

Fisheries access agreements

A Trojan horse

A new deal between the EU and Chile shows how future fisheries access agreements may now shape up

A new deal recently concluded (but not yet ratified) between the European Union (EU) and Chile covering trade, political dialogue and co-operation, shows how future fisheries access agreements concluded between the EU and its Southern partners may shape up. The portents are disturbing: fisheries resources are likely to be used increasingly as the bargaining chips against which trade concessions (particularly concerning market access) are to be negotiated.

On 17 May, following the Madrid Summit between European and Latin American heads of State (the II EU-Latin America Summit), the signing of an 'Association Agreement' between Chile and the EU was announced. The agreement provides a framework for free trade, investment, co-operation and political dialogue in a number of sectors, of which fisheries is but one.

In April, when agreement was reached at the political level between the EU and Chile, Commissioner Lamy boasted that the negotiations had delivered "the most ambitious and innovative results ever for a bilateral agreement by the EU", describing it as a "fourth generation plus" agreement. As far as fisheries is concerned, this is a major new development. It is the first time that fisheries access for the EU, on the one hand, and export tariff concessions for a third country, on the other, have been included as part of a package deal.

Up to now, formal EU fisheries access agreements with developing countries have been on a strictly sectoral basis, involving 'cash for access', often described as 'first-generation agreements'. The only second-generation fisheries access agreement (vessel

transfer through joint ventures) concluded by the EU was with Argentina in 1992. This agreement was to prove disastrous for the Argentine hake fishery and, prior to the agreement's conclusion in 1999, the Argentine authorities were forced to take drastic action to prevent complete resource collapse. The agreement has not been renewed, and neither has any other second-generation agreement been subsequently concluded.

The first concrete indications of how subsequent generations of fisheries access agreements would shape up came during the negotiations between the EU and South Africa on the conclusion of a 'Trade, Development and Co-operation' agreement. In this case, the EU had pressed for a fisheries component to the agreement that made export tariff concessions for South African fishery products conditional on South Africa signing a fisheries access agreement acceptable to the EU. So far, South Africa has declined to be bowed by EU pressure. It must also be noted that making resource access contingent on market access directly goes against the FAO's Code of Conduct for Responsible Fisheries (Articles 11.2.7 and 11.2.8).

A further development occurred earlier this year in June, when EU foreign ministers unanimously approved a far-reaching mandate for the European Commission to negotiate 'Economic Partnership Agreements' (EPAs) with 76 African, Caribbean and Pacific (ACP) countries.

Major shift

According to Commissioner Lamy these agreements will "mark a major shift in the Community's trade policy towards deeper economic relations with developing countries". These EPAs will

Demands of Chile's Fishworkers

At the political level, the agreement makes resource conservation and sustainable and equitable fisheries management, responsibilities shared by the EU. The artisanal fishermen, therefore, demand that the European parliaments, institutions and civil society ensure:

- the application of the precautionary principle to the fisheries protocol in the EU-Chile agreement so as to avoid irreversible damage to Chile's marine resources, to the artisanal sector, and to the food security of the local population;
- that, as proposed by the European Commission in its Communication on

Fisheries and Poverty Reduction, information about the agreement, particularly the fisheries protocol, be diffused in such a way as to enable the professional organizations in the artisanal sector to analyze its content and potential social, economic, environmental and cultural impacts;

- that the ratification of the EU-Chile agreement includes measures that guarantee sustainable marine resource and ecosystem management, defend the rights of coastal communities and the artisanal fishery, and sustain the contribution of fisheries to local food security.

include a comprehensive package of aid and trade measures where, no doubt, attempts will be made to make export tariff concessions conditional on fisheries access for the EU long-distance fleet.

This points to the EU-Chile agreement becoming a blueprint for future fisheries access agreements. In the Chile case, there are two main components dealing with fisheries. On the one hand, a protocol on fishing enterprises establishes the possibility for European investors to purchase 100 per cent ownership rights in Chilean fishery enterprises, on a reciprocal basis. On the other hand, within the trade component of the agreement, conditions for rules of origin and the removal of tariff barriers are established. Mention is also made, in other parts of the agreement, of bilateral and/or multilateral agreements covering fisheries on the high seas; developing regional co-operation in fisheries matters; and the rights and obligations of both parties under the 1982 United Nations Convention on the Law of the Sea.

The protocol on fisheries enterprises has five main conditions governing:

- ownership and control, which, on the one hand, authorize EU companies to own a major stake in, and to control and manage, new or existing fishery enterprises in

Chile, and, on the other, authorize reciprocal rights for Chilean companies in EU member States;

- registration and operation of fishing vessels, which entitle EU companies owning Chilean companies to apply for, register and operate fishing vessels in Chile under the same conditions as Chilean companies. Reciprocal rights apply to Chilean companies owning companies registered in EU member States;
- fishing permits, which entitle EU companies to obtain fishing permits and their corresponding individual quotas (with reciprocal rights for Chileans);
- transfer of licences and vessels, which entitle EU companies to receive, by means of transfer, fishing authorizations and vessels under the same conditions as Chilean companies; and
- reciprocity, which establish the provisions for ensuring the fulfilment of the reciprocal aspects of the agreement

Tariff elimination

A comprehensive schedule for eliminating tariffs on the export of fishery products from Chile is given in a separate

Annex. For most fishery products, with the notable exception of hake and some salmon and tuna products, tariff barriers will be reduced to zero within four years, with a maximum transitional period of 10 years for 95 per cent fisheries products exported from Chile to the EU.

