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# EPA and Fisheries

## Focus on West Africa

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# Abstract

Fishing is important to the countries in West Africa since it provides food, work opportunities and foreign exchange for the countries. Fishing agreements have granted access to their fishing waters to the EU, which needs this access to meet the increasing demand of fish from its inhabitants. With the EU preferences towards the ACP-countries changing and the signing of economic partnership agreements (EPA:s) as a consequence of this, the relations between the EU and the countries in ECOWAS concerning fisheries will be affected. This paper studies the contents of these EPA:s and the interim EPA:s that have been signed concerning fisheries and evaluates what effects they can have on the countries in ECOWAS. The conclusion is that an EPA in itself can hardly promote sustainable development concerning fisheries, it also requires development of the fisheries sectors in each country, measures to avoid unemployment and regional fishing policies. It is also crucial with regional integration within ECOWAS and that the coastal states get better possibilities to control the waters outside their borders.

*Key words: EPA, fisheries, ECOWAS,*

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## Abbreviations

ACP	African-Caribbean-Pacific
CARIFORUM	Caribbean Forum
CFP	Common Fisheries Policy
CSRP	Commission Sous-Regionale des Pêches (Sub-regional Fishing Commission)
EBA	Everything But Arms
ECOWAS	Economic Community of West African States
EEZ	Economic Exclusive Zone
EPA	Economic Partnership Agreement
EU	European Union
FPA	Fisheries Partnership Agreement
GDP	Gross Domestic Product
GSP	General System of Preferences
IEPA	Interim Economic Partnership Agreement
LDC	Least Developed Country
MFN	Most Favoured Nation
RoO	Rules of Origin
SPS	Sanitary and Phytosanitary measures
UEMOA	Union Economique et Monétaire Ouest-Africaine (West African Economic and Monetary Union)
USD	United States Dollar
WTO	World Trade Organisation

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# 1 Introduction

The demand for fish and fish products in the world steadily increases. In order to meet this demand from its inhabitants, the European Union (EU) signs fishing agreements with developing countries bordering fishing waters. These agreements give financial compensation to the developing countries in exchange for access rights to the waters for EU fleets. The previous set of preferences that the EU granted developing countries in the African-Caribbean-Pacific (ACP) group is being re-structured and this involves signing of economic partnership agreements (EPA:s). The role of fisheries and access to fishing waters are to be regulated in these EPA:s. The design and contents of them are thus of vital importance to the developing countries with access to fishing waters that are dependent on incomes generated by exporting fish and fish products to the EU and by selling them on the domestic markets.

## *1.1 Purpose of study*

The aim of the paper is to analyse the aspects of fisheries in the EPA:s, with a focus on the effects in the countries belonging to the Economic Community of West African States (ECOWAS). What regulations will the EPA:s have concerning fisheries and what effects may these regulations have on the states of ECOWAS?

## *1.2 Delimitations*

The paper focuses on West Africa. The waters outside the African west coast are important to the EU since they contain many species of fish and the fisheries sector is important in many of the West African states, contributing with foreign exchange, food for the population and work opportunities. The fisheries aspect in an EPA between the EU and West Africa would thus be of importance to both regions, making it interesting to evaluate. The paper mainly focuses on the parts concerning fisheries in an EPA and does for that reason not intend to give a full picture of all aspects of signing an EPA. Some general points are however mentioned, since some effects on the fisheries sector are the same for other sectors as well. The paper focuses on the

fishing taking place outside the coastline of West Africa and does not analyse lake fishing or aquaculture production, this because the fisheries agreements and the EPA do not regulate these types of fishing. Since it is difficult to find statistics that only show exports and revenues from sea fishing, the figures in the paper also contain information about lake fishing and aquaculture. The expression “countries in West Africa” and other similar expressions are referring to the countries belonging to ECOWAS.

### *1.3 Structure*

The paper starts with a presentation in section 2 of the EPA and fishing agreements. This section contains a description of the EU fishing policy and the fishing agreements that the EU has with developing countries. This is followed by a presentation of the Cotonou Agreement and the EPA and for a better understanding the EU-preferences towards developing countries are first briefly introduced. The section is concluded with a detailed presentation of the fisheries sector in the EPA:s. Section 3 focuses on ECOWAS and presents general facts concerning the region and the role of fisheries in it, as well as the fishing agreements that currently exist between the EU and individual countries within ECOWAS. Section 4 analyses problems and possibilities of signing an EPA, both general effects and the more specific effects that concern fisheries. The paper is completed with a conclusion in section 5.

## 2 EPA and fishing agreements

### *2.1 EU Fishing Agreements*

The EU is after China the biggest supplier of fish in the world.<sup>1</sup> It is defined as a single fishing nation, and the fishing zone available for the union is labeled Community waters, which refers to the waters within 200 miles of the coastlines of the EU (that is, the economic exclusive zone, EEZ<sup>2</sup>).<sup>3</sup> The inhabitants of the union consume more than the region can produce, making the EU a net importer of fish and fish products. The fish sector is a large source of employment and is vital for the development of the union, even if its contribution to the gross domestic product (GDP) of the member states often is less than one percent.<sup>4</sup> Until 1983, the EU agreements concerning fisheries and fish products were sorted under the Common Agricultural Policy. Since then a separate policy has emerged, the Common Fisheries Policy (CFP), which only deals with issues concerning fisheries. Since the CFP failed to maintain a balance between resources and fishing quantities, the EU has become dependent on fishing in waters bordering other countries.<sup>5</sup> A reform of the CFP was enforced in 2002 due to the mentioned problem concerning overfishing, which made the goals of the CFP more long-term oriented and strengthened the control mechanisms of the policy.<sup>6</sup> The main pillars of the CFP are to protect fish resources, to help the fishing industries adopt necessary measures to secure the fish resources, to maintain a common market and to set up international fisheries agreements.<sup>7</sup>

Since the EU is dependent on having access to other countries' fishing waters, it signs bilateral fishing agreements with third countries or with international organisations.

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<sup>1</sup> European Commission (2) 2008-11-12

<sup>2</sup> The Economic Exclusive Zone is guaranteed in the United Nations Convention on the Law of the Sea and is defined as an area 200 miles outside the coast of a state over which this state has the sovereign right to utilise the marine resources and the responsibility to guarantee the protection of the marine environment. This is applicable to all coastal states in the world. (United Nations Convention on the Law of the Sea, article 55 and 56)

<sup>3</sup> Gorez & O'Riordan, 2003, p 6

<sup>4</sup> European Commission (2) 2008-11-12

<sup>5</sup> Gorez & O'Riordan, 2003, p 4

<sup>6</sup> European Commission (1) 2008-11-12

<sup>7</sup> Gorez & O'Riordan, 2003, p 6

These agreements establish guidelines for access of EU fleets to the waters of the concerned countries.<sup>8</sup> This is important for the union, firstly because it increases the union's supply of fish, secondly because it provides employment possibilities for many Europeans,<sup>9</sup> and thirdly because it moves the over-capacity of the EU fleet to waters outside the union, reducing the pressure on strained marine resources in the EU.<sup>10</sup> After the reform of the CFP, these agreements have taken the form of Fisheries Partnership Agreements (FPA). Instead of merely giving a financial contribution in return for access to the fishing waters, the FPA:s are instruments to help developing countries generate sustainable fishing policies.<sup>11</sup> The EU also signs agreements with adjacent countries, such as Norway and Iceland, that regulate reciprocal exchanges of fishery quotas.<sup>12</sup>

