

FISHERIES POLICY OF THE EUROPEAN UNION TOWARDS AFRICAN
COUNTRIES:
THE CASES OF MAURITANIA AND NAMIBIA

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ABSTRACT

FISHERIES POLICY OF THE EUROPEAN UNION TOWARDS AFRICAN COUNTRIES: THE CASES OF MAURITANIA AND NAMIBIA

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This thesis analyses the fisheries agreements of the European Union (EU) with African countries. The goal of this study is to find an answer to the following question: Have the fisheries agreements between the European Union and African countries created a win-win situation? Ensuring EU access to the world's main fishing zones and supplying fish to EU's market became the main goals of the EU. Additionally, the EU aimed to contribute to the sustainable development of third states' fisheries. However, due to the over-exploitation of fish stocks in African region by European fishermen, the lack of fish supply to African markets, the low level of payment for fishing rights in comparison to the value of fish caught by the European fishermen in the Exclusive Economic Zones of African countries as well as due to the low level of employment and value added created for African states, these agreements could not create a win-win situation with regards to African states. The outcomes of the cases of Mauritania and Namibia also supported the presumption that EU's Fisheries Agreements favour the interests of the European fisheries stakeholders and powerful coastal states of the Union, rather than serving long term interests of both the EU and African countries at the same time.

Keywords: European Union, Common Fisheries Policy, External Fisheries Relations, Fisheries Agreements, African Countries

ÖZ

AVRUPA BİRLİĞİ'NİN AFRİKA ÜLKELERİNE YÖNELİK BALIKÇILIK POLİTİKASI: MORİTANYA VE NAMİBYA ÖRNEKLERİ

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Bu tez Avrupa Birliği'nin Afrika ülkeleri ile balıkçılık anlaşmalarını analiz etmektedir. Bu çalışmanın amacı Avrupa Birliği ile Afrika ülkeleri arasındaki balıkçılık anlaşmalarının kazan-kazan durumu yaratıp yaratmadığı sorusuna cevap bulmaktır. AB'nin başlıca amaçları yeryüzünün önemli balıkçılık bölgelerine AB'nin erişimini garanti altına almak ve AB pazarına balık arzını sağlamaktır. AB, ayrıca, üçüncü ülkelerin balıkçılığının sürdürülebilir gelişimine katkıda bulunmayı amaçlamıştır. Fakat Avrupalı balıkçılar tarafından Afrika bölgesindeki balık stoklarının aşırı avlanması, Afrika pazarına balık arzının yetersiz kalması, avlanma hakkı için yapılan ödemenin Afrika ülkelerinin Münhasır Ekonomik Bölgelerinde Avrupalı balıkçılar tarafından avlanan balıkların değeri ile karşılaştırıldığında çok az olması, ayrıca Afrika ülkelerinde yaratılan istihdam ve katma değer düşük düzeyde olması sebepleriyle söz konusu anlaşmalar Afrika ülkeleri açısından kazan-kazan durumu oluşturamamıştır. Moritanya ve Namibya örneklerinden elde edilen sonuçlar AB'nin Balıkçılık Anlaşmalarının, aynı zamanda hem AB'nin hem de Afrika ülkelerinin uzun vadeli çıkarlarına hizmet etmek yerine balıkçılık sektöründeki Avrupalı paydaşların ve Birliğin güçlü Kıyı Devletlerinin çıkarlarını koruduğu yönündeki varsayımı desteklemektedir.

Anahtar Kelimeler: Avrupa Birliği, Ortak Balıkçılık Politikası, Uluslararası Balıkçılık İlişkileri, Balıkçılık Anlaşmaları, Afrika Ülkeleri

To My Beloved Parents

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LIST OF ABBREVIATIONS

ACP	African, Caribbean and Pacific Groups of States
CECAF	Fishery Committee for the Eastern Central Atlantic
CFP	Common Fisheries Policy
CIA	Central Intelligence Agency
CMSN	Comite Militaire de Salut National (Military Committee for National Salvation) (Mauritania)
DG MARE	Directorate-General for Maritime Affairs and Fisheries of European Commission
DWFs	Distant Water Fleets
DWFNs	Distant Water Fishing Nations
EAPO	European Association of Fish Producers Organisations
EC	European Community
ECU	European Currency Unit
EDF	European Development Fund
EEC	European Economic Community
EEZ	Exclusive Economic Zone
EU	European Union
FAO	Food and Agriculture Organisation
FPA	Fisheries Partnership Agreement
GATT	General Agreement on Tariff and Trades

GDP	Gross Domestic Product
HDI	Human Development Index
ICSF	International Collective in Support of Fishworkers
IFREMER	Institut Francais de Recherche pour L'exploitation de la Mer (French Research Institute for Exploitation of the Sea)
IMF	International Monetary Fund
IMROP	See MIOFR
IUU	Illegal, Unreported and Unregulated Fishing
MFME	Ministry of Fisheries and Maritime Economy
MFMR	Namibia's Ministry of Fisheries and Marine Resources
MIOFR	Mauritanian Institute for Oceanographic Research and Fisheries (IMROP in French)
MSY	Maximum Sustainable Yield
NFFO	National Federation of Fishermen's Organization of United Kingdom
NGOs	Non-Governmental Organisations
NPOA	Namibian National Plan of Action
OECD	Organisation for Economic Co-operation and Development
PCD	Policy Coherence for Development
SMCP	Mauritanian Fishery Product Marketing Company
SOMAP	Societe Mauritanienne de l'Armement a la Peche/ the Mauritanian Shipping and Fishing Corporation

SRFC	Sub-Regional Fisheries Commission
TACs	Total Allowable Catches
UK	United Kingdom
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Program
UNHCR	United Nations High Commissioner for Refugees
U.S.	United States
USSR	Union of Soviet Socialist Republics
VMS	Vessel Monitoring System
WTO	World Trade Organisation
WWF	World Wild Fund

CHAPTER 1

INTRODUCTION

This thesis is an attempt to develop an analysis of the influences of the fisheries agreements the European Union (EU)¹ has signed with the African countries under the external dimension of EU's Common Fisheries Policy. This thesis aims at understanding both the influences of the fisheries agreements on the European Union as well as on African countries and in particular on Mauritania and Namibia. The European Community, established in 1957, focussed on having common action in certain policy areas, e.g. on foreign security, energy, transport and environment. Common action in the field of agriculture was also seen as a must to constitute a ruling power for the world trade in agriculture and to level the competition on the trade of agricultural products between the Member States. This objective was met in 1962 with the establishment of the Common Agricultural Policy.

Fish, as one of the food sources for human consumption, was initially managed in the EC under the Common Agricultural Policy. However, fish from capture fisheries is different than the agricultural products as it is a natural resource which can be exploited by human beings. It cannot simply be harvested from the farm like the agricultural products with the exemption of aquaculture products. Therefore, the management of fish resources has to be handled separately as it requires a different approach than agricultural products. In the 1970s, European Community Member States realised the need for a different approach in managing fish resources and agricultural products and demanded the joint management of

¹ Throughout the thesis, the term 'European Community' (EC) is generally used to refer to the Community structure prior to the Treaty on European Union (adopted on February 7, 1992) and the term 'European Union' (EU) is generally used to refer to the European Union in general and after 1992. Official EU documents or some other writers tend to use the expression somewhat more loosely; when referring to any such document or resource the term used within the relevant document is adopted.

European fish resources due to the gradual increase in exploitation of fish stocks.² Then, Member States converted fisheries into a different common policy area for the Community by distinguishing it from the Common Agricultural Policy.

The Common Fisheries Policy (CFP) of the European Union, established in 1983, consists of four inter-related policies: markets, structures, conservation and external fishery relations. The first three policies initiated the common course of action on the market organisation, marketing standards of fisheries products, how to organise as producers of fish products, funding of the fisheries sector, decommissioning and construction/modernisation of fishing vessels as well as on the conservation of fish resources through establishing some standards (such as total allowable catch, mesh size, vessel size and seasonal ban) all over the European Community (EC).

The first three policies are important for the establishment and development of the fourth pillar of the Common Fisheries Policy which is the policy on external fisheries relations. In fact, it is believed that external relations on fisheries are based upon the previous colonial ‘relations’ of each Member State. Fishing in distant waters has already become an economic activity for some European vessels when their countries had colonial ties with the African, Caribbean and Pacific (ACP) countries³. Moreover, there was no limitation in fishing in distant waters during the pre-colonial and colonial times since the Exclusive Economic Zone⁴ of any coastal

² The gradual increase in exploitation of fish stocks which eventually leads to the depletion of fish stocks can be explained through the theory of the ‘tragedy of the commons’ founded by Garrett Hardin. Hardin argues that as a rational being, each man seeks to maximize his gain and supports the freedom of the commons in order to use common resources for his own gain. However, freedom in a commons brings over-exploitation of common resources. (For detailed information, see: Garrett Hardin, “The Tragedy of the Commons”, *Science*, Vol. 162 No. 3859, 13 December 1968, p. 1244.)

³ The African, Caribbean and Pacific Group of States (ACP): An organisation created by the Georgetown Agreement in 1975. The Georgetown Agreement, the Group’s fundamental charter, which was signed in 1975 at the time the First Lomé Convention came into force, laid down the rules for cooperation between the countries of three continents, the main link being shared aid from the European Community. For the list of ACP States, see: <http://www.acp.int/content/secretariat-acp>, Date of Access: 12/07/2014.

⁴ Exclusive Economic Zone: The area adjacent to a coastal state which encompasses all waters between: (a) the seaward boundary of that state, (b) a line on which each point is 200 nautical miles (370.40 km) from the baseline from which the territorial sea of the coastal state is measured, and (c) the maritime boundaries agreed between that state and the neighbouring states. The detailed explanation for the evolution of the EEZ in the international system can be found in the 2nd chapter of the thesis. (FAO Fisheries Glossary, Date of Access: 28/01/2014. <<http://www.fao.org/docrep/003/x2465e/x2465e0h.htm>>)

state was counted, before the 1980s, as high seas where there were a freedom of shipping and fishing for the vessels of any country.

However, despite the colonial relations and the freedom of fishing, the intensity of fishing activities by the European vessels in the distant waters was low till the 1960s. The following two reasons explain the low level of fishing: firstly, the cost of fishing (e. g. fuel costs, the cost of owning industrial vessels for the high seas) was high; secondly, there was an abundance of fish in the Community waters⁵ which made fishing in the distant waters, considering the accompanying costs of distant water fishing, meaningless.

