complementarity and consistency among the FPAs negotiated within the same region can be improved, in order to maximise their potential at regional level. The Commission supports Mozambique in developing a regional fishery monitoring centre by financing its feasibility study through the ACP FISH II financed by the European Development Fund and, in parallel, supports the country's national vessel monitoring system through FPA sectoral support.

One of the main objectives of the FPAs is only to fish surplus stocks. This was proven as very difficult to implement in practice due to a lack of reliable information on fish stocks and on the fishing effort of domestic fishing fleets, or of other foreign fleets that have also been granted access. Moreover, the actual unit cost paid for a tonne of fish was frequently higher than the unit price negotiated leading to regular underutilisation and sometimes attributable to clauses negotiated with partner countries.

The information provided by independent ex post evaluations was not always sufficiently complete, consistent or comparable, which reduced its usefulness in the decision-making process and negotiations, while adding time to what is already a long negotiation process. Furthermore, these evaluations do not sufficiently assess the extent to which the FPAs meet all of their objectives, such as making no reference to employment in EU regions depending on fishing, or giving no information on the supply of fish on the EU market.

The licensing process is lengthy and cumbersome, and delays can complicate or reduce the fleet's fishing activities. The Commission does not have an information system to help it keep track of the stages of the licence application process, although concerns about delays have been raised and the Court was unable to identify the reasons for delays.

There were shortcomings in the management of data on fish catches, with a lack of reliable, consistent and complete information, putting at risk the timely identification of problems and the correct calculation of payments. Furthermore, the Court found several differences among the catch data provided by the various sources such as the Member States, the DG Maritime Affairs and Fisheries as well as from the ex post evaluations.

Regarding the sectoral support, there was a subsequent risk for the effectiveness of this component as the Commission's role in monitoring the implementation of this component is still limited. There was a lack of clear framework, with no eligibility and traceability rules or

reporting requirements for the actions funded and, as a result, cases were identified where partner countries implemented different actions than those jointly planned with the Commission. In addition, the protocols currently in force do not provide for the possibility of partial reductions of payments when results are only partially achieved, but only the possibility of suspension.

ECA Recommendations

In lights of its findings, the ECA recommended that for the future protocols and agreements, the Commission should:

1. review dormant agreements and consider how to address the interruption of fishing activities imposed by the exclusivity clause while respecting the principles of the common fisheries policy and include in the protocols the appropriate provisions to ensure the previous;
2. define regional strategies for the development of fisheries governance and ensure that protocols negotiated within the same region are consistent with the relevant regional strategy and with other EU funds;
3. consider the utilisation of previous protocols and endeavour to better link payments for access rights to actual catches while ensuring that the fishing activities are not adversely affected;
4. better analyse the potential impact of SFPA clauses on the use of the protocol, while safeguarding the mutual benefits for the EU and the partner countries concerned, perhaps by consulting the relevant stakeholders;
5. better focus ex post evaluations to obtain a consistent and comparable analysis of the return on public money spent under the protocols as well as a comprehensive and critical analysis of their effectiveness for the EU and the partner country concerned.

Furthermore, the ECA recommended that the Commission should:

1. establish procedures to monitor each of the steps in the licensing process, including time taken by Member States, partner countries, and the Commission services, in order to identify and follow up on weaknesses in the procedure;
2. promote the acceptance of electronic licences or of a list of authorised vessels for the whole period of validity of the licences;
3. ensure that the new catch database is fully used by flag Member States and provides reliable catch data which can be consolidated, monitored and kept up to date;
4. for new protocols, propose the introduction of eligibility requirements to assess actions being considered for sectoral support funding (other requirements could relate to traceability, selection, reporting and performance measurement, and control rights for the Commission);
5. ensure effective coordination on the subject of FPA sectoral support with other development partners active in the fisheries sector;

6. ensure that sectoral support disbursements are consistent with other budget support payments and based on the results achieved by the partner countries in the implementation of the matrix of commonly agreed actions.

Recommendations by the Rapporteur for possible inclusion in the 2014 Commission discharge report

The European Parliament,

1. Welcomes the more stable legal framework offered by FPAs compared to the private agreements; notes that the European ship owners have expressed a preference for FPAs and asked the Commission to extend the network of agreements;
2. Asks the Commission to better respect the exclusivity clause; notes that, although some factors do not depend on the Commission, it should start the process of negotiating a new protocol well in advance of the expiry of the current one; urges the Commission to shorten negotiation times wherever possible;
3. Urges the Commission to improve the consistency between the FPAs and other EU initiatives and funding sources in the fisheries sector within the same region, as well as to define regional strategies for the development of fisheries governance and ensure that protocols negotiated within the same region are consistent with the relevant regional strategy and with other EU funds;
4. Requests that the Commission focuses more on the restrictive technical conditions such as the narrow definition of fishing areas; highlights the fact that this could affect the profitability of the Union external fleet;
5. Asks the Commission to consider the utilisation of previous protocols and endeavour to better link payments for access rights to actual catches while ensuring that the fishing activities are not adversely affected;
6. Notes with concern that the cost of the FPAs negotiated by the Commission was relatively high compared to the rates in the past; requests that the Commission takes into account the principles of economy, efficiency and effectiveness when preparing the FPA negotiations in order to guarantee value for money and compliance with sound financial management;
7. Notes that the ex post evaluations should focus on obtaining a consistent and comparable analysis of the return on public money spent under the protocols as well as a comprehensive and critical analysis of their effectiveness for the EU and the partner country concerned;
8. Encourages the Commission to strengthen its negotiations power; underlines the importance of the total EU financial contribution to the partner countries;
9. Urges the Commission to use the most up to date data for its ex post report; asks the Commission to make this available to the stakeholders in a timely manner;
10. Calls on the Commission to promote the acceptance of the electronic licences or of a

list of authorised vessels in the partner countries for the whole period of validity of the licences; highlights the need to reduce the delays in the licence application process and calls the Commission to identify and reduce the procedural bottlenecks;

11. Invites the Commission to ensure that the new catch database is fully used by flag Member States and provides reliable catch data which can be consolidated, monitored and kept up to date;
12. Notes that the Commission has put in place a database for catch data management; notes furthermore that this database should contain weekly catch data from Member States broken down by fishing areas; notes with concern that this database was still not operational at the time of the Court's audit the Member States were not compliant with their reporting requirements; invites the Commission to remedy this issue in partnership with the Member States, as well as to include clear and consistent data regarding actual final catches in order to avoid possible negative financial consequences when the final catch is higher than the reference tonnage;
13. Urges the Commission to monitor more closely the implementation of sectoral support in order to ensure its effectiveness and cost-effectiveness; asks the Commission to ensure the effective coordination of the actions implemented by the partner countries; invites the Commission to include in the protocols formal eligibility conditions for the actions funded;
14. Calls on the Commission to ensure that sectoral support disbursements are consistent with other budget support payments and based on the results achieved by the partner countries in the implementation of the matrix of commonly agreed actions;
15. Notes with concern that, even though the sectoral support payments should be paid once the partner countries are able to demonstrate the results achieved, the protocols currently in force still do not provide for the possibility of partial payments when the results are only partially achieved; acknowledges from the Commission that, when there have been no or limited results achieved, the payment of the sectoral support for the following year is to be suspended until the targets have been met; nevertheless, calls on the Commission to, where possible, include in the new protocols the possibility of partial payments of the sectoral support.