### **2.1.1 Fishing agreements between EU and ACP-countries**

The fishing agreements between the EU and ACP-countries can be divided into three categories – firstly those that fall under the Cotonou Agreement, secondly the bilateral FPA:s and thirdly the bilateral trade relations that are to be replaced by EPA:s (the last category is presented under 2.3). Under the Cotonou Agreement, the EU is financing initiatives in ACP-countries concerning sustainable development of aquatic resources. The FPA:s were initiated in the 1970s and were originally agreements between one state in the EU and one state in the ACP-group, but in most cases they are now agreements between the EU on the one hand and single ACP-countries on the other. These include, as mentioned above, access for EU fleets to waters bordering ACP-countries and financial support for developing more sustainable fishing policies. The intention is that the EU ships should fish in waters that the vessels of the coastal state do not use, i.e. the surplus resources. There is however a problem in monitoring that the EU ships only fish from the surplus resources, since the ACP-countries often lack the adequate knowledge and equipment to safeguard their fish resources.<sup>13</sup> It is also

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<sup>8</sup> European Commission (4) 2008-11-12

<sup>9</sup> European Commission (5) 2008-11-12

<sup>10</sup> Hughes, 2004, p 19

<sup>11</sup> European Commission (5) 2008-11-12

<sup>12</sup> Hughes, 2004, p 20

<sup>13</sup> Agritrade (2) 2008-12-03

hard to define surplus resources when the agreements concern fish that move across large distances and for that reason are hard to define as belonging to a single coastal state.<sup>14</sup> This has led to attempts of the EU to sign agreements corresponding to the movements of these species, in particular the tuna.<sup>15</sup>

The agreements are negotiated between the European Commission and the government of the ACP-country. The more general regulations are stipulated in the agreement, but the specific details, such as the extent of the EU access to the fishing waters, if some of the capture should be landed in harbours of the coastal state and the number of vessels, are controlled in separate protocols. The economic compensation from the EU is also stipulated here, where a part of the payment is earmarked for research and the promotion of local fisheries. Since 2004, aspects concerning influence from EU-fishing on the coastal state, both environmentally and socially, have an influence on the level of economic compensation. The foreign vessels are also obligated to pay license duties to the coastal state, based on both the size of the capture and the duration of the license. It is the duty of the ACP-state to guarantee the supervision of the agreement. The protocols have limited validity periods and are re-negotiated when needed.<sup>16</sup>

There are both advantages and disadvantages for developing countries signing these fisheries agreements with the EU. One reason to sign an agreement is to exploit comparative advantages. Since the foreign fleets are more developed and can catch larger shares of fish at lower costs, the coastal state can earn money by selling the fishing rights instead of using them itself. The whole country may gain from this, but individual groups may lose. This can be compensated by a fair distribution of the revenues from the agreement. The positive effects of the agreements may be technological exchange and increased income, whereas the negative may be economic

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<sup>14</sup> Lövin, 2007, p 139

<sup>15</sup> Hughes, 2004, p 21

<sup>16</sup> Ibid, p 22-23, 25-26 & 54

dependence and risks of over-fishing. The possibility of rent-seeking activities in the coastal states in favour of or against signing agreements exists.<sup>17</sup>

## 2.2 EPA

### 2.2.1 EU preferences towards developing countries

There are three sets of EU preferences (i.e. preferential trade agreements) that aim towards developing countries. These preferences intend to favour exports from the developing countries and to encourage export diversification. The most generous set of preferences is the ACP-system, which was created in order for the EU to contribute to the development of its former colonies. The system involves non-reciprocal trade preferences from the EU to ACP-countries, with the exception of certain products such as bananas, beef and sugar.<sup>18</sup> The EU has close relations with the Mediterranean countries through the EU-Mediterranean partnership. This partnership will result in an EU-Mediterranean free trade area, consisting of a free trade agreement between the EU and the Mediterranean countries on the one hand and similar agreements among the Mediterranean states on the other.<sup>19</sup>

The system that includes all developing countries is called General System of Preferences (GSP) and it defines non-sensitive products that can be exported duty-free, as well as sensitive products that have reduced tariff-rates. These preferences can be lost if the country attains certain market shares or is no longer considered a low-income country by the World Bank.<sup>20</sup> Countries that benefit from the GSP can receive additional preferences. If they belong to the group of least developed countries (LDC:s), they can export all goods except arms and ammunition duty-free to the EU since 2001, according to the Everything But Arms-initiative (EBA). Apart from arms and ammunition, sugar and rice are also excluded from the duty-free commodities in

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<sup>17</sup> Hughes, 2004, p 12-14

<sup>18</sup> Panagariya, 2002, p 1419-1420

<sup>19</sup> Ibid, p 1418-1419

<sup>20</sup> Ibid, p 1422

the EBA.<sup>21</sup> There are also special arrangements for countries combating drug production and trafficking.<sup>22</sup>

The most beneficial preferences are found in the relations between the EU and the ACP-group, while the relations between the EU and the Mediterranean countries were designed to be similar to those with the ACP-group, with the exception of ACP-countries having better access to EU-markets for some products. Concerning the relationship between the ACP-group, the Mediterranean group and the GSP, both ACP- and Mediterranean-group members receive better preferences concerning commodity coverage and preferences for these groups are contractual, making them more certain.<sup>23</sup> Trade preferences have changed since the systems were initiated, making the systems hard to compare.

### **2.2.2 Cotonou and EPA**

The Cotonou Agreement followed the Lomé conventions that had set the guidelines for EU-ACP co-operations since 1973. The Lomé conventions created the ACP-group of today,<sup>24</sup> and introduced stabilising funds, mutual obligations concerning human rights and non-reciprocal trade agreements. The problem was that the conventions were not compatible with the regulations of the World Trade Organisation (WTO).<sup>25</sup> They violated the Most Favoured Nation (MFN) principle<sup>26</sup>, since they were more generous to the ACP-group than other developing countries. Due to their non-reciprocal character they could not be considered free trade agreements and could thus not exist as an exception to the MFN-principle.<sup>27</sup>

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<sup>21</sup> European Commission (3) 2008-11-03

<sup>22</sup> Persson & Wilhelmsson, 2007, p 5

<sup>23</sup> Persson & Wilhelmsson, 2007, p 6-7

<sup>24</sup> ECDPM, 2002

<sup>25</sup> Ibid

<sup>26</sup> The Most Favoured Nation-principle means that a state that trades with another state has the right to be granted all trade advantages that any other state receives. It is thus not possible to treat one state better than another. This principle is a keystone in the WTO and the only exceptions from it are preferences towards developing countries, free trade areas and customs unions.

<sup>27</sup> ECDPM, 2002

The Cotonou Agreement was signed in 2000 by 77 ACP-states and the at that time 15 members of the EU for a period of 20 years.<sup>28</sup> The main objectives are to reduce poverty and to integrate the ACP-countries in the world economy. Essential elements are human rights, democracy and good governance, and the objective of strengthening regional co-operation.<sup>29</sup> One innovation in the new agreement is the recognised importance of the private sector, another is a more efficient and direct form of aid distribution.<sup>30</sup> The stabilisation funds from the Lomé conventions were liquidated since the money were not used as intended, the inflow of capital gave rise to an appreciation of the real exchange rate and made it harder for the developing countries to diversify their exports. The most fundamental change compared with the previous agreements is the abolition of non-reciprocal trade preferences and the introduction of economic partnership agreements, EPA:s, which are to be constructed as free trade areas<sup>31</sup> in order to be compatible with the rules of WTO.<sup>32</sup>

The EPA:s are supposed to remove the barriers of trade between the ACP-group and the EU. The ACP-group has been divided into six regional groups that each negotiates EPA:s, but individual countries that are in position to do so may negotiate individual EPA:s.<sup>33</sup> The negotiations were initiated in 2002 and the EPA:s were to come into force in 2008. The process included stronger regional integration and the creation of free trade areas, with a successive abolition of trade barriers, starting in 2008 with an estimated completion in 2020. The EPA:s will result in reciprocal free trade agreements, meaning that both parties can export their commodities duty-free.<sup>34</sup> The Caribbean region (CARIFORUM) is the only region that by January 2008 had signed an EPA with the EU. Most non-LDC:s in Africa and two in the Pacific have signed

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<sup>28</sup> Bourdet & Petersson, 2007, p 114

<sup>29</sup> Salama & Dearden, 2001, p 12, 15 & 17

<sup>30</sup> Ibid, p 13

<sup>31</sup> In a free trade area the member states remove barriers of trade between themselves but keep individual barriers toward non-members of the agreement.