After the 1960s, on the other hand, the fish stocks in the European waters⁶ (especially the North Atlantic) had gradually decreased. Marketing and structural pillars of the Common Fisheries Policy established in 1970 indeed contributed to the ongoing over-exploitation of the European fish stocks through the subsidies given to European vessels for fishing. After the over-exploitation and the depletion of certain fish stocks encountered in, especially, North Atlantic waters since the 1960s, consumers and all other stakeholders of the fisheries sector in the Community have become more dependent on fish resources coming from distant waters. Therefore, the over-exploitation in Europe led to the establishment of the external pillar of the CFP in 1976 in order to both decrease fishing activities in the European waters and provide continuation of fish supply to the European market. For that purpose, Exclusive Economic Zones of the European Community's Member States⁷ were

⁵ In fact, this term did not become part of the official terminology of the CFP until the 1980s, but it is used within the thesis for convenience. Through this term, the waters under the sovereignty or jurisdiction of Member States are referred (See Art. 3 of Council Regulation (EC) No 2371/2002 of 20 December 2002)

⁶ Through European waters, seas around Europe such as North Sea, Baltic Sea or Mediterranean Sea are referred.

⁷ The European Community, through Hague Resolution, Resolution of 1976, stated that as from 1 January 1977, Member States should extend their fishing rights to 200 mile Exclusive Economic Zones to prevent third countries to fish in the Member States' waters. Member States claiming EEZ and the year of claim (all coastal Member States by 2014 are included into the list): Finland (1975, 12 nm), United Kingdom (1977, fishing zone), Denmark (1977, 200 nm), France (1977, 200 nm except for the Mediterranean), Ireland (1977, 200 nm fishing zone), Latvia (1993, 200 nm), Netherlands (1977, 200 nm fishing zone), Portugal (1977, 200 nm), Spain (1978, 200 nm in the Atlantic Ocean only), Belgium (1979, geographic coordinates define outer limit), Romania (1986, 200 nm), Bulgaria (1987, 200 nm), Poland (1991, 200 nm), Sweden (1993, Agreed boundaries or midlines), Germany (1995, 200 nm), Greece (no EEZ), Italy (no EEZ), Croatia (no EEZ), "Cyprus" (no EEZ). (Robert W. Smith (eds.), "National Claims to Maritime Jurisdiction", *International Boundary Study, Series A*,

established to prevent further exploitation of the stocks in European waters by third states' vessels. Also, the continuation of and increase in fishing in distant waters were aimed to be ensured through negotiations of fisheries agreements with the ACP states.

Later, in 1983, establishment of the conservation policy of the CFP stimulated the further development of fisheries relations with the ACP states, since the conservation policy necessitated the transfer of excess fishing vessels of the EC to the ACP countries in order to preserve and recover fish stocks inside of the Member States' Exclusive Economic Zones. Moreover, the quota system brought with the conservation policy and decrease in the total allowable quantity of catches in the Community waters under the quota system forced the EC to find new places to provide additional fishing quotas for the EC Member States' fishermen.

While pursuing the objective of protecting European fish stocks as well as developing external relations on fisheries to provide fish supply to the European market, the EU has continuously claimed that fisheries relations based on the agreements between the EU and ACP states have always created win-win situation for both sides. On the one hand the European Union has been creating additional fishing areas for its fishermen in the ACP states' waters, and on the other hand it has been providing income to the ACP states based on the provision of fishing rights to the EU and stimulating the increase in technology, know-how and efficiency of the fishing sector of the ACP states, thus contributing to the overall development of the economy of these countries.

Based on these claims, the research question of this thesis is "Have the fisheries agreements between the European Union and African countries created a win-win situation?". The European Union has claimed that the fisheries agreements have been creating certain gains for both Member States and African countries at the same time. However, it is considered that, in contrast to what is argued by the European Union, these agreements have actually been giving severe impairments to the African countries while securing the interests of the EU Member States' fisheries

Limits in the Seas, U.S. Department of State: Office of Oceans Affairs, No. 36, 8th Revision, May 25, 2000.)

sector. In order to understand whether this argument is true or not, several sub-questions are addressed in the thesis in order to complement the main question of the thesis:

- Are EU's fisheries agreements with African countries a continuation of the former colonial relations between the Member States and African countries?
- Whose interests do the fisheries agreements serve?
- What are the underlying causes of these agreements?

This study argues, as an hypothesis, that EU's Fisheries Agreements favour the interests of the European fisheries stakeholders and powerful coastal states of the Union, rather than serving, at the same time, both the interests of the EU and the long-term principles of sustainable development of and fair and equitable treatment to the African states. The agreements have not only caused depletion of fish stocks in African waters⁸, but also resulted in a low level of financial gain and a low level of employment for the African states. This thesis argues that African states, having an agreement with the EU, would have been better off if they had fished their fish stocks themselves as the destruction of artisanal fisheries as well as the lack of food supply to internal African market would have been avoided. Therefore, these agreements have eventually become the example of a 'win-lose' game contrary to the expectations.

Among the African, Caribbean and Pacific states, agreements with the African countries were chosen as a sample since the agreements with African countries make up a significant part of all agreements in terms of their number and the quantity of total payment made for fishing rights to these countries. Moreover, because of the shorter distance of the African continent to Europe, analysing the link between the colonial times' fishing of European vessels in African waters (counted as high seas during the colonial times) and today's fisheries agreements between the

⁸ Fishing activities of the former European colonial powers around the African continent during colonial times were counted as fishing activities carried out in the high seas where there has been a freedom of fishing. With the claims of EEZs by the African countries, the sea zone up to maximum 200 nm. from the baseline from which the territorial sea of the African coastal state is measured came under the sovereign rights and jurisdiction of African states. Therefore, these sea zones are referred as African waters within the thesis for convenience.

EU and African countries makes the agreements signed with the African countries a more interesting study area.

The thesis aims to analyse fishery access agreements between the European Union (EU) and African coastal states. The reason this topic was chosen is that there have been ongoing problems in the African region such as the depletion of African fish stocks, under-development of African countries, food scarcity and lack of nutrition. Through this analysis, it was aimed to understand whether there is any link between the fisheries agreements and these problems in Africa. Another reason essential for studying this topic is, although there are some investigations about external water fishing fleets of the EU in African waters, these studies start to investigate the fishing agreements only from the 1990s without further reference to the historical background. Therefore, it is beneficial to search for the fisheries data reflecting the relations between European powers and African countries of before 1990 in order to clarify the historical process of these agreements. Moreover, despite the fact that these studies are highly supportive to the literature as they analyse fisheries agreements within the EU framework to reach a general idea, this thesis becomes complementary to these studies by aiming to understand what the specific interests of each Member State concerned with these agreements are.

This study is also important because it is known that most of the actions of the European Union towards Africa have been carried out under its development policy and the actions in each policy area in Africa such as agriculture, commerce, energy etc. should be compatible with the development policies of the EU in the African region. However, it is realised that there have been some inconsistencies between the fisheries policy and the development policy of the EU towards African countries which have been identified within the thesis. The causes of these inconsistencies is tried to be found out. At the end, it is aimed to challenge the idea that the EU's CFP is a successful common policy area for, despite the claims of success, certain failures can be listed.

Whether EU's fisheries policy is sustainable is a controversial question discussed ever since the Common Fisheries Policy was adopted. Due to the ongoing reform process from the 1970s onwards and based on the well-established market structure or other well-functioning internal dimensions of the Common Fisheries

Policy within the EU, it can be assumed that EU's fisheries policy has been progressing well. This research, by investigating the external dimension of the EU's Common Fisheries Policy, aims to provide a critical perspective on EU's fisheries. This study is supported by a detailed analysis of the relations between the EU Member States and two African countries: Mauritania and Namibia. The cases of Mauritania and Namibia were chosen, firstly, in order to create an opportunity to see the details of political and economic results of fisheries agreements on the fisheries of any African country; secondly, to analyse the results of the national fisheries policy of any African country which never signed fisheries agreements; and lastly, to compare the results of 'signing' and 'not signing' fisheries agreements on the fisheries sectors specifically and the overall developments of these countries.

1.1 Methodology of the Thesis

Theoretically, this thesis avoids from appealing to a certain International Relations theory. For the methodology, in this research, the multitude of sources of evidence has been warranted. Four different source categories have been used to address each single unit of analysis:

- documents and literature;
- case studies;
- statistical information; and
- knowledge of experts.

Qualitative data are provided in the thesis through articles and books, by the EU *Acquis* and developments and official documents of international conventions such as the UN Convention on the Law of the Sea. For the necessary documents and literature review, various databases (ScienceDirect, Taylor & Francis Online Journal, SAGE Journals Online, EBSCOhost Database etc.) are used to derive information on the external dimension of EU's fisheries policy, specific interests of its Member States on fisheries and the perceptions and positions of the African states about bilateral agreements. Some of the other information within the literature review are accessed through web-based literature search. Moreover, all EU legislation about bilateral fisheries agreements, protocols signed between the EU and African countries and reports about this issue prepared by the EU itself, FAO and NGOs,

such as Greenpeace and World Wild Fund, provide further insight to this study. Articles and online resources gathered from several databases become supplementary to the literature survey about the history of fisheries relations between EU's powerful Member States and their former colonies in Africa. Main information and knowledge are gathered through books, reports and articles acquired from university libraries.

This study uses the case-study methodology as it fits best in finding answers to the research question. Case studies of two African countries -Mauritania and Namibia- are taken as samples to analyse whether signing fisheries agreement with the EU is really a favourable tool for the African states. From the starting year of 1979, the European Union has continued to sign agreements on fisheries with different African countries. Among the agreements, firstly, the case of Mauritania is chosen due to the fact that it is considered the most important fishery partner of the EU because of

- its close vicinity to the European continent;
- its background as colony of France;
- the biggest financial contribution (due and support) the EU provided to it among all countries that the EU signed agreements with;
- the newly signed agreement with Mauritania which will help to compare first and second generation agreements.

It is known that the socio-economic development of most of the African countries was inevitably determined by the developed European countries due to the ongoing ties of the European countries with their former colonised nations. Despite the de-colonisation process, colonial pasts between Europe and Africa framed the future relations between the two continents of the world.⁹ Mauritania, besides being a close neighbour of the European continent, also strongly maintained its previous economic relationship with its ex-colonial power, France. Due to this ongoing tie between European powers and Mauritania, today, 10 per cent of Mauritania's gross domestic product (GDP) comes from fisheries funds of the EU and fees given by European vessels.¹⁰ Moreover, according to the 2012 statistical data of the

⁹ Ibid, p. 8.

¹⁰ *Ex-post* Evaluation of the Current Protocol to the Fisheries Partnership Agreement between the European Union and Mauritania, The Directorate-General for Maritime Affairs and Fisheries, European Commission, Date of Publishing: 07/02/2014, Executive Summary.

International Trade Centre, Mauritania is the 5th largest fish exporter to the EU among the coastal states of Africa.¹¹ In line with the intensity of economic relations, the biggest financial contribution of the European Union for the fisheries agreement (70 million €/year¹²) is given to this country.