When the agreement was announced, Chilean President Ricardo Lagos was reported as saying that: “Today, the dreams of 15 million Chileans are with us and also the hopes of all Latin America, the natural area to expand the agreement”. Why then, just one month later, should a delegation from Chile visiting Europe, representing Chile’s artisanal fishermen and NGO communities, denounce the agreement as “a Trojan horse for the Spanish fishing industry”? Their fears are that the Chilean fishery will be sold off to gain concessions for Chile’s wine industry, and to gain tariff-free access to the European market. In particular, they fear that the initiative will undermine the sustainable development and jeopardize the food security of the Chilean people.

The agreement is based on three main principles that, respectively, refer to the respect for democratic principles and fundamental human rights; the promotion of sustainable economic and social development; and good governance. Despite this, during the negotiating process, coastal community

representatives, indigenous people who depend on fishing, and artisanal fishermen were totally excluded from the debate. Furthermore, no environmental, social or economic impact analysis has yet been carried out on the fisheries protocol of the agreement. This risks causing a resource crisis and the disappearance of their sector.

The trade deal with the EU is directly linked to the Chilean government’s initiative to privatize fishery resource access rights through the introduction of individual transferable quotas (ITQs). On 11 June, the Chilean government submitted a draft bill to the parliament, called ‘Limite Maximo de Capturas por Armador’ (maximum catch limits for boatowners). The parliament must vote on this bill, before 31 December. In conjunction with the establishment of the EU-Chile agreement, from 1 January 2003, the introduction of the ITQ system will also allow a trade in licences and fishing quotas between the large Chilean industrial operators and future European investors.

Fisheries protocol

As noted above, the fisheries protocol in the agreement gives European investors the right “to apply for, register and operate a fishing vessel under the same conditions as Chileans, and to receive, by means of transfer fishing authorizations and vessels, and their corresponding

individual quotas". Thus, if ratified by the Chilean president in October, the EU-Chile agreement will enable European (mainly Spanish) fishing companies to invest in Chilean quotas, with the same rights as Chileans, namely, to buy, sell, trade, speculate on, lease or mortgage fish quotas.

The ITQ system will initially be confined to the fisheries classified as 'fully exploited'. These stocks include species fished jointly by both artisanal (for local food supply) and industrial sectors (for reduction to fishmeal). The bycatch from the industrial sector on these species includes as many as 30 species of prime fish targeted by the artisanal sector.

The initial quota share will be based on historical catch records, with the lion's share going to the industrial sector. The quotas are to be allocated for 15 years on a renewable basis. A massive invasion of European vessels into this fishery risks marginalizing even further the artisanal sector and promoting fishmeal production over human nutrition.

European companies will also have open (and free) access to 'underexploited' Chilean fisheries resources. These include more than 90 species of high-quality white fish species of high commercial value, which form the backbone of the artisanal fishery and of local value-adding processing plants.

The removal of tariff barriers on salmon from aquaculture will promote significant production increases in Chile, with negative impacts on the coastal environment (pesticides pollution, escaped salmon that destroy local fauna, etc.). The increasing occupancy of the coastal area by salmon aquaculture also affects the access rights of coastal communities in the coastal zone. The EU has undertaken to promote a responsible approach to fisheries management at a global level and to make sure that, in its relationships with countries in the South, the needs of the coastal communities and of the local population are respected and protected. It is essential that these principles are put into practice in the proposed EU-Chile agreement, which is currently on the table, as well as in future

The Privatization Process

In 2001, the Chilean government instituted a 'transitory fishery law' that established individual non-transferable quotas. This law has already enabled the industrial sector to obtain the lion's share of the quotas.

In the case of one of the largest Chilean fisheries, for horse mackerel (*Trachurus murphyi*), the industrial fishery sector obtains 98 per cent of the global annual quota. The allocation of quotas is based on the catch track record over the last five years. Apart from the commercial catches, the industrial fishery has the right to include a whole series of catches, including those taken for scientific purposes. On the other hand, the catches of the artisanal fishery, because of its informal nature, have not been fully registered. As a result, the artisanal fishery has only been able to obtain 2 per cent of the global quota in this fishery, which is insufficient to maintain the levels of its activities. The artisanal fishery for horse mackerel is an important source of local food security, while the industrial fishery transforms this fish into meal for animal feed (and takes a large bycatch of species important to the artisanal sector).

fisheries access arrangements that may become part of the EPAs negotiated between the EU and 76 ACP States.

Given the experience to date with the EU-Chile agreement, it is likely that future fishery access agreement negotiations will be surrounded in commercial secrecy. The danger is, therefore, that trade and short-term investment priorities will take precedence over long-term sustainable social and economic development, sounding the deathknell for artisanal fisheries in many parts of the world. 

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