<sup>32</sup> Bourdet & Petersson, 2007, p 110 & 115

<sup>33</sup> Salama & Dearden, 2001, p 19 & 21

<sup>34</sup> Bourdet & Petersson, 2007, p 115-116

interim agreements with the EU, in order not to violate the rules of the WTO.<sup>35</sup> The countries that have not signed EPA:s or other agreements will export under either the EBA-initiative, if they are considered LDC:s, or under the GSP. The latter will though imply higher tariff rates.<sup>36</sup>

There are a number of reasons why the negotiating partners have not been able to come to an agreement. One is the extent of trade liberalisation. To be compatible with the WTO, a free trade area has to cover almost all trade. There has been discussions over how much this should include and if it concerns agricultural products, which the EU protects and many developing countries want to export.<sup>37</sup> Another important issue is tax revenues levied on foreign trade, which are vital for governments in developing countries. The liberalisation of trade-related services and the implementation of the so-called Singapore issues – investment, trade facilitation, competition policy and transparency – are other factors that obstruct the reaching of an agreement.<sup>38</sup>

### *2.3 EPA and fishing agreements*

Fishing and fish products are mentioned in article 53 of the Cotonou Agreement, where it is said that fishery agreements shall be negotiated, with the aim of guaranteeing sustainable and mutually satisfactory conditions for fishing activities. It is stated that discrimination towards any part of the agreement is prohibited.<sup>39</sup> One interim EPA (IEPA) between the EU and the East African Community and one between the EU and Eastern and Southern Africa have been signed and they both contain separate fisheries chapters. These two IEPA fisheries chapters are identical. Other IEPA:s have not highlighted the importance of the fisheries sector in this way. The only full EPA that has been signed, the one between the EU and CARIFORUM, does not have a separate fisheries chapter. Instead the agreements concerning fish are

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<sup>35</sup> Interim Economic Partnership Agreements can be signed between the EU and ACP-countries that have reached an agreement with the EU concerning trade in goods. These are to be followed by full EPA:s that also cover liberalisation of services and the Singapore issues.

<sup>36</sup> ACP-EU-trade (1) 2008-11-08

<sup>37</sup> Salama & Dearden, 2001, p 21

<sup>38</sup> Hinkle et al, 2006, p 268 & 274

<sup>39</sup> The Cotonou Agreement, article 53

found under the chapter concerning agriculture. This makes it more flexible, since the funding from the EU can be directed towards specific needs at specific times, but other sectors can be prioritised on behalf of the fish sector, depending on priority shifts in the EU or in the CARIFORUM-country.<sup>40</sup>

The general aim concerning fisheries co-operation, stated in the two IEPA:s, is to promote sustainable development and management in fisheries. This vague intention is backed up by several direct obligations for both parties of the agreement. Among the regulations in the chapter are:<sup>41</sup>

- A precautionary approach to avoid over-fishing, but the coastal states often lack the necessary means to observe it. It is however stipulated that the EU shall assist the partner countries in installing and running monitoring systems and other mechanisms needed for surveillance of vessels. Both parties must agree on the systems and required assistance, and of importance is that these systems are non-discriminatory (i.e. that they apply equally to domestic vessels and EU vessels).
- A possibility for the coastal state to imply unilateral fisheries restrictions, but only within twelve miles from the coast. This contradicts the United Nations Convention on the Law of the Sea, which gives the coastal state control over the whole EEZ, 200 miles from the coast, and it is hard to observe, since most fishing vessels transcend the 12-mile limit.
- Responsibility over vessels flying the flags of the signing countries. This might lead to more controls on catch reports.
- A requirement to land catches from the EEZ of the coastal state in ports or outer-port areas (i.e. direct from fishing vessels to carrier vessels). This implies that the fish caught within the EEZ might never reach the port in the state and the intended development of the coastal state's harbours might not take place. Another article states that if the EU transports the fish to the local harbour, it should make use of local goods and services.

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<sup>40</sup> Campling, 2008, p 2, 6 & 7

<sup>41</sup> Ibid, p 2-5

- An exhortation to use selective fishing measures to avoid by-catches and, if this is not possible, the parties should as far as possible try to bring the by-catches to the harbours of the coastal states.
- Promotion of local fisheries.

Concerning financial undertakings, the general agreement stipulates that the EU shall contribute with financial assistance to ease the implementation of the IEPA. The outcome of this depends of course on available economic resources. It is not clear if there exist other funds than the European Development Fund, which finances all ACP-countries under the Cotonou Agreement, regardless of eventual EPA:s.<sup>42</sup>

The EPA with CARIFORUM does not, as mentioned, have a separate fisheries chapter and only offers general directives and limited mandatory obligations for the EU concerning technical or financial assistance in development of fisheries. A possibility for CARIFORUM states to impose safeguard measures, if the removal of trade barriers causes significant harm on producers in the agricultural and fisheries sector, exists and similar possibilities exist in the IEPA:s as well.<sup>43</sup>

Concerning Sanitary and Phytosanitary (SPS) measures, which set standards for food safety and animal health, no changes have been made between the Cotonou Agreement and the EPA/IEPA:s. This because the regulations in these agreements are secondary to the general SPS measures, which are non-negotiable. They can, however, be used as non-tariff barriers, since the implementation of the rules often is expensive and difficult, favouring producers in the EU, even though these may be less efficient. An example of a SPS-rule concerning fisheries is that only fish supplies from vessels that are registered and accepted by a certain authority count as SPS-compliant. Countries that do not have access to these vessels have difficulties in supplying acceptable products. The EU and the ACP-countries have both recognised the problem and the

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<sup>42</sup> Campling, 2008, p 6

<sup>43</sup> Ibid, p 6-7

EU has made commitments in EPA negotiations to fund implementation of programmes designed to help the partner countries supply SPS-approved fish.<sup>44</sup>

### **2.3.1 Rules of Origin**

Rules of Origin (RoO) are important in international trade, since they determine the “economic nationality” of a good instead of the geographic location. This is especially important when one trades with more complex goods that require inputs from many different countries.<sup>45</sup> RoO thus demand that a certain percentage of the processing of a good should be made in the export country, rather than the good being channelled through the territory of a country by a third country having less favourable market access. This transshipment prevention is one aspect of the RoO, another is the tendency to use RoO as non-tariff barriers to protect sensitive sectors. The latter is more likely to occur between unequal trading partners in for example economic size or development.<sup>46</sup> There are disagreements between the ACP-countries and the EU concerning types of RoO. The ACP-countries prefer a “change of tariff heading”, which means that a finished product is to be classified differently than any of the inputs being used in the manufacturing process. This is seen as easier and less expensive to administer. The EU favours the value-added approach, which determines origin based on a certain amount of production value that must be added locally. The latter system is, according to its advocaters, easier to negotiate and allows a more transparent system of trade agreements.<sup>47</sup>