Moreover, as it is explained in the following chapters, the European Union has continued to work towards overcoming negative consequences of the agreements through reforming the external dimension of the Common Fisheries Policy. This reform caused the European Union to change the framework and name of the agreements in time. In order to follow the changes in the agreements, it has become a necessity in the thesis to analyse an African country which has experienced these changes through signing both first generation agreement in the 1980s up to the third generation agreement after 2000. However, the European Union and some African countries could not achieve to reach new agreements under the third generation agreements initiated after 2002: no protocol could for instance be signed between the European Union and Gambia (since 1996), Equatorial Guinea (since 2001), Senegal (since 2006) and Guinea (since 2009). Therefore, on the grounds of fisheries protocols with many other African countries not being in force yet and Mauritania having continued to sign an agreement since 1980s, it is considered that Mauritania can provide the best contribution for the thesis to reach a correct and objective comparison between the first form and the last form of the external dimension of the

¹¹ The statistical information was provided through Trade Map which is the market analysis tool for International Trade Centre. For the fish products, the biggest supplying market to the EU in 2012 among the coastal states of Africa is Morocco with export value of 520 909 € in 2012. The following countries are Namibia (export value of 294 544 €), South Africa (export value of 159 768 €), Senegal (export value of 108 533 €) and Mauritania (export value of 135 701 €). Although the first four countries outcompeted Mauritania, Mauritania is chosen as a case study in the thesis. The reason is that firstly, Morocco is not a part of ACP States and despite Morocco's highest export earning, the biggest financial contribution in the agreements is given to Mauritania by the EU. Moreover, both Namibia and South Africa did not sign any fisheries agreement with the EU. Lastly, there has been no fisheries agreement signed between the EU and Senegal since 2006. Therefore, Senegal cannot help to broadly compare first and third generation agreements. (Trade Map, "List of Supplying Markets in Africa for the Product Imported by European Union: Product: 03 Fish, crustaceans, molluscs, aquatic invertebrates nes", International Trade Centre, Date of Access: 15/03/2014. <http://www.trademap.org/Country_SelProductCountry_TS.aspx>

¹² Council Decision of 18 December 2012 on Fisheries Partnership Agreement between the European Union and the Islamic Republic of Mauritania for a period of two years, 2012/827/EU, OJ L 361, 31.12.2012, p. 44.

Common Fisheries Policy and thus being able to observe the results of the reform process.

The reason for Namibia to be chosen as the second case to contribute to this thesis is that some of the fisheries agreements negotiated since the late 1970s have been started to be blamed by some African countries for being harmful. They have argued that fisheries agreements resulted in permanent damage to fish stocks and created disparity in favour of European fishermen instead of contributing to the development of African countries. For example, in the Declaration of the 23rd ACP-EU Joint Parliamentary Assembly (in May 2012) on the reform of European fisheries policy and its impact on ACP countries, it was stated that the disproportionality in the fisheries agreements in terms of fishing capacities provided for European vessels and the financial contribution paid for this agreements caused ACP states to enforce unsustainable levels of fishing access.¹³ Moreover, Mussa Mané, Head of Cabinet of the Ministry of Fisheries in Bissau stated in 2009 that European vessel-owners have generally under-reported catches and there has been no penalty applied for the vessels which did not obey reporting obligations.¹⁴ Cirilo Vieira, Director of Fisheries in Guinea-Bissau, also pointed out in 2009 that fishery agreements have not contributed to the positive development of the domestic fisheries sector. Fishermen from the EU have been wasting fish stocks through by-catch and have not landed their catch in Guinea-Bissau.¹⁵

These examples prove that fisheries agreements have had certain negative effects on African countries contrary to what is often stated. In order to understand what might have happened to the fisheries sector of these African countries if they had not signed any fisheries agreement with the EU, it is necessary to choose one of the African countries which has never signed a fisheries agreement with the EU up to now and has achieved, due to its rich fish resources, to establish its own strong fisheries sector. At this point, Namibia can be a good case to reflect whether coastal

¹³ The 23rd Session of the ACP-EU Joint Parliamentary Assembly, “Declaration of the ACP-EU Joint Parliamentary Assembly: The Reform of European Fisheries Policy and Its Impact on ACP Countries”, Horsens, Denmark, 28-30 May 2012.

¹⁴ “To Draw the Line: EU Fisheries Agreements in West Africa”, *Swedish Society for Nature Conservation*, Stockholm, Sweden, 2009, p. 21.

¹⁵ *Ibid*, p. 23

African countries, on their own, can achieve a successful fisheries sector rather than losing the economic and social success story in fisheries to their European counterparts.

Namibia, after its independence from South Africa¹⁶ in 1990, has immediately become the topic of articles and books on fisheries policies with its New Fisheries Policy. Since the very beginning, Namibia has tried to establish its own national fisheries sector instead of preferring signing fisheries agreements with the European Union or any other country. This was an important and brave attempt since Namibia, as one of the poor countries that newly gained its independence, invested in fisheries for long-term gains with its limited financial resources. However, after all, Namibia's attempt has been announced by most of the scholars as a success story.

Therefore, the case of Namibia helps to analyse whether it is possible to have more benefit from national fishing than fisheries agreements provide for the coastal state. It also contributes to understand, at the end, whether signing fisheries agreement with the EU has brought real long-term benefits to African countries or not.

Quantitative (statistical) data are used in order to further the validity of this research and to find out at the end of the thesis whether the cases of Mauritania and Namibia support the main argument of the thesis and analyse the real influence and the real winner of the fishery agreements in between the EU and African countries. For the statistical information, FAOStat, EuroStat and Trade Map data about trade volume and export-import ratio between the Member States of the EU dealing with distant water fishing activities and African countries are used. The data collected in FAO and EU databases are also helpful to gather total catch of both Member States and African countries concerned in the African waters. Moreover, statistical data on African countries' fisheries sector gathered from the websites of African countries' public authorities (especially those of Mauritania and Namibia) are supportive to the analyses of the case studies within the thesis. Also, numeric data originated from both African countries and the EU Members about the total production, employment

¹⁶ Between the years of 1884-1915, Namibia was a colony of Germany and known as German South-West Africa. After WWI, it was administered by South Africa.

and consumption provided through these agreements are used, whenever possible, to provide cross-check between internal and external information.

Lastly, the knowledge of the experts from public institutions and the private sector and of academic scholars is reflected in the thesis through personal interviews and information requests by e-mail. Whenever possible, interviews have been conducted with the representatives of the EU's fisheries policy. Interviews done before with the people of the fisheries sector from the African countries and possible interviews with persons from the European Union representing the fisheries sector become highly supportive in order to directly reflect the ideas of two sides to provide objectivity on the topic.

1.2 Organisation of the Chapters

As a framework, first, there is an explanation of fisheries relations of Member States with the African countries in colonial times. Then, the thesis is based on the common but still differentiated understanding of the EU fisheries policy between Member States. Then, the reflection of the internal fisheries policy of the EU on the external dimension of the Common Fisheries Policy is analysed through explaining and comparing the aims and results of external fisheries policy for both the EU and African countries. The thesis includes two cases of African states which help clearly sampling the argument that Member States supportive of these agreements have been gaining much from these agreements but have been giving less to the African countries. The thesis is composed of four main chapters and a conclusion part after them, in addition to the introduction part.

The second chapter is about the correlation of the colonial past of European countries in Africa with today's fisheries agreements between the EU and African countries. There is an analysis of colonial times' fisheries of European countries in African waters (counted as high seas during the colonial times) in order to understand whether today's fisheries agreements are provided for the continuation of past habits of exploitation of the former colonies in terms of their fish stocks by European vessels.

The third chapter provides information about the establishment, elements and developments of the Common Fisheries Policy of the European Community. This

part is about the internal dimensions of common policies on fisheries among the Member States. Analysing internal dimension of the CFP contributes to link internal decisions and actions with the external policies on fisheries. In this chapter, it is aimed to explain how internal policies on fisheries led to the fisheries agreements with third states and caused the externalisation of the cost of wrong internal decisions to the African states.

The fourth chapter examines the external dimension of the Common Fisheries Policy. The positions of the Member States towards these agreements, evaluation of the agreements in time and the results of the agreements for the both sides are scrutinised. Particularly fisheries agreements with the African countries, which are detailed through the case studies of Mauritania and Namibia in the fifth chapter of the thesis, becomes the subject of this study.

The fifth chapter is devoted to the cases of Mauritania and Namibia. Mauritania is taken as a representative of African countries which have signed fisheries agreement with the European Union. Namibia is an example for the African countries which never signed any fisheries agreement with the EU. The outcomes of signing or not signing of fisheries agreement for these countries are used to support the hypothesis of this study.

Finally, in the conclusion part, some concluding remarks about the thesis and projections for the future of fisheries agreements are given.

CHAPTER 2

EVOLUTION OF THE EXTERNAL DIMENSION OF EUROPEAN COMMON FISHERIES POLICY

External fishery relations as one of the four pillars of Common Fisheries Policy (CFP) has started to be developed when the fisheries policies of individual Member States were to the fullest extent united under the European Community (EC) umbrella after the 1970s. Rather than first two policy areas of the Common Fisheries Policy –market organisation and structural policy which were both established in 1970, together with the first initiatives on conservation policy, the external policy of the CFP introduced in 1976. The external policy consists of multilateral agreements such as UN Convention on the Law of the Sea and bilateral agreements with third countries negotiated at the supranational level between the European Commission and third countries. Third countries being signatories of bilateral fisheries agreements with the EU are the northern countries such as Norway, Iceland and Faroe Islands and southern countries called African, Caribbean and Pacific group of states¹⁷.

Multilateral agreements have been signed regionally or internationally by the EU and other countries in order to set common management rules for marine resources. In terms of bilateral agreements, it is known that the Community vessels had already had extensive fishing activities in the waters (North Atlantic) of Northern European countries. Nevertheless, since there was a freedom of fishing in these waters until Exclusive Economic Zones were declared by Northern countries after the 1980s, there was no need for the fisheries agreement between the EC and

¹⁷ Agreements with southern countries concern the African, Caribbean and Pacific States (ACP countries). List of the states having non-contemporary fishing agreement with the EU is: Cape Verde, Comoros, Côte d'Ivoire, Gabon, Gambia, Greenland, Guinea, Guinea-Bissau, Equatorial Guinea, Kiribati, Madagascar, Mauritania, Mauritius, Micronesia, Morocco, São Tomé and Príncipe, Senegal, Seychelles and Solomon Islands. However, in this thesis, only agreements with African countries will be analysed.

Norway, Iceland and Faroe Islands. The declaration of EEZs in the Northern Atlantic became the clear reason of why the external pillar of the EC's fisheries policy extended towards Northern European countries.