The Cotonou Agreement provides duty-free exports of fish and fish products to the EU-market, giving that the exporting countries follow the stipulated RoO. If they can not follow these RoO, the country will have to export according to MFN-tariffs, and this causes higher dependence on the EU according to the ACP-countries.<sup>48</sup> RoO under the Cotonou Agreement can be perceived as onerous, if nothing else because of the mandatory demonstration of compliance with the rules, which requires a well-

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<sup>44</sup> Campling, 2008, p 21-22 and Senior Nello, 2005, p 363

<sup>45</sup> Naumann, 2005, p 4

<sup>46</sup> Naumann, 2008, p 4

<sup>47</sup> Naumann 2005, p 5 and Agritrade (3) 2008-12-06

<sup>48</sup> ICTSD (1) 2008-11-30

functioning administration. The most exigent RoO are found in the fisheries and textiles sectors.<sup>49</sup> The RoO in the IEPA:s and EPA were to be modified, from the ones under the Cotonou Agreement to more simple and transparent ones, but this has not been implemented, partly due to time shortages when signing the agreements.<sup>50</sup> Instead, most IEPA:s have review clauses stating that future negotiations on simplifying the RoO are to take place.<sup>51</sup>

There are not many changes in the IEPA concerning “wholly obtained” fish compared with the regulations in the Cotonou Agreement. The rules concerning origin of the caught fish still apply, saying that the fish must be caught by qualified vessels (i.e. belonging to any of the parties of the agreement) if it is caught outside the 12-mile limit of territorial waters. The changes concern:<sup>52</sup>

- Crew nationality. It is no longer an obligation that 50 percent of the crew should consist of nationals of the parties of the agreement.
- Vessel ownership, with a loosening of the claim under the Cotonou Agreement. At least 50 percent of the ownership must though still be held by nationals of parties to the agreements. This means a deterioration of conditions for the ACP-states, since the RoO before applied to any vessels belonging to countries among the ACP-states and now only states that have signed the IEPA or EPA can be counted as belonging to the same RoO-area.
- Leased vessels, meaning that ACP-countries can lease vessels that shall be treated as their vessels, if the EU has been offered the right to lease first and has denied this offer. This differs from the Cotonou Agreement, where the ACP-countries had to offer the EU an opportunity to negotiate a fisheries agreement, and could lease vessels from other countries if the EU did not accept the negotiation offer.

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<sup>49</sup> Naumann, 2005, p 8-9

<sup>50</sup> Agritrade (3) 2008-12-06

<sup>51</sup> Campling, 2008, p 9-10

<sup>52</sup> Ibid, p 11-13

Concerning processed fish products, the IEPA:s declare up to 15 percent value tolerance for non-originating inputs in the manufacture of fish products. This is similar to the rules under the Cotonou Agreement, but under the IEPA:s packing material may be non-originating. This results in rules that might be more onerous than their predecessors, since they in effect can lead to lesser access to non-originating fish. A higher non-originating value is allowed in total, but it may be that a lesser proportion of it comes from fish.<sup>53</sup> A special rule was included in the IEPA that has been negotiated between the EU and two Pacific states, which was labeled “global sourcing”-rule and implied that regardless of where the fish is caught, or by which vessel, it shall be considered local if it is processed locally. This is an example of the “change of the tariff heading method” that the ACP-countries prefer. This rule appears to be generous, despite some rules tied to it, but it is, according to the EU, a specific rule only applicable in this IEPA and can not be a guideline for similar rules in other negotiations.<sup>54</sup>

Another aspect regulated in the RoO in IEPA:s is cumulation, which means that countries jointly can meet the stipulated RoO-demands. The Cotonou Agreement stated that processing undertaken in an ACP-state could be considered processed in any other state belonging to the ACP-group.<sup>55</sup> This will be more limited in IEPA:s since only the states in the region signing the IEPA or the EPA will count as states where processing can be considered local. To be able to cumulate, the countries signing EPA:s have to have the same RoO not only vis-a-vis the EU but also vis-a-vis other states signing other EPA:s. This implies that for inter-EPA cumulation, all parties to all agreements must follow the same rules in order to be compatible with the WTO-rules. Cumulation within potential EPA areas is restricted due to the limited signing of IEPA:s (if one country signs an IEPA it does not have the same RoO as the other countries that do not sign an IEPA). Non-signatories fall under GSP-rules (or under the EBA) and GSP does not permit cumulation to the same extent.<sup>56</sup>

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<sup>53</sup> Campling, 2008, p 15-17

<sup>54</sup> Ibid, p 17-18

<sup>55</sup> The Cotonou Agreement, Annex V, Protocol 1, Title II, Article 6 (1 & 11)

<sup>56</sup> Campling, 2008, p 19-20

## 3 Fishing agreements between EU and countries in ECOWAS

### 3.1 ECOWAS

The Economic Community of West African States (ECOWAS)<sup>57</sup> is the negotiating partner for the EU concerning EPA:s in West Africa. ECOWAS consists of 15 member states<sup>58</sup> and in the EPA negotiations Mauritania is also included, even if the country left the community in 2000.<sup>59</sup> Twelve countries in ECOWAS are classified as LDC:s and five of the 15 poorest countries in the world are situated in West Africa. On average 50 percent of the population in the region live below the poverty line (USD 1 per day). The average Human Development Index for the region is low (0,43, to be compared with 0,58 for low-income countries and 0,45 for LDC:s (in 2002)<sup>60</sup>) and overall the region shows high rates of illiteracy and child mortality, and also low life expectancy rates.<sup>61</sup>

Eight of the countries in ECOWAS belong to the West African Economic and Monetary Union (UEMOA, since the original name is Union Economique et Monétaire Ouest-Africaine), which was created in 1994. The union consists of Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo. The countries in UEMOA have a common currency, the CFA franc. The main objectives of UEMOA are to secure macroeconomic stability and create a common market with free movements of goods, labour, services and capital.<sup>62</sup> The countries not belonging to UEMOA all have their own currencies, but they are planning to form a monetary zone, with the intention of merging with the UEMOA at a later stage. The formation of this second group has however been delayed and it is not clear if it will be accomplished at all. The countries within the UEMOA are more integrated with each other than the

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<sup>57</sup> ECOWAS Commission (1) 2008-11-10

<sup>58</sup> These states are Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

<sup>59</sup> Agritrade (1) 2008-11-10

<sup>60</sup> Sanford & Sandhu, 2002, p 27

<sup>61</sup> Busse et al, 2004, p 10-11

<sup>62</sup> UEMOA (1) 2008-11-18

countries in ECOWAS on the whole are, due to implementation of common macro-economic policies and the common currency.<sup>63</sup>

### **3.1.1 Trade in ECOWAS**

Trade within ECOWAS is not very well developed. The creation of UEMOA seems to have a positive effect, but only on trade between countries within UEMOA.<sup>64</sup> Trade with the rest of the African continent has increased and trade with the EU makes up 40 percent of total exports, making ECOWAS the main trading partner with the EU in the ACP-group.<sup>65</sup> Total export volume has increased substantially, with more than 50 percent between 1970 and 2000, but the share of the EU exports has diminished, indicating a diversification effect in ECOWAS export destinations.<sup>66</sup> The main export goods from the region are petrol, cocoa, gold, cotton and fish.<sup>67</sup> The EU is also in terms of imports a significant trading partner with ECOWAS, since more than 40 percent of total imports to the region come from the EU.<sup>68</sup>

Exports from Côte d'Ivoire, Ghana and Nigeria, the three non-LDC countries in ECOWAS, to the EU make up 80 percent of total ECOWAS exports. For this reason it is important for them to sign a new agreement with the EU, since they otherwise will lose the benefits from the ACP-preferences and only belong to the GSP.<sup>69</sup>

### **3.1.2 Fisheries in ECOWAS**

The fisheries sector is important in West Africa for a number of reasons. Exports from the region constitute a large share of total world trade in fish and these exports are a large source of foreign exchange earnings for many countries in ECOWAS. Fish exports from West Africa supply the EU with almost 40 percent of total EU fish imports from ACP-countries.<sup>70</sup> The fisheries sector supplies the inhabitants with important protein, supports rural villages where other forms of income often are scarce

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<sup>63</sup> Agritrade (1) 2008-12-03

<sup>64</sup> Bourdet, 2005, p 18

<sup>65</sup> Agritrade (1) 2008-12-03

<sup>66</sup> Lang, 2006, p 3-4

<sup>67</sup> Ibid, p 7

<sup>68</sup> Alaba, 2006, p 4

<sup>69</sup> Agritrade (1) 2008-11-10

<sup>70</sup> ICTSD (2) 2008-12-07

and the fishing-related activities provide important work opportunities for women.<sup>71</sup> Table 1 shows an overview of fisheries in countries in ECOWAS – fisheries as percentage of GDP, number of people employed, production of fish and value of fish exports. Worth noticing is that many more people than those directly involved in the fisheries sector, which are those presented in table 1, are dependent on the revenues and food security that the sector brings. In for example Senegal approximately 500 000 people indirectly work with fisheries.<sup>72</sup> An explanation for the relatively low export earnings compared to the second and third column (fisheries as a percentage of GDP and number of people employed) in some countries could be that a larger share of the catches and processed products are consumed locally.

*Table 1: Overview of fisheries in ECOWAS<sup>73</sup>*

Country	Fisheries as percentage of GDP	Number of people employed	Production (million tonnes)	Exports (thousand USD)
Senegal	2	100 000	406 256	251 700
Guinea	4	80 000	96 571	10 418
Guinea-Bissau	3,7	16 000	6 200	4 570
Ghana	3	210 000	393 428	82 473
Côte d'Ivoire	0,2	70 000	55 868	103 500
Benin	3	50 000	38 407	997
Cape Verde Islands	1,8	45 000	7 742	7 200
Gambia	2,5	30 000	32 000	919
Liberia	3,2	11 000	10 000	702
Nigeria	1,5	800 000	579 537	56 800
Sierra Leone	9,4	160 000	145 993	13 000
Togo	4	10 000	29 267	2 420
Mauritania	11	37 000	247 577	157 200

<sup>71</sup> Bartels et al, 2007, p 35

<sup>72</sup> West Africa Trade Hub Country Profiles (1) 2009-01-14

<sup>73</sup> Mauritania is not a member of ECOWAS, but participates in the EPA negotiations. Mali, Burkina Faso and Niger are landlocked countries and are thus not presented in the table. The third column represents people directly working in the fisheries sector, for example on the vessels or in the harbours. Production and exports (fourth and fifth column) also include production and exports of lake fishing and aquaculture production, since finding statistics only for sea fishing were not possible.

Table made by the author out of information from FAO Country Profiles at

<http://www.fao.org/fishery/countryprofiles/search/en> 2009-01-11 and West Africa Trade Hub Country Profiles at [http://www.watradehub.com/index.php?option=com\\_wrapper&Itemid=245](http://www.watradehub.com/index.php?option=com_wrapper&Itemid=245) 2009-01-13

The information is collected in different years. Other sources may give other figures.

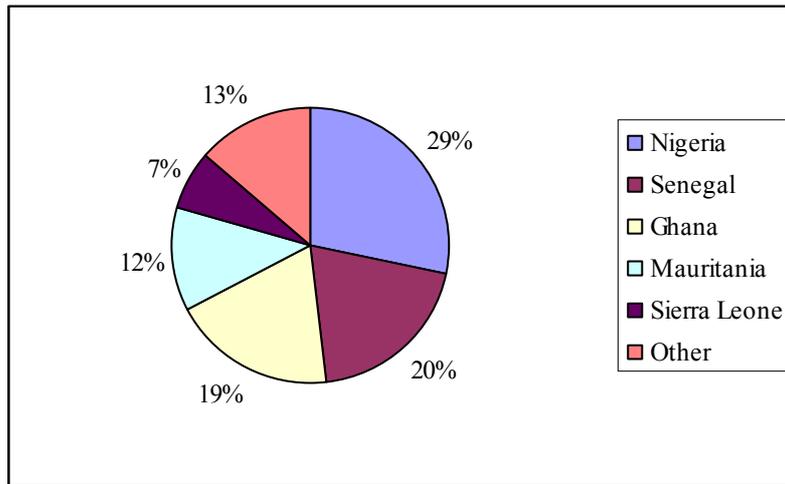


Figure 1: The largest producers of fish in ECOWAS

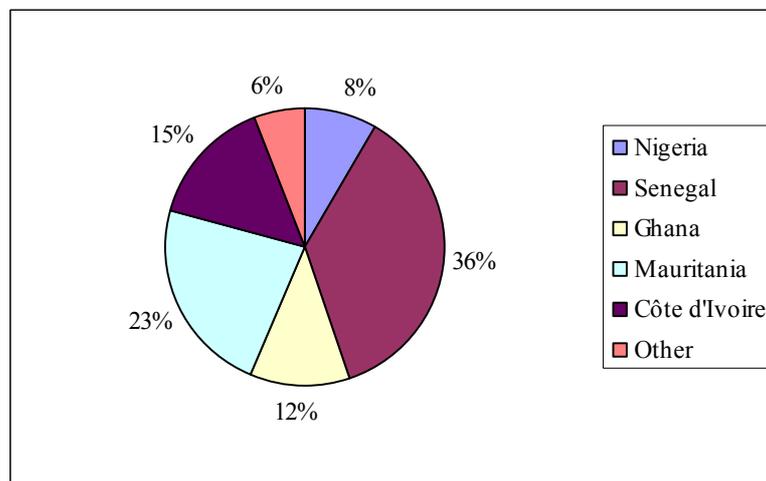


Figure 2: The largest exporters of fish in ECOWAS<sup>74</sup>

Figure 1 and 2 present the largest producers and the largest exporters of fish in ECOWAS. One may notice that Côte d'Ivoire is one of the largest exporters even if the fisheries contribution to the GDP of the country is very small. This could be explained with the fact that the numbers were collected different years. The civil war in Côte d'Ivoire has led to a decrease in the influence of fisheries on GDP from 1,5 percent to 0,2 percent, due to the shutdown of a processing factory.<sup>75</sup>

<sup>74</sup> Both figures made by author with data from the table on page 21

<sup>75</sup> West Africa Trade Hub Country Profiles (1) 2009-01-16

The waters outside West Africa are used by on the one hand small-scale fishermen near the coastlines, on the other hand larger vessels, both domestic, regional and from the EU and Asia, that fish further from land under different kinds of fishing agreements. The large modern vessels mainly catch the tuna, while the domestic small-scale fishermen are engaged in mixed fishing, catching squid, shrimps and various demersal species. Small control possibilities and the fact that international vessels sometimes intervene in the coastal area and catch the fishes reserved for the domestic fishermen, make over-fishing common. Illegal fishing exists, which further increases the risks of over-exploitation.<sup>76</sup>