The reason for the extension of European Community's Common Fisheries Policy into the African continent could be explained through two main aspects: the first one is a 'historical process' which has paved the way for ongoing connectedness of Africa to some European countries and the second one is a '*prime mover*'¹⁸ which means the eventual over-exploitation of stocks within the European waters. The correlation between European colonial history in Africa and fisheries agreements, as the first aspect of the evolution of external dimension of the CFP in Africa, is going to be explained in the first part of this chapter. This part is thought to be helpful to understand that the real role in the evolution of the EC's external fisheries policy belongs to the 'prime mover' which is going to be detailed in the second part of this chapter.

2.1 Fishing Activities of the Members in African Waters¹⁹ from Colonial Times

Since the pre-colonial times of African continent, especially within the coastal states, fishery has become one of the fundamental means of livelihood for the African people. The inland water fisheries, as well as artisanal fishing activities carried out through pirogues, has provided with source of income, nutrition and employment for both African men and women.

In addition to the fishing activities conducted by African states, although it is very hard to provide reliable historical catch statistics for distant water fishing nations (DWFNs) fishing off the coast of African states, fishermen from other continents have also been carrying out fishing activities in the African waters which can be deduced from the fact that high sea fishing vessels that target fish stocks outside of their countries' territorial waters are absolutely not a new phenomenon. For a long period of time, distant water fleets have fished outside of their national

¹⁸ Throughout the thesis, the phrase of 'prime mover' will be used to refer to the over-exploitation and depletion of stocks in European waters.

¹⁹ The explanation for African waters can be found in the footnote under chapter 1.

waters to make their living.²⁰ “As early as 1575, hundreds of vessels from France, Portugal, and Great Britain were fishing for cod in the productive fishing grounds of the ‘New World’.”²¹ This explanation clearly indicates the situation that distant water vessels have been technologically able to cross oceans and fish in high seas and waters close to other continents since immemorial times.

One of the academic resources analysing European countries’ fishing activities in Africa points out that “European fleets have fished the West African Coast for several centuries and some have even maintained a continuous presence there since colonisation.”²² In the late nineteenth century, the expansion into African states by the powerful European countries indisputably formed the socio-economic outgrowth of previous colonies and produced the basic structure for future relations between the European powers and African states after their independence²³ including the socio-economic situation of fisheries sector in African states and new form of fisheries relations that has been established after decolonisation.

During the time of colonisation, African countries did not have enough economic, institutional and technical capacity to exploit the resources beyond the waters being close to their territories. The nature or morphology of the submarine area around the continent is seen as one of the reasons why African fishermen could not improve their own commercial fisheries. “On the entire coast of Africa there is a substantial fall-off on the seaward side at a small distance from the coast. On the eastern coasts, for example, the shelves are so narrow that they are barely trawlerable and therefore have only limited commercially viable exploitation prospect”²⁴ which necessitates going far away from the coast in order to fish. This difficulty prevents fishing along the coast line and makes technology essential to fish on the high seas

²⁰ A. M. Ladan, “Twenty Years of Exclusive Economic Zone in Africa: Resource Exploration, Exploitation and Management”, *The Comparative and International Law Journal of Southern Africa*, Vol. 29, Issue 3, 1996, p. 254.

²¹ WWF, *The Footprint of Distant Water Fleets on World Fisheries*, Godalming, WWF-International, Endangered Seas Campaign, 1998, p. 1.

²² “Fishing for Coherence in West Africa: Policy Coherence in the Fisheries Sector in Seven West African Countries”, OECD, 2008, p. 17.

²³ Witbooi, op. cit., p. 8.

²⁴ Ladan, op. cit., p. 254.

which was not possible to attain by colonised African states. Therefore, although they have started to gain sovereignty as from the 1950s, marine exploration and exploitation of resources by most of the African states for the commercial purposes were virtually non-existent until the mid-1970s when the rights to use marine resources has started to be discussed under United Nations umbrella.

The period of colonization and lack of capabilities by African countries, of course, made fisheries relations between the two Continents (Europe and Africa) to be established more easily. Fish resources that could not be sufficiently exploited by the coastal states of Africa attracted the interest of some European states during the colonial time and had led the vessels of European powers, in particular Spain, Portugal and France, to be more actively engaging in fisheries in Africa. To illustrate, it is written in Sylvie Guénette's (et al.) article that "because of the geographical proximity between Spain and Africa, and the poor resources around the Canary Islands, the fishers from the southern region of the Spanish mainland (Andalusia) and from the Canary Islands have been fishing along the African coast very early in history."²⁵

On the contrary of the idea that fish resources had already caught both African and other countries' attention during the pre-colonial and colonial days, it can be argued that, fisheries of African people did not play any significant role for the African economy and go beyond the immediate subsistence function for the African states till the second half of 20th century. Moreover, in addition to Africans' own fishing activities, the catch levels of European distant water fishing fleet in Africa (which can be named fisheries of European nations) are thought to be not high to assume that activities of European fishing vessels had a major effect on economic and trade relations between Europe and Africa during the pre-independence era of African nations. For example, "Spanish trawlers started to fish on the Moroccan

²⁵ Sylvie Guénette, Eduardo Balguerías and María Teresa García Santamaría, "Spanish Fishing Activities along the Saharan and Moroccan Coasts", in D. Zeller, R. Watson, & D. Pauly (eds.), *Fisheries Impacts on North Atlantic Ecosystems: Catch, Effort and National/Regional Data Sets*, Vancouver, Canada: Fisheries Centre Research Reports, Vol. 9, No. 3, University of British Columbia, 2001, p. 206.

coast in the middle of the 19th century, although the fishery developed rapidly only after the Spanish Civil War (1936-1939).”²⁶

It is not easy to pass beyond the bounds of the uncertainty in whether there were intense fishing activities conducted by European powers in African waters during the pre/colonial times through providing supportive and statistical data due to the various limitations of this study. First of these limitations, although European Union’s fishing activities are based on transparency, it was realized during the research that the investigation of the research topic has been constrained due to the lack of worldwide availability of records and information. Total production and trading data accumulated in databases of UN Comtrade, FAOstat and Eurostat is dependent on the transfer of information from individual countries to these databases. It is hardly possible to reach statistical data before the 1950s about the fisheries activities of some EC countries in African waters. Furthermore, shortcoming of information represented a problem when analysing data on fishing and discard²⁷ by the European vessels in African waters and how much money funded by the EC for the development programmes went to the fisheries sector in the African countries before external dimension of the CFP was established. Moreover, it is not easy to find information about fishing history of some Member States with powerful fishing fleet capacity such as France and Spain in distant waters when they were major colonial powers in Africa.

Secondly, the information taken from agreements and protocols are limited since they do not clarify the questions of how the vessels of the Member States, which are permitted to fish in African countries’ Exclusive Economic Zones (EEZs), have been determined in number, in origin of country (how many of them are going to belong to Spain, Great Britain, Portugal and so on) and how (whether through

²⁶ Sobrino, I., *Biología y pesca de la gambablanca (Parapenaeus longirostris, Lucas 1846) en el Atlántico nororiental*, PhD, Universidad de Sevilla, Sevilla, Spain, 1998, cited in Sylvie Guénette, Eduardo Balguerías and María Teresa García Santamaría, “Spanish Fishing Activities along the Saharan and Moroccan Coasts”, in D. Zeller, R. Watson, & D. Pauly (eds.), *Fisheries Impacts on North Atlantic Ecosystems: Catch, Effort and National/Regional Data Sets*, Vancouver, Canada: Fisheries Centre Research Reports, Vol. 9, No. 3, University of British Columbia, 2001, p. 210.

²⁷ **Discards**: Fish and other organisms which are caught accidentally in fishing gear and are thrown back in the sea. (European Commission, “Eliminating Discards in EU Fisheries: Questions and Answers”, Press Release Database, Brussels, 28 March 2007, Date of Access: 15/02/2014. <http://europa.eu/rapid/press-release_MEMO-07-120_en.htm?locale=en>)

their historical rights, lobbying in the decision making process and so on) and through which institutions of the EU (the Commission, Council) these quotas have been allocated between Member States from the starting date of 1983. Thus, these restrictions should be kept in mind when drawing conclusions from these data.

In order to overcome these limitations, questions were sent via electronic mail about the missing information and data mentioned above to the *Directorate-General for Maritime Affairs and Fisheries of European Commission* (DG MARE), the *National Federation of Fishermen's Organization of United Kingdom* (NFFO), *Fishery Committee for the Eastern Central Atlantic* (CECAF), *Sub-Regional Fisheries Commission* (SRFC), *European Association of Fish Producers Organisations* (EAPO) and *Mauritanian Institute for Oceanographic Research and Fisheries* (IMROP). However, any response to this e-mail could not be received from some of these institutions; and for the others, although the answers given by them provide an insight to this research, they do not completely help to come through limitations mentioned above.

In the letter sent by Steefan Depypere on behalf of DG MARE as a response to e-mail to the Cabinet of Ms. Damanaki regarding bilateral fisheries agreements with third countries, it is written that:

The fishing opportunities that the EU negotiates can be expressed in terms of number of vessels or quantities allowed to be caught. The EU negotiates a global level of fishing opportunities which is then distributed among interested Member States. This distribution is done through a Council Regulation and is based on different factors such as requests expressed by Member States and past utilisation. Moreover, catches in third countries Exclusive Economic Zones (EEZs) are reported to the competent Regional Fisheries Management Organisation (RFMO) and are counted, when relevant, against quotas that these RFMOs may attribute to each contracting party.²⁸

In this letter, it is written that the past utilisations of Member States are taken into account, even if it does not address to any specific time period for the word 'past'.

²⁸ "Letter from Steefan Depypere: Director of International Affairs and Markets", the EC Directorate General for Maritime Affairs and Fisheries, European Commission, Letter Number: Ares (2014)336102, Date of the Letter: 11/02/2014.

Responses sent by producer organizations indicate that they do not hold any information about the fishing activities of European vessels in the distant waters during the colonial times of African countries.

In addition to the public and private institutions mentioned above, face to face meetings and communication via e-mail with some fisheries' and maritime affairs' experts from European Union and with Chief Administrator for Maritime Affairs and Honorary Director of the European Commission provided some background information and knowledge about the fisheries agreements. It was stated explicitly in those conversations that:

There is no reference to the colonial past in the fisheries agreements because between the time of decolonization, primarily between the early 1960s and the first conclusion of fisheries agreements in the late 1970s, offshore fishing has undergone a technical revolution with the introduction of freezing on board fishing vessels. Since there was no technical progress before 1960s, the exploitation of fishing was little or not occurred during the colonial era. In addition, during the colonial era, the fishing activities in the waters of the countries concerned were mainly coastal and were integrated into local economies at the time of decolonization.²⁹

This statement reflects the idea that since there was no technological development to realise intense fishing activities in the distant waters during the colonial times, it is not possible to refer colonial past of fishing relations between Africa and European countries while examining fisheries agreements. Moreover, during the colonial times, there were mainly small scale coastal fishing practices that had been pursued by Africans; therefore, they cannot be identified with the fisheries agreements.