Six states on the African west coast (Gambia, Guinea, Guinea-Bissau, Mauretania, Senegal and Sierra Leone) and the Cape Verde Islands belong to The Commission Sous-Regionale des Pêches, CSRP (the sub-regional fishing commission). The major goals of the CSRP are to contribute to the economic and social development of the region, enhance the degree of regional co-operation and facilitate the development of common policies between the member states concerning international issues.<sup>77</sup> Since many states have ineffective fisheries policies or no policies at all, various attempts have been made in order to make them more efficient and coherent; among these are efforts to diminish tariffs and non-tariff barriers between the countries and an attempt to introduce a common trade policy. Apart from the CSRP, these initiatives of synchronising the fisheries policies have failed.<sup>78</sup>

### *3.2 Fishing agreements between EU and ECOWAS*

Since the 1970s, when the EEZ were defined and the waters, which were previously opened to everyone, became under the jurisdiction of the coastal states, the EU has had interests in signing fisheries agreements with the countries in West Africa. The agreements were signed as protocols with a duration time of two to three years, and only included direct payment from the EU in exchange for fishing rights. These

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<sup>76</sup> Bartels et al, 2007, p 31-35

<sup>77</sup> CSRP (1) 2008-11-12

<sup>78</sup> FAO, 2008, p 34-35

agreements became criticised for a number of reasons – contribution to over-fishing, lack of control over foreign vessels and reduced income for local fishermen due to non-existing possibilities of competing with the foreign fleets. The increasing awareness of the importance of protecting sustainable development led to the mentioned reform of the CFP and agreements that reached beyond just a financial contribution (see sections 2.1 and 2.1.1).<sup>79</sup>

The EU has today fishing agreements with the following countries in ECOWAS: the Cape Verde Islands, Côte d'Ivoire, Guinea and Guinea-Bissau. There have been agreements with Senegal and Gambia, but these are no longer in force and no new agreements have been signed. The EU has an agreement with Mauritania as well.<sup>80</sup> An example of an agreement was the former understanding with Senegal, where the EU was granted access to the fishing waters outside Senegal in exchange for €64 million, of which 18 percent were earmarked for financing research development and promotion of the local fisheries. Obligations following the agreement were 1) that at least half of the crew should be Senegalese, 2) that it was forbidden to fish during two months every year to ensure fish reproduction and 3) that EU vessels were forced to leave some of their catches in Senegalese harbours.<sup>81</sup> The former agreement has been replaced by private licenses between Senegal and the EU.<sup>82</sup>

Côte d'Ivoire became the first country in Africa to sign an IEPA and 80 percent of the taxes on imports will be levied within 15 years. Also Ghana has signed an IEPA, with more products being excluded from the list of products that shall be free from import taxes.<sup>83</sup> Neither of them includes a specific fisheries chapter.<sup>84</sup> There has been discussion if these IEPA:s will hinder or facilitate an EPA between ECOWAS and the EU and how it will influence the process of regional integration in West Africa.<sup>85</sup>

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<sup>79</sup> Bartels et al, 2007, p 58-63

<sup>80</sup> European Commission (5) 2008-12-03

<sup>81</sup> Hughes, 2004, p 53-54

<sup>82</sup> Walmsley et al, 2007, p 68

<sup>83</sup> Agritrade (4) 2009-01-05

<sup>84</sup> Campling, 2008, p 2

<sup>85</sup> Agritrade (4) 2009-01-05

## 4 Possibilities and problems of signing EPA:s

West Africa is a fragmented region in many aspects. It has different currencies, different official languages and different opinions regarding level of trade protection. The countries within the region also differ according to economic development, debt burden and geographic conditions. There are thus many interests that should be merged into one EPA, but the countries agree that the EPA should be signed between ECOWAS and the EU.<sup>86</sup> The negotiating process has however not been without frictions. Having not being able to reach an agreement before the end of 2007, the ECOWAS-countries asked the EU for a waiver (i.e. continuing to export under conditions set in the Cotonou Agreement) and thus a chance to solve the problems, but the EU denied them this waiver. Meanwhile Ghana and Côte d'Ivoire signed IEPA:s with the EU, making a full EPA with all members of ECOWAS even harder to achieve. Most LDC:s do not want to sign an EPA since they can continue to export duty-free to the EU under EBA. Nigeria wants to receive preferences similar to those under the Cotonou Agreement, something the EU has denied.<sup>87</sup> There obviously exist large obstacles to overcome and the diversion within the region does not facilitate regional co-operation and development.

The mentioned fragmentation may affect the outcome of signing an EPA, since one of the effects of this fragmentation is poorly integrated regional markets. Not much trade is taken place regionally and there are many obstacles in terms of different currencies, tariffs and non-trade barriers, making regional integration difficult. One step towards it may be if UEMOA is merged with the countries now standing outside it and the whole ECOWAS-region gets a common currency, but this is a long and difficult process. Different levels of infrastructure also obstruct regional integration and equal market access. Another obstacle is the different levels and structures of tariffs – even if the tariff rates are relatively similar in ECOWAS, Nigeria's rates are almost three times higher than the rates of UEMOA.<sup>88</sup> ECOWAS has at different times tried to

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<sup>86</sup> Agritrade (1) 2008-12-03

<sup>87</sup> Consolata Missionares (1) 2008-12-21

<sup>88</sup> Ibid 2008-12-21

install common external tariffs, similar to the tariffs in UEMOA, but many non-members of the UEMOA have not respected these.<sup>89</sup> Large differences also exist concerning the structure of tariffs. This may lead to adjustment problems when an EPA is signed and the tariffs shall be abolished between the EU and ECOWAS. The signing of an EPA could however be a mean towards further integration since it can act as a catalyst for the integration project, influencing the integration structure in ways that are compatible with the EPA and contributes to further economic development.<sup>90</sup>

Some effects of signing an EPA may be:

**Market access:** EPA:s can contribute to better market access than the EBA- or GSP-alternatives by more liberal RoO and certainty of access. More favourable RoO could lead to exports of more complex products from the ACP-countries and the preserved cumulation right from all countries in the ACP-group could further encourage this export diversification. The EPA could guarantee better market access for certain products, since they do not have to be reviewed and evaluated as under the GSP. An EPA can also be beneficial to a LDC-country, since it can, when it is no longer considered an LDC, be removed from the EBA-privileges.<sup>91</sup> The ECOWAS has, as mentioned, many LDC-countries that export under the EBA-initiative, and for them a signing of an EPA is not very beneficial in terms of increased market access, but the EPA will guarantee that this market access is not removed. Increased market access is maybe not the only ingredient for a successful result; it is, in order to prevent domestic industries from lobbying for import tariffs to protect their own production, also important to strengthen domestic supply capacity. This can be done through investments in infrastructure and human capital.<sup>92</sup>

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<sup>89</sup> Alaba, 2006, p 10-11

<sup>90</sup> Bourdet, 2005, p 33

<sup>91</sup> Hinkle et al, 2006, p 276-277

<sup>92</sup> Alaba, 2006, p 18-19

**Exports:** One positive thing with signing the agreement is that a more long-term approach is possible since the terms are signed in a binding treaty and cannot, as with the preferences under the EBA or GSP, be withdrawn. This makes it easier to plan long-term export business.<sup>93</sup> The more favourable export rules can encourage fishermen to export their catches instead of selling them on the domestic markets, leading to a lack of fish and thus higher prices in the coastal country. This is good for the government, as fish contributes with a lot of export revenues in many ECOWAS-countries, but leads to losses for the inhabitants. If fish is to be categorised as a sensitive product in the EPA, and thus not part of the products fully liberalised, this protection of local producers might increase local production. As an example, Senegalese fish products may be excluded from this list of sensitive products, which raise concern considering the government revenue loss that the country faces. The country can still export duty-free, since it is an LDC, but once it is no longer classified as an LDC it will have to pay export tariffs, if fish is classified a sensitive product.<sup>94</sup> If the tariffs that are agreed upon in the EPA are set higher than MFN-tariffs (which the country will face once it is no longer an LDC), Senegal can be less willing to sign an EPA. Since Senegal is the largest exporter of fish and fish products in ECOWAS, the classification of Senegalese fish in the EPA is of great importance. This of course also applies to the other ECOWAS-countries where fish exports are important, notably Mauritania, where fisheries account for around ten percent of the GDP.