It was also expressed that “the link between fisheries activities and the colonial history of some Member States is more geopolitical.”³⁰ It is known that continuation of economic relations with the former colonies has become vital for

²⁹ “Letter from Honorary Director of the European Commission and Chief Administrator for Maritime Affairs”, European Commission, Date of the Letter: 06/03/2014. The name of the expert is not included in the thesis in order to guarantee the anonymity of the interviewed person.

³⁰ Ibid.

some former colonial powers of Europe after the decolonisation process. Therefore, in order to provide the maintenance of the link between European powers and their former colonies, steadiness of these relations has been guaranteed dating from ‘Treaty of Rome’ establishing European Economic Community in 1957.³¹ Part IV of the Treaty of Rome was dedicated to the question of ‘associated countries’³² as the former colonies of France, Belgium, Italy and the Netherlands were called. It is written in Article 131 of Rome Treaty that the purpose of this association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Community as a whole. On the basis of this Treaty, the European Community’s demand for sustaining strong economic ties with the former colonies of its Members may be based upon its aspiration to secure the commercial and geopolitical interests of the Member States. Moreover, as an important trade channel, the EC did not want to lose African market which was previously the exclusive sphere of the European colonial powers.³³

Based on what is stated above, experts communicated emphasized that:

Fisheries agreements also concern the continued presence of European economic interests in countries linked in the past to the Member States. It is possible to illustrate this geopolitical concerns through the case of French fisheries in Morocco (although it was not a real legal term colony) for which (fishing interests of France were marginal compared to Spain but) negotiations of French government were followed carefully by the Quai d’Orsay (Ministry of Foreign Affairs) at political level, while the Place de Fontenoy (Department of

³¹ Treaty establishing the European Economic Community, Rome, 25 March 1957, Date of Access: 12/02/2014.

<http://www.ab.gov.tr/files/ardb/evt/1_avrupa_birligi/1_3_antlasmalar/1_3_1_kurucu_antlasmalar/1957_treaty_establishing_eec.pdf>

³² 18 Associated Countries: Mwami of Burundi, Federal Republic of Cameroon, Central African Republic, Republic of Chad, Republic of the Congo (Brazzaville), Republic of the Congo (Leopoldville), Republic of Dahomey, Gabon Republic, Republic of the Ivory Coast, Republic of Madagascar, Republic of Mali, Islamic Republic of Mauritania, Republic of Niger, Republic of Rwanda, Republic of Senegal, Republic of Somalia, Republic of Togo, Republic of the Upper Volta. See: Annex IV of the Treaty of Rome.

³³ Witbooi, op. cit., p. 75.

Marine Fisheries) had taken a rather technical level monitoring.”³⁴

From this point of view, it is realized that, despite the intensity and economic return of Europeans’ fishing activities in Africa were not high during the pre/colonial times, expansion of fisheries policy towards the Africa can be seen as a part of enthusiasm for the continuation of economic and political cooperation with former colonies. Therefore, it might be seen beneficial by the European Community to establish fisheries agreements to preserve and even increase fishing activities that were realised (without any need for permission to fish) in developing states’ waters before Exclusive Economic Zone (EEZ) was adopted in the United Nations Convention on the Law of the Sea (UNCLOS).

Another expert communicated also stressed that:

The colonial period cannot offer enough sound elements to explain the fisheries agreements between European Union and African countries, firstly, for the reason that the fisheries agreements have started to be signed after the declaration of EEZs ³⁵; and, the creation of the EEZs occurred at the times of decolonisation, and until their creation, the waters included in today’s EEZ of any African country were taken into account as high seas and fish captures were supposed to be done in these high seas. Secondly, within the European Union, catch records have been collected approximately not earlier than 1975.³⁶

These claims can be considered as obstacles to gather historical information and data about fish catches and to reach objective result on whether there was an intensive exploitation of stocks in African waters by the distant water vessels of European powers during the pre/colonial times.

³⁴ “Letter from Honorary Director of the European Commission and Chief Administrator for Maritime Affairs”, op. cit.

³⁵ See Part V of UNCLOS for the specific legal regime and breadth of EEZ and right, jurisdiction and duties of the coastal states and other states in the EEZ.

³⁶ “Letter from Adviser of the Minister on the Design, Implementation and Evaluation of Public Policies in Ministry of Ecology, Sustainable Development and Energy and former Deputy Manager in French Directorate of Fisheries and Aquaculture”, France, Date of the Letter: 03/03/2014. The name of the expert is not included in the thesis in order to guarantee the anonymity of the interviewed person.

For the statistical proof of the dispute on whether fisheries agreements are the continuation of colonial times' relations, due to the limitations mentioned above, it is only possible to benefit from geographical references used by Food and Agriculture Organisation (FAO) for the purposes of reporting fishery catches (FAO Statistical Areas). FAO starts reporting fishery catch statistics from the date of 1950. Fishery Committee for the Eastern Central Atlantic (CECAF), the leading regional fisheries organisation established under the Article VI of FAO Constitution and carrying out studies for the fisheries consisting of West African waters³⁷, reports data starting only in 1972.

Therefore, the quantitative data to remove ambiguity about the historical catch level of European powers in Africa is limited, but, when the statistics (presented in Figure 2.1) of FAO from the 1950s till the 2000s are analysed it is seen that the expansion to and intensification of European countries' fishing in the waters of African continent has started to be realised in the years of 1970s. It cannot be claimed that FAO statistics reflect the actual figures about the quantities of catches by the European fishermen in CECAF areas, however, these statistics helped within the thesis to gain insight about the general situation. The following figure includes the fisheries activities of Eastern European Countries which were the parts of Soviet bloc before the collapse of USSR. However, since their past utilisations are also important for the negotiations of fisheries agreements after their membership to the European Union in 2004, it is seen necessary to add into the Figure 2.1 the ratio of their fishing activities in CECAF area, too.

³⁷ CECAF's area of competence: All the waters of the Atlantic bounded by a line drawn as follows: from a point on the high water mark on the African coast at Cape Spartel (lat. 35°47'N, long. 5°55'W) following the high water mark along the African coast to a point at Ponta de Moita Seca (lat. 6°07'S, long. 12°16'E) along a rhumb line in a north westerly direction to a point on 6° south latitude and 12° east longitude, thence due west along 6° south latitude to 20° west longitude, thence due north to the Equator, thence due west to 30° west longitude, thence due north to 5° north longitude, thence due west to 40° west longitude, thence due north to 36° north longitude, thence due east to 6° west longitude, thence along a rhumb line in a south easterly direction to the original point a Cape Spartel. (CECAF Website, Date of Access: 10 February 2014. <<http://www.fao.org/fishery/rfb/cecaf/en>>)

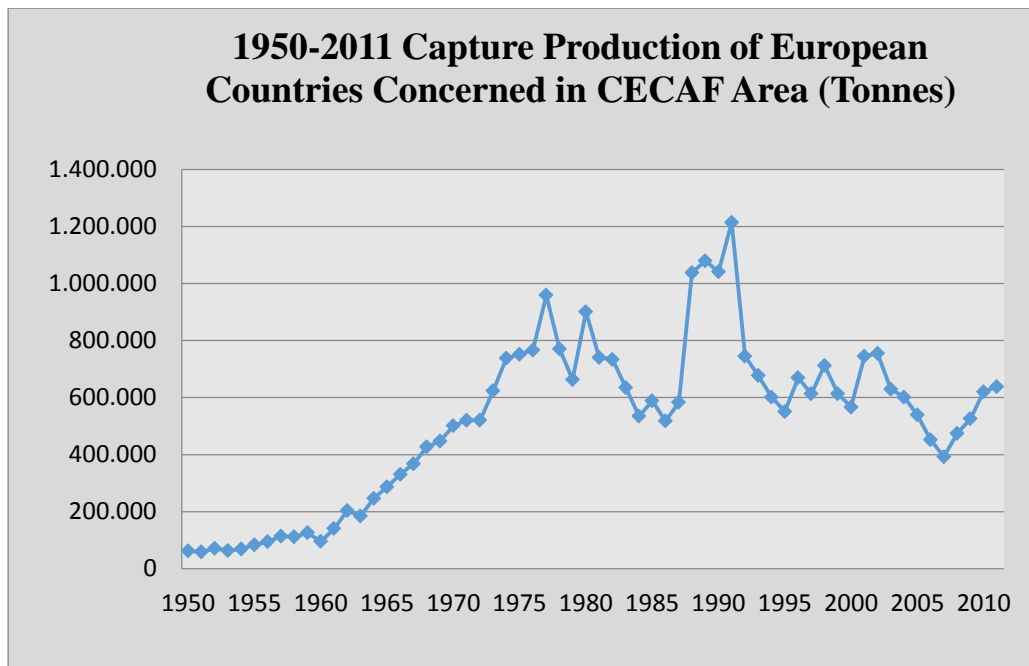


Figure 2.1: 1950-2011 Capture Production of European Countries Concerned³⁸ in CECAF Area (Tonnes) (The table is prepared by me through statistical data gathered from FishstatJ, FAO Fishery and Aquaculture Global Statistics)

It is the fact that fishing activities in Africa did not play real economic role for both African countries and European powers before 1970s since the quantity of catch by European powers in CECAF area was just nearly a hundred thousand tonnes in 1950 as it is one tenth of total production (one million tonnes) of European fleets in the same area in 1975. The argument that fishing activities in Africa did not play real economic role for European powers before 1970s is also presented in Garibaldi's (et al.) article through the statement that "catches by distant water fleets (DWFs) in the Eastern Central Atlantic developed during the 1960s and reached a maximum of over 2 million tonnes in 1977, some years after they peaked globally in 1972."³⁹ However, still, relations on fisheries are believed to be established much earlier than 1970s due to the geopolitical importance of the region.

³⁸ Figure encompasses today's EU's Member States which have been fishing in CECAF area: Bulgaria, Estonia, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Poland, Portugal, Romania, Spain, United Kingdom

³⁹ L. Garibaldi and R. J. R. Grainger, "Chronicles of Catches from Marine Fisheries in the Eastern Central Atlantic for 1950-2000", in P. Chavance, M. Bâ, D. Gascuel, J.M. Vakily and D. Pauly (eds.). *Proceedings of International Symposium on Marine Fisheries, Ecosystems and Societies in West Africa: Half a Century of Change*, Dakar (Senegal), 24 - 28 June 2002, p. 103.