Since the EU gets free access to the markets of the countries in ECOWAS, some critics argue that the local markets will get flooded by EU exports and that the domestic industries will not be competitive enough to survive.<sup>95</sup> This is something that can be at least partly avoided by a transition period where the domestic countries adopt new production techniques to become more competitive. This free export possibility may also lead to trade diversion, in the sense that countries in ECOWAS will buy more expensive products from the EU, since they are free from tariffs, rather than cheaper products from other third countries.

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<sup>93</sup> Busse et al, 2004, p 42-43

<sup>94</sup> Agritrade (5) 2009-01-16

<sup>95</sup> ICTSD (4) 2009-01-07

**Employment:** With the new agreements follows a deleted requirement of 50 percent nationals in the crew of the vessels. This has implications for the countries in West Africa, where many nationals crew the EU vessels because they are skilled and have lower wages than fishermen from Europe. As shown in table 1 many people in for example Senegal and Sierra Leone are totally dependent on the incomes generated through the fisheries sector. With the new rules, these domestic fishermen might become unemployed.<sup>96</sup> This can lead to larger number of migrants, which may cause a greater inflow of illegal immigrants to Europe.<sup>97</sup> If the new agreements can contribute to development of local harbours (see further below) some of the excess labour may find work there. But migration may increase, as mentioned, and measures must be taken to find new work for the unemployed. Migration from the countryside to the cities may also be an effect of the agreements, since there exist few alternative occupations in the rural areas. An alternative scenario is that increased export possibilities to the EU augment local fishing and thus lead to less unemployment. If the EPA leads to more inflow of technical knowledge from the EU to ECOWAS, the technological development of the fishing industry may lead to unemployment for those who for different reasons cannot use this new technology. The possible technological development may also lead to more expensive boats and other equipments used in fishing and it is important with credit mechanisms or specific aid to help the people that cannot afford it otherwise.

**Government revenue loss:** It is important with financial support from the EU to the countries in ECOWAS to offset the custom revenue losses that will occur when the tariffs are abolished. In for example Gambia, Ghana and the Cape Verde Islands, the abolition of tariffs can lead to a reduction of the government revenues by ten percent.<sup>98</sup> This revenue loss can also be diminished by strengthening other components of the public revenue system after the signing of an EPA and during the transition period that

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<sup>96</sup> Campling, 2008, p 11

<sup>97</sup> Iossa et al, 2008, p 6

<sup>98</sup> Bourdet & Petersson, 2007, p 123

follows.<sup>99</sup> In general it is important with both technical and financial support since many countries in ECOWAS are LDC:s and thus vulnerable to policy changes and large reforms.<sup>100</sup> The shift from FPA:s to EPA:s means that the former economic compensation for access to the fishing waters is replaced with general economic compensation to ease the implementation of the EPA/IEPA. The government will thus still receive money, but the money that was previously earmarked for local development of the fishing industry may now be used for other purposes if the EPA does not contain a separate fisheries chapter.

**Rules of Origin:** The RoO in IEPA:s/EPA do not differ much from the RoO under the Cotonou Agreement. One of the differences is the already mentioned deleted requirement of 50 percent nationals in the crew of the vessels. The more restrictive rules concerning chartering of vessels may be onerous to countries without a domestic commercial fleet, since they now require that the EU has been invited to sign a leasing agreement and has denied this offer before any other parties can be contacted in this matter. This makes it harder to increase the supply of originating fish.<sup>101</sup> The restriction of cumulation possibilities that the RoO cause can have serious implications, since it may affect export possibilities in countries that are dependent on importing inputs or raw material.<sup>102</sup> Another aspect is the new RoO concerning processed fish products, where in theory the Cotonou Agreement gave better access to non-originating products, but the real effects are hard to forecast since the earlier rules were not fully used because of their complexity.<sup>103</sup> It is important for ECOWAS to ensure that the RoO in a future EPA are not used as non-tariff barriers. Since the EU is economically larger and more developed, such a risk exists. The only region that on paper has obtained more favourable RoO concerning processed fish products is the Pacific states, but other states do not have the possibility to have this “global sourcing”-rule.<sup>104</sup> One reason that the EU granted them this benefit is maybe that the

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<sup>99</sup> Hinkle et al, 2006, p 268-273

<sup>100</sup> Busse et al, 2004, p 43

<sup>101</sup> ICTSD (3) 2008-12-26

<sup>102</sup> Ibid 2008-12-26

<sup>103</sup> Campling, 2008, p 17

<sup>104</sup> Campling, 2008, p 17

Pacific states are situated so far from the EU that their waters are less interesting to EU vessels.<sup>105</sup> Despite this, ECOWAS could try to achieve the same benefit, since it clearly contributes to further development of domestic harbours.

**Local development:** One of the intentions in the fisheries chapter in IEPA:s is to promote local development. As mentioned above, the Pacific states have received a RoO that may contribute to local development. Another thing that might contribute to development of local harbours is the requirement to land catches from the EEZ in the ports of the coastal state or in outer-ports. If the fish reaches the port, local goods and services should be used. This can lead to better harbours, with the possibility of inverse causality, since well-developed harbours can attract more vessels and there are thus incentives to invest in order for more vessels to land their catches.<sup>106</sup> Today, many harbours in ECOWAS-countries lack necessary infrastructure and have problems in meeting the hygiene standards that the EU sets as conditional for exporting fish products to the EU.<sup>107</sup> The obligation to land catches in local harbours can however be undermined. In for example Senegal a “Senegalisation” of ships has taken place, where ships fly the Senegalese flag but are financed and run from the EU, which means that they do not have to land any catches in Senegalese ports.<sup>108</sup> Another problem could be if the liberalisation of the fisheries sector leads to an increase of European processing companies in the local harbours and thus an elimination of less effective domestic industries.<sup>109</sup> The local harbours may also play a part since by-catches should as far as possible be landed in local ports. This might not be totally positive for the coastal state, since the by-catches often are cheap and of low quality and may for those reasons disrupt local markets and not serve as good quality food for the population. The tendency not to report by-catches properly also leads to problems for the coastal state concerning control of caught species.<sup>110</sup>

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<sup>105</sup> Naumann, 2008, p 8

<sup>106</sup> Campling, 2008, p 4

<sup>107</sup> Agritrade (2) 2008-12-30

<sup>108</sup> Iossa et al, 2008, p 8-9

<sup>109</sup> Ibid, p 12

<sup>110</sup> Campling, 2008, p 5

**Sustainable development:** Another main intention of the fisheries chapter is to promote sustainable development. There exists a precautionary approach to avoid over-fishing, with the monitoring problem previously described. A positive aspect with this precautionary approach is that it is mandatory and points out the negative effects of over-fishing and its impacts on ecosystems. It is thus important with co-operation between the signing partners in order to install good monitoring systems and fulfil this safeguarding approach.<sup>111</sup> Another important aspect is the development of local fisheries and societies, and it is vital to consider other things than strictly economic outcomes in order to promote sustainable development. One such thing is to ensure food security for the inhabitants of the coastal state, which is closely linked with the reduction of over-fishing.<sup>112</sup>

It is essential to consider the large differences that exist in almost every aspect between the EU and ECOWAS. These may make it harder to form fair agreements that promote sustainable development, since one part may be in greater need of certain aspects of the agreement than the other. In the case of fisheries, the countries in ECOWAS are more dependent on the inflow of foreign exchange that the fisheries sector generates (as mentioned, fisheries often contribute with less than one percent of the GDP for the EU-countries, and in some countries in ECOWAS, this contribution is almost ten percent) and are for that reason maybe prioritising agreements that lead to more revenues instantly but cause over-fishing in the long run.<sup>113</sup> It is important that the signing of the EPA helps the countries in ECOWAS to receive this foreign exchange in a way that does not lead to over-exploitation of the marine resources. Instead of each individual country negotiating with the EU, as is the case with the FPA:s, the countries in West Africa now act as one actor, which maybe makes it easier to sign an agreement that respects the importance of sustainable development.