Despite the claim that fishing activities of the European vessels in CECAF area have increased especially after 1970, it is seen in the Figure 2.1 that there were relative declines in fishing between 1975-1985 and after 1990. These relative declines cannot be explained through the depletion of fish stocks in African waters since African countries' own fisheries in the waters of CECAF area between these years continued to steadily increase as it can be seen in Figure 2.2. Moreover, it is not logical to assume that fishing was decreased due to the decrease in demand by the European fishermen to catch the fish stocks in these waters while there was a worldwide competition for the fish resources. Lastly, it is known that there has been increasing fish consumption in both the European Union and the world since 1970s. Therefore, fishing in African waters had a vital importance for European fishermen to supply fish to the internal European market which means that there has been an ongoing pressure put by the consumers on European fishermen to catch more fish. Therefore, there should be other determinant reasons for the decrease in fishing between 1975-1985 and after 1990.

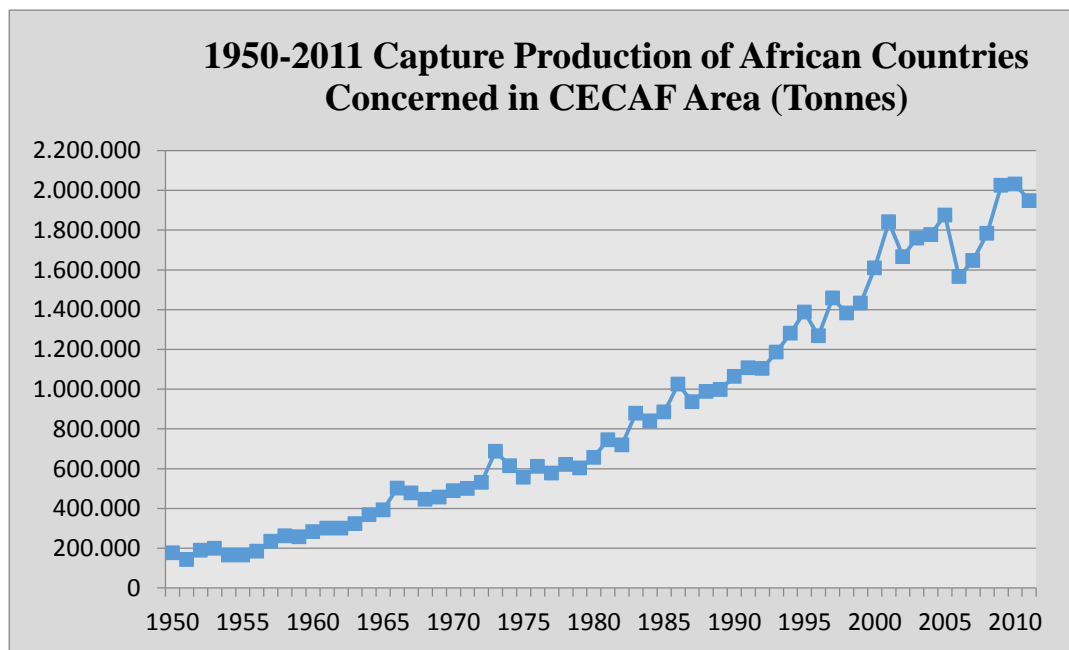


Figure 2.2: 1950-2011 Capture Production of African Countries Concerned⁴⁰ (Tonnes) (The table is prepared by me through statistical data gathered from FishstatJ, FAO Fishery and Aquaculture Global Statistics)

⁴⁰ 1950-2011 Capture production of African countries which have signed fisheries agreement (whether in force or not) with the European Union: Cape Verde, Comoros, Côte d'Ivoire, Gabon, Gambia, Guinea, Guinea-Bissau, Equatorial Guinea, Mauritania, Mauritius, Morocco, São Tomé and Príncipe, Senegal.

This decline may be explained with two reasons: as the claim of EEZs by African coastal states between the years of 1975-85 and the collapse of state-owned (and heavily subsidised) fleets of Eastern Europe after the dissolution of USSR in 1991. The collapse of the Eastern Bloc economies after 1990 led to the concomitant decline in distant water catches and a slowdown in the fishery of them. Since the Eastern European countries extensively fishing in the African waters were taken into consideration in the Figure 2.1 as they became members of the Union in 2000s, the decline in distant water catches of them after the collapse of USSR was reflected into the Figure. Moreover, before the collapse of USSR, introduction of 200 mile Exclusive Economic Zones had direct and far-reaching impacts on the activities of all distant water fishing fleets. As it is seen in the following figure, with the declaration of EEZs by most of the countries after 1970s, nearly one fourth of total landing of DWFs decreased in the world between 1975 and 1985.

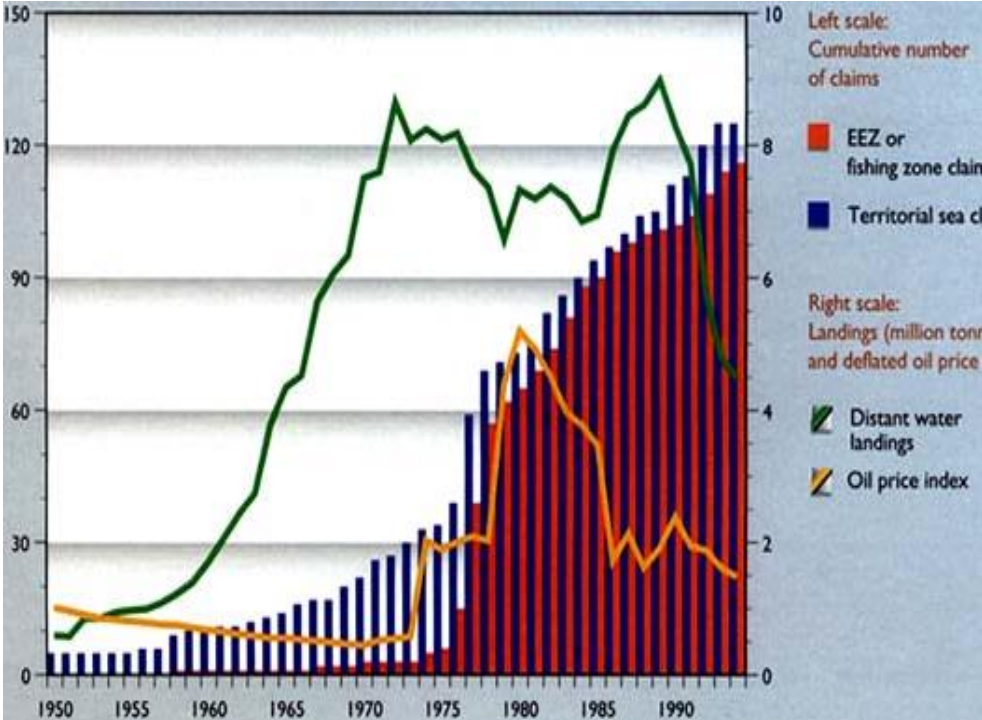


Figure 2.3: Increase in the claim of EEZs in years by the states and distant water fishery landing in the world (Grainger, et. al, 1996⁴¹)

⁴¹ R. J. R. Grainger and S. M. Garcia, “Chronicles of Marine Fishery Landings (1950-1994): Trend Analysis and Fisheries Potential”, *FAO Fisheries Technical Paper*, No. 359, 1996, p. 51, Date of Access: 05/02/2014. <<http://www.fao.org/docrep/003/W3244E/w3244e09.htm#TopOfPage>>

As it is going to be further explained in the next part of this chapter, after 1970s, sovereign rights and responsibilities of African states on their zones came to the existence with the worldwide political changes about the management of natural resources arising with the decolonisation process. The management of natural resources by individual states has become an issue of dispute already by the end of the 19th century. However, oceans were continued to be governed by customary international law till the 1950s when the struggle of states for having an international codified rules has started to accelerate:

According to customary international law, there was the dichotomy 'territorial sea-high seas'. Concerning fisheries, the exclusive powers of a coastal State were confined to its territorial sea. Beyond this area, there were the high seas where all States enjoyed the traditional freedoms of the sea, including that of fishing.⁴²

However, with the introduction of Exclusive Economic Zones after 1970s providing extended national jurisdiction on 200-mile zone from the territorial sea baseline of states, the codified rules that were giving comprehensive right to coastal states for the management of fish stocks in this Zone have come to the existence.

The most important effect of the new regime [UNCLOS – EEZ] is the introduction of catch volume and fishing effort limitations for foreign nations. In harvesting activities, the distant-water fleets are restricted to national quotas, which can be taken within limited time, area, and number of vessels. Quota allocation systems permit the long-range fleets to utilize only part of their up-to-date capacity. Practically all foreign distant water fishing nations felt the impact of these limitations immediately.⁴³

⁴² José Antonio de Yturriaga, *The International Regime of Fisheries: From UNCLOS 1982 to the Presential Sea*, Martinus Nijhoff Publishers, 1997, p. 1, Date of Access: 05/02/2014.
<http://books.google.com.tr/books?id=oHCM4qElfloC&printsec=frontcover&hl=tr&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false>

⁴³ Edward Miles, Stephen Gibbs, David Fluharty, Christine Dawson and David Teeter, *The Management of Marine Regions: The North Pacific*, University of California Press, Berkeley, Los Angeles, London, 1982, p. 242, Date of Access: 05/02/2014.
http://books.google.com.tr/books?id=f0i1RO3fdMoC&printsec=frontcover&dq=The+Management+of+Marine+Regions:+The+North+Pacific&hl=tr&sa=X&ei=KnR_VJaZC4v4ywOe2IHwDg&ved=0CBwQ6AEwAA#v=onepage&q=The%20Management%20of%20Marine%20Regions%3A%20The%20North%20Pacific&f=false>

With this transformation in international area, distant water fishing has become dependent on signing a fishing agreement with coastal states. These agreements have enabled any state to import the fishing quota of coastal states concerned through paying the price for this quota or through exchanging right to fish in each other's EEZ. Of course, "distant water fishing has not been created by countries signing agreements with others - it actually existed before these agreements. Nonetheless, the fact that DWFNs now had to pay to operate in fishing grounds they considered traditional to their operations led to serious re-evaluation of the potential of various fishing grounds."⁴⁴

Since there was a freedom to fish in high seas before the Exclusive Economic Zones were declared, these agreements created additional cost for distant water fishing states through necessitating payment for gaining fishing rights in other states' Exclusive Economic Zones. Therefore, fishing in other states' EEZs became less attractive for the distant water fishing nations due to added cost for the accession to fish resources of other countries and low profit remaining after the payment of the cost.⁴⁵ Despite the previous explanations on the change in international regime and the decrease in distant water fishing by European vessels between 1975-1985 due to this regime change, it is realised in the Figure 2.1 that fishing activities of European vessels have continued to increase after 1985 once the fishing rights in these waters were secured through agreements. In order to understand the reason why fishing activities of European countries in African waters have continued to increase after 1985 despite these newly occurred costs and limitations in the freedom to fish in former high seas, it is necessary, in the next part, to explain the development of external fisheries policy of the EU through '*prime mover*' which is the over-exploitation of European stocks appeared in the second half of 20th century and gave way to the search for new sources. Before mentioning about the over-exploitation of European stocks, the detailed explanation for the change in international regime is going to be done.

⁴⁴ Stephen Mbithi Mwikya, "Fisheries Access Agreements: Trade and Development Issues", *ICTSD Natural Resources, International Trade and Sustainable Development Series*, Issue Paper No. 2, International Centre for Trade and Sustainable Development, Geneva, Switzerland, 2006, p. 5.

⁴⁵ Grainger and Garcia, op. cit., p. 51.

2.2 The Evolution of External Fisheries Policy of the EU

External fisheries policy of the EU is described on the Commission' website⁴⁶ as it has two parts: multilateral agreements and bilateral agreements. Multilateral agreements, as the first part, include international conventions and agreements that have a bearing on fisheries. This part of the external dimension may be claimed to be established and developed in order to reflect commitment of the EU to the sustainable and sound management of world marine resources as the depletion of marine resources all over the world has started to become one of the issues counted as world affairs starting from the 1950s. It has been important for the European Union both to protect the interests of its fishermen in the international arena and to preserve world fish stocks. The major multilateral agreement on fisheries the EU signed was *United Nations Convention on the Law of the Sea (UNCLOS)*, which was adopted by the Third United Nations Conference on the Law of the Sea (UNCLOS III) lasted from 1973 to 1982, the process of which gradually led to the formation of second part of the CFP's external dimension: bilateral agreements.

Actually before the Convention on the International Law of the Sea created at the end of Third United Nations Conference on the Law of the Sea, there have been ongoing effort to create common rules and system for the management of marine resources. The requirement for the inter-governmental cooperation on the management of fish resources originates from the natural and legal status of fish stocks. Firstly, it is known that most of the fish species are (sometimes highly) migratory in nature. Therefore, a fish stock generally migrate into the waters of one or more neighbouring states or into the high seas being open to all states. Thus, one states' rules and measures for the management of the fish stocks cannot be enough to appropriately manage and conserve migratory fish stocks. There should be a coherence between the actions of coastal states for the sound management of world's fish stocks which necessitates a common action pursued through the inter-governmental cooperation. Moreover, it is the fact that there has been a freedom of fishing in the high seas where the management of fisheries has not been under the jurisdiction of any state. Therefore, common action for the management of fisheries

⁴⁶ See: http://ec.europa.eu/fisheries/cfp/international/index_en.htm.

activities and conservation of fish stocks in the high seas is always needed. Last but not least, management of fish stocks necessitates costly and troublesome operations for fisheries inspection within the marine areas which can be hard to achieve for some coastal states which necessitates cooperation between states for the effective measures to be taken in the fisheries management.⁴⁷

All of these requirements for the common management of fish stocks within the international system brought with it certain international cooperation actions in the field of management of fish stocks. Before the First UN Conference on the Law of the Sea held in Geneva from 24 February to 29 April 1958, fisheries were regulated to a limited degree by treaties and customary international law. At the end of the Conference, four conventions were adopted on the Law of the Sea: the Convention on the Territorial Sea and the Contiguous Zone (CTS); the Convention on the High Seas (CHS); the Convention on Fishing and Conservation of the Living Resources of the High Seas (CFCLR); the Convention on the Continental Shelf (CCS). All of these Convention have been seen as an important initial steps for the development of broad universal legal structure for fisheries management.⁴⁸ In order to lay down the details of the rules adopted through four Geneva Conventions, Second UN Conference on the Law of the Sea was held in Geneva from 17 March to 26 April 1960. However, since there was no agreement reached on the subject issues of the Conference, the Conference failed to lay down the details of the rules on territorial sea, contiguous zone and so on.⁴⁹

While the international codified rules for the management of marine areas had been tried to be established, the decolonisation process was already well under way especially after 1945. With the “Declaration on the Granting of Independence to Colonial Countries and Peoples”⁵⁰ adopted by UN General Assembly in 1960,

⁴⁷ Robin Churchill and Daniel Owen, *The EC Common Fisheries Policy*, Oxford University Press, 2010, pp. 77-78.

⁴⁸ Ibid, p. 78.

⁴⁹ Şule Anlar Güneş, “BM Deniz Hukuku Sözleşmesi ve Deniz Çevresinin Korunması”, *Ankara Üniversitesi Hukuk Fakültesi Dergisi*, Cilt: 56, Sayı: 2, 2007, p. 5.

⁵⁰ For the detailed information, see United Nations General Assembly Resolution 1514 (XV) of 14 December 1960: Declaration on the Granting of Independence to Colonial Countries and Peoples.

decolonisation process further accelerated. Therefore, increase in the number of newly independent states came into force after the Second UN Conference on the Law of the Sea brought with it the heated debate on the international law, international economic relations. The demands by the newly independent states for the fundamental change in the use and fair share of marine resources between the states made the Third UN Conference on the Law of the Sea to be held in 1973.⁵¹

Third UN Conference on the Law of the Sea lasted from 1973 till 1982 because of the political importance and complexity of the issues of Conference, number and different position of states participated, decision-making mechanism adopted in the Conference.⁵² After a tough process, UN Convention on The Law on the Sea was adopted at the end of the Third UN Conference on the Law of the Sea in 1982 and came into force in 1994. Law of the Sea Convention can be identified as the essential legitimate tool administrating the rights and obligations of the countries on the issues of high seas, protection of marine environment; and sustainable management and use of the natural marine resources within the Exclusive Economic Zones of the coastal states.⁵³ UN Convention on the Law of the Sea is perceived as a ‘Constitution for Oceans’ providing a legal framework for the governance of oceans on more than one hundred issues⁵⁴ some of which are territorial sea, contiguous zones, continental shelf, use of seabed and subsoil, bays and ports, straight baselines, internal waters and innocent passage.⁵⁵ However, for the thesis, UNCLOS has a

⁵¹ For the other triggering events for the gathering of Third UN Conference on the Law of the Sea, see Güneş, op. cit., p. 6-7.

⁵² For the details of Third UN Conference on the Law of the Sea Dynamics, see Donald R Rothwell and Tim Stephens, *The International Law of the Sea*, Hart Publishing, September 2010, pp. 12-13 and Güneş, op. cit., pp. 8-10.

⁵³ Willa Kalaidjian, “Fishing for Solutions: the European Union’s Fisheries Partnership Agreements with West African Coastal States and the Call for Effective Regional Oversight in an Exploited Ocean”, *Emory International Law Review*, Vol. 24, 2010, p. 393.

⁵⁴ Güneş, op. cit., p. 2.

⁵⁵ UNCLOS is also important in terms of leading further initiatives and cooperation actions to be taken such as International Conference on Responsible Fishing (1992), UN Conference on Environment and Development (1992). Moreover, various instruments were adopted at the end of the cooperation actions such as the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993), Code of Conduct for Responsible Fisheries (1995) and the Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea relating to the Conservation and Management of Straddling and Highly Migratory Fish Stocks (1995).

special importance in terms of its articles on Exclusive Economic Zones (EEZs) and the rights and responsibilities of coastal states in their claimed EEZs.

UNCLOS is a *raison d'être* of fisheries access agreements with its articles about the use and management of living resources in the EEZs of the coastal states. Fisheries relations, of course, would have been continued between the EC's Member States and their former colonies after the decolonisation process. However, UNCLOS made these relations to be based upon public agreements in which rights and responsibilities of both sides of the agreements for the common use, management and conservation of fish stocks in the EEZ of any party of the agreement are explicitly defined. Since the Member States have started to establish Common Fisheries Policy and to give their competence in certain issues about fisheries to the European Community at the time of writing of the Convention, both the Member States and the EC itself became the party of it. At the end, in terms of rules in the Convention leading the second part of the EC's external fisheries policy - bilateral agreements - the EC has took the sole responsibility to apply.

Part V on EEZ is one of the prominent parts of UNCLOS.⁵⁶ Article 55 of UNCLOS defines EEZ as an area beyond and adjacent to the territorial sea under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.⁵⁷ EEZ can be claimed out to a maximum 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.⁵⁸ UNCLOS, through Article 56, gives coastal states certain rights and jurisdictions in their EEZs.⁵⁹ "However, such rights and jurisdictions, even if claimed in their entirety, do not amount to territorial sovereignty. Furthermore, they must be exercised with due regard to the rights of other states."⁶⁰⁶¹

⁵⁶ United Nations Convention on the Law of the Sea (UNCLOS), December 10, 1982, 1833 U.N.T.S.

⁵⁷ Ibid, Art. 55.

⁵⁸ Ibid, Art. 57.

⁵⁹ Ibid, Art. 56.

⁶⁰ Robin Churchill and Daniel Owen, op. cit., p. 82.

⁶¹ According to UNCLOS, the coastal state has: (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters

The important point in Part V on EEZ of UNCLOS for the thesis is that Article 62 of Part V gives right to the coastal state to determine its capacity to harvest the living resources inside of its Exclusive Economic Zone. However, where the coastal state does not have the (technical/institutional) capacity to utilise the whole allowable fish stocks, it gives other states right to access to the surplus of the total allowable catch through fisheries agreements signed with them.⁶² Under this article, “by recognizing the right of coastal states to determine how their waters were to be exploited, the UNCLOS provided a legal basis and economic motivation for the negotiation of access agreements between coastal states and distant water fishing fleets.”⁶³ In this Article, it is stated that the coastal State, while giving fishing rights to other states, shall take into account all relevant factors such as the significance of the living resources of the area to the economy of the coastal State concerned and its other national interests, the requirements of developing States in the subregion or region in harvesting part of the surplus and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.⁶⁴ However, while this article of the UNCLOS has been giving cause to the European Union for signing bilateral fisheries agreements, it has ignored the fact that the developing coastal states have not had capability to do stock assessment and to search for if they have the surplus of allowable stocks to sign an agreement on them with other countries. Moreover, it is not an easy job for newly independent states to assess the

superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; (b) jurisdiction as provided for in the relevant provisions of this Convention with regard to: (i) the establishment and use of artificial islands, installations and structures; (ii) marine scientific research; (iii) the protection and preservation of the marine environment. However, other states enjoy the freedoms, in the EEZ of the coastal state, of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention. (See: Art. 56 and 58 of UNCLOS).

⁶² UNCLOS, op. cit., Art. 62.

⁶³ Nick Johnstone, “The Economics of Fisheries Access Agreements: Perspectives on the EU–Senegal Case”, *International Institute for Environment and Development, Environmental Economics Programme*, Discussion Paper, London, December 1996, Abstract.

⁶⁴ UNCLOS, op. cit., Art. 62.

role of fisheries sector within the national economy. Although the conditions reflected in Article 62 do not seem feasible for the developing states, it is believed that this part was sacrificed in exchange for gaining rights and jurisdiction in the use and management of oceans in which previously they did not have a voice.