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<sup>111</sup> Campling, 2008, p 3 & 5

<sup>112</sup> Iossa et al, 2008, p 14

<sup>113</sup> Hughes, 2004, p 35-37

Some problems exist in the specific fisheries chapter in the IEPA:s. One problem is that the rules are not mandatory in most cases. The EU commitments that are stipulated are often weak and do not imply any legal obligations. The rules in the CARIFORUM-EPA that does not have a specific fisheries chapter are even more general, but CARIFORUM can maybe more easily develop an efficient co-operation with the EU in specific questions, since money can be transferred to the areas where it will be used most effectively. This may lead to, as mentioned, lobbying from interest groups trying to protect or promote the sectors of their interests. Another problem with the weak commitments is that the responsibility of monitoring the agreements is put on the coastal states, which often do not have the adequate means. The intended strengthening of the surveillance power of these states is not sufficiently specified or regulated, meaning that the final result may not be as good as the intention. An important thing is that the countries in ECOWAS make sure that the monitoring systems are installed and used on EU vessels as well as domestic ships.

One perplexity in the agreements is the EEZ. In the IEPA:s and the EPA management responsibility of the coastal state is limited to the 12-mile zone outside the country, but this contradicts the United Nation's policy (that reckons that it should include the whole EEZ) and it is hard to regulate. The management responsibility is intended to let the coastal state introduce temporary closures in order to preserve the fish stocks and this limitation of management power can cause problems concerning the intentions of the agreements to create sustainable fisheries policies. The EEZ also plays a crucial role concerning RoO, since automatic origin is given to fish caught within the 12-mile zone, regardless of which vessel that caught it. The ACP-states want to extend this automatic origin to the EEZ, since it now has to be a vessel belonging to any of the signing states that catches the fish within the EEZ if it should get automatic origination. They argue that this is a necessity, since the current regulations protect the EU fleets in restricting the supply of originating fish and that the current definition limits the possibilities of achieving economies of scale, because the processors can not receive adequate amounts of originating fish. The EU, on the other hand, says that if all catches within the EEZ should be originating, the ACP-

states would not have incentives to develop their domestic fleets. This problem has not been solved, even if CARIFORUM has attached a declaration to its EPA, stating that all catches caught in the EEZ and landed in the coastal states should be viewed as originating. This is under negotiation with the EU, and could, if realised, contribute to domestic development. When it comes to leasing of vessels, which is regulated in RoO, the fishing activities undertaken by these vessels performed in the EEZ result in automatic origination.<sup>114</sup> It is confusing when some regulations in the agreements concern the whole EEZ and some just the 12-mile zone outside the coasts of the developing countries.

One final point is the importance of regional agreements and regional aspects of the potential EPA. Because many fish belong to wandering species that overlap the EEZ:s of different countries, the EU has before been able to seek access to these stocks from any of these ECOWAS-countries by signing an FPA with anyone of them. This has led to increased competition between the countries.<sup>115</sup> The signing of an EPA may reduce this competition, since it is signed with the whole region, and the reduced competition may facilitate regional integration and co-operation. Different constellations of countries belonging to ECOWAS have established regional frameworks in order to frame dialogue and co-operation on fishing issues. The whole ECOWAS-region has also proposed a framework agreement for governing the main principles of the fishing sector, ensuring that the regional aspects are not forgotten in the eventual signing of an EPA.<sup>116</sup> The already existing CSRP could be a way of facilitating these efforts in trying to form regional policy instruments.

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<sup>114</sup> Campling, 2008, p 14-15

<sup>115</sup> Iossa et al, 2008, p 15

<sup>116</sup> Ibid, p 14-15

## 5 Conclusions

Signing an EPA can overall give better access to EU markets for the countries in ECOWAS, which is particularly important when the countries no longer are classified as LDC:s and no longer can export under the EBA. In order to achieve a successful outcome of an EPA, it is important to increase the integration within ECOWAS and make the region less fragmented.

The aspect of fisheries in the EPA is of vital importance to many countries in ECOWAS, since they are dependent on exporting fish products to the EU. The EPA and IEPA:s that have been signed with other regions and countries have not shown very large differences concerning regulations on fish and fish products, even if their RoO can be perceived as more onerous than the ones under the Cotonou Agreement. That, and the less generous cumulation rights, may lead to restricted market access for fish products for the countries in ECOWAS. The outcome also depends on if fish is classified as a sensitive product. One problem with the regulations in the EPA and IEPA:s is that they, with few exceptions, are not mandatory, meaning that the intentions may be promising but the results may never show. It is crucial that the coastal states keep, and strengthen, the control of the waters outside their coasts in order to prevent exploitation of the marine resources and it is important that the EU provides sufficient means and knowledge to facilitate this control. For this reason, the article stating that the coastal state should only have control over the 12 mile-zone and not the whole EEZ does not promote sustainable development.

The main intentions behind the EPA:s from the EU point of view are to maintain access to the waters of the ACP-countries, to protect EU interests and to maintain employment in the EU and other socio-economic factors linked to the fishing industry. This can however be hard to combine with promotion of sustainable development of the fish stocks if the ACP-countries lack adequate means to manage their fisheries sectors in a sustainable way. It is also important that there exist clear fisheries policies

that promote development and conservation of ecosystems.<sup>117</sup> Thus, the EPA between EU and ECOWAS clearly can not achieve its goals alone. It is necessary to combine an eventual EPA with development of the fisheries sector in each member country of ECOWAS, as well as to combine it with regional fisheries policies. If the countries of ECOWAS are to benefit from signing an EPA it is important to take into account regional aspects and the risk of over-fishing, and the commitments have to be made mandatory for both parties of the agreement. The outcome also depends on if the jobs that the people in the countries of ECOWAS risk losing can be secured, if the local industries can survive the increased competition and if the RoO are made less restrictive. Last but not least it is important that the region both in general and in aspects specific to fisheries is made less fragmented. In order to achieve these goals the EPA could act both as a mean in facilitating integration and as a goal to the integration process.

One must also recognise that even if the fisheries sector is important to many countries in ECOWAS, there may be other interests that dominate the signing and shaping of the EPA. It is crucial that the interests of all the people and governments that are dependent on the revenues and employment that the fisheries sector supplies are not neglected if the new agreement is to be beneficial in the aspect of fisheries.

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<sup>117</sup> Agritrade (2) 2008-12-30

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# Appendix: Map of ECOWAS

Map of ECOWAS<sup>118</sup>



<sup>118</sup> The World Bank (1) 2009-01-20