European Unions' bilateral agreements have been divided into two as 'northern agreements' and agreements signed with southern countries named after reform process of Common Fisheries Policy in 2002 (which is explained in detail in chapter 4) as 'fisheries partnership agreements'. As an answer to the question of how signing these agreements has been decided, it was stated in the Communication by the Commission to the Council of 23 September 1976 that "the negotiating approach has thus been worked out in the light of the Community's net balance of fishing interests in the different zones and the specific relationships it has with each of the non-member coastal States, and enables a general picture to be obtained of the nature and scope of possible arrangements."⁶⁵

These two types of agreements are also classified as reciprocal and compensatory agreements:

The first involves an exchange of fishing opportunities with countries such as Norway, Iceland and the Faroe Islands. Compensatory agreements were much more numerous and raise key issues of development and sustainability. They depended upon payment of financial compensation by the EC (and in part by private European ship owners) in return for access to the third country's fishing grounds.⁶⁶

The four parties of the Europe (the EU, Norway, Iceland and Faroe Islands) are absolutely on the same standpoint about northern/reciprocal agreements since the most of the stocks exploited by their fishermen are migratory and shared across boundaries of European countries. Therefore, it is reasonable for them to sign fisheries agreements with the EU to coordinate the fishing fleets of each other and to manage fish stocks together. Since the northern agreements are negotiated on the

⁶⁵ "Future External Fisheries Policy, An Internal Fisheries System", COM (76) 500 final, 23 September 1976, *Archive of European Integration, University of Pittsburgh*, Date of Access: 15/02/2014. <<http://aei.pitt.edu/34051/>>

⁶⁶ Charlotte Bretherton and John Vogler, "The European Union as a Sustainable Development Actor: the Case of External Fisheries Policy", *Journal of European Integration*, 30:3, 2008, p. 405.

basis of joint management and exchange of quotas which does not necessitate payment of fee by European Union for the exploitation of stock in North Atlantic due to the fact that the northern countries are also fishing in Member States' exclusive economic zones, these are the bilateral agreements with southern countries/compensatory agreements (all ACP states, but African countries in this thesis) which have become an issue of this research.

External bilateral fisheries relations of European countries have developed much earlier than the establishment of European Community as it is explained above. However, the threat of rupture of relations with the African states due to the decolonisation process and the end of freedom of fishing in African waters due to the African states' claim of EEZ during the UNCLOS Conference necessitated signing fisheries agreements with those former colonies which later led to the evolution of external fisheries policy of the European Countries with southern countries under the European Community's mandate.

The change in the states' rights and obligations about the management of high seas with the invention of 'Exclusive Economic Zone' required European Community to follow this transformation through extending its Members' fishing zones to 200 miles; and forced it to take the authority for entering into negotiations on fisheries agreements for the sake of its Members.⁶⁷ The process of Third United Nations Conference on the Law of the Sea started in 1973 forced European Community to determine its future external fisheries policy and internal fisheries regime. In the Communication of 23 September 1976, European Commission warns about that "changes in the international context in which fishing takes place also implies that in the near future there will be major economic and social repercussions for Community fishermen who fish in the Mediterranean or in the waters of certain non-member coastal States in West Africa and Latin America."⁶⁸ Therefore, it is claimed that the extension of states' rights to 200 mile zone to manage marine

⁶⁷ Christian Lequesne, *The Politics of Fisheries in the European Union*, European Policy Studies, Manchester University Press, July 2004, p. 23, Date of Access: 24/05/2014.
<http://www.google.com.tr/books?id=sf_TOVJdx0QC&printsec=frontcover&hl=tr>

⁶⁸ COM(76) 500 final, op. cit..

resources necessitated the Community to be ready for initiating negotiations with the states in whose waters Community's fishermen have been traditionally fishing.⁶⁹

After this Communication of 23 September 1976, European Foreign Ministers adopted the Hague Resolution at the meeting on 3 November 1976 in order to meet these requirements. In this Resolution, it was stated that:

The Council agrees on the need to ensure, by means of any appropriate Community agreements, that Community fishermen obtain fishing rights in the waters of third countries and that the existing rights are retained. To this end, it instructs the Commission to start negotiations forthwith with the third countries concerned in accordance with the Council's directives. These negotiations will be conducted with a view to concluding, in an initial phase, outline agreements regarding the general conditions to be applied in future for access to resources, both those situated in the fishing zones of these third countries and those in the fishing zones of the Member States of the Community.⁷⁰

After the Resolution of 3 November 1976, European Community has started to initiate bilateral fisheries agreements with various African states (the first one was signed with the Republic of Senegal in 1979). In addition to this Resolution, accession of two powerful coastal countries –Spain and Portugal, to the European Community contributed the development of these bilateral agreements. Through the Act of Accession of Spain and Portugal adopted in 1985, it was acknowledged that:

Upon accession, the administration of fisheries agreements concluded by the Kingdom of Spain and Portuguese Republic with third countries shall be the responsibility of the Community. As soon as possible, and in any event before the expiry of agreements, the decisions appropriate for the continuation of fishing activities resulting therefrom shall be adopted in each case by the Council.⁷¹

⁶⁹ COM(76) 500 final, op. cit..

⁷⁰ Hague Resolution of 3 November 1976: Council Resolution on the Creation of a Community Fishing Zone and on the Management of the Resources Thereof.

⁷¹ Treaty between the Member States of the European Communities and the Kingdom of Spain and the Portuguese Republic concerning the accession of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and to the European Atomic Energy Community, Act Concerning the Conditions of Accession of the Kingdom of Spain and the Portuguese Republic and the Adjustments to the Treaties, Article 158, 15.11.1985, Official Journal No. L 302, pp. 7–8.

Therefore, the new accords signed under Community framework either created new kind of deal between the Community and developing countries or replaced existing bilateral agreements reached between individual Member States and their former colonies.

The external dimension of the Common Fisheries Policy, as it can be seen, was created under the umbrella of the European Community in order to ensure the continuity of long-standing relationships between the African and European countries as it is explained in the ‘historical process’ aspect of this chapter. Moreover, it became impossible for both old (i.e. France, the Netherland) and new Member States (i.e. Spain and Portugal) to sign a fisheries agreement with African countries on their own. The two reasons for this impossibility is that hereafter the national fisheries policies of each Member State started to be framed under the Community structure with the establishment of Common Fisheries Policy in the 1970s; and after the Resolution of 3 November 1976, the execution of external fisheries agreements became the sole responsibility of European Community as a supranational organisation.

The process of decolonisation in the 1950s and the claim of rights in the Exclusive Economic Zones in the 1970s coincide with the emergence of over-exploitation of stocks in the European waters. It is the fact that after World War II ended, African nations gained sovereignty on their territories and the national resources and started keeping out their previous colonial owners from these resources. It cannot be denied that this process was accelerated in the 1970s associated with increasing significance of controlling natural resources.

On the other hand, the claim of Exclusive Economic Zones by African states which extended beyond their territorial waters to 200-miles⁷² might not still have necessitated making an agreement for fisheries with African countries since as it is

⁷² Some of the African States claiming EEZ or Territorial Sea (TS) and the year of claim: Benin (TS, 1976), Mozambique (EEZ, 1976), Cape Verde (EEZ, 1977), Congo (TS, 1977), Cote d'Ivoire (EEZ, 1977), Mauritius (EEZ, 1977), Guinea Bissau (EEZ, 1978), Mauritania (EEZ, 1978), Kenya (EEZ, 1979), Guinea (EEZ, 1980), Morocco (EEZ, 1981), Comoros (EEZ, 1982), Gabon (EEZ, 1984), Ghana (EEZ, 1986), Senegal (EEZ, 1987), Angola (EEZ, 1992) (Robert W. Smith (eds.), “National Claims to Maritime Jurisdiction”, *International Boundary Study, Series A, Limits in the Seas*, U.S. Department of State: Office of Oceans Affairs, No. 36, 8th Revision, May 25, 2000.)

previously reflected through Figure 2.1, fishing activities of European power in Africa were not high in that times to meet the cost of an agreement through revenue coming from fishing in African waters. Nevertheless, especially after 1970s, the over-exploitation of fish stock within the EC's waters came to the existence which has forced European countries to fish in the waters of other countries. After the depletion of fish stocks in the Member States' Exclusive Economic Zone and over-exploitation of fish stocks encountered in North Atlantic waters after 1970s, all stakeholders of the sector has become more dependent on fish resources coming from African states' Exclusive Economic Zones declared after 1970s. In addition to the over-exploitation caused by internal fleets, if the Community had not had signed agreements, the claim of Exclusive Economic Zones by African states would have resulted in a retransfer of the fishing fleets of the Member States being active in the African zone back to the Community zone which might have accelerated the deterioration of stocks.

Newly started control over African waters by the coastal nations in Africa necessitated fisheries activities of European powers in Africa to be based on agreement to fish in the zones under the control of African states since then. Within the European Community, the fishing industry has always become vital not only for supplying fish to consumers or different industries within the value chain of fisheries but also for generating employment opportunities and causing primary sources of income in some coastal areas, such as Galicia in Spain and Algarve in Portugal.⁷³ Therefore, some former colonial powers' coastal regions, especially those of Spain and Portugal, have been much more dependent on fisheries in African waters for their livelihood. Therefore, realising that their previous colonies also acquired growing awareness of the changing environment in international arena about the rights and responsibilities of nations in their use of the world's oceans, they negotiated bilateral fisheries agreements with some of their former colonies to ensure their full control over waters off Africa, and as it is mentioned above, these agreements were also brought under the control of European Community after 1976.

⁷³ European Commission, *European Sectoral Social Dialogue: Recent Developments*, Catalog No: KE-30-09-236-EN-C, 2010, p. 71, in Zafer Kanık and Serkan Küçükşenel, "The Promise of Transferable Fishing Concessions on EU Fisheries", *ERC Working Papers 1312*, ERC - Economic Research Center, Middle East Technical University, 2013, p. 8.

Actually, “it is ... the danger of the over-fishing of the seas bordering the Member States that has obliged the Community to react by creating a 200-mile fishing zone within which it has tried to develop a suitable autonomous policy for the replenishment of its own stocks.”⁷⁴ This danger also forced the EC to negotiate fisheries agreements with the third states. European Community has planned to improve fish stocks in the waters surrounding the Member States through establishing its own zone while fishing in other states’ Exclusive Economic Zones through signing agreements. Negotiations conducted by the European Community firstly concerned access to the surpluses of third states’ fish stocks with a view to increase the potential Community catch in the third states’ waters which aimed to reduce the pressure on fish stocks in the Community waters.

Briefly, while analysing the evolution of the external dimension of the European Union’s Common Fisheries Policy, it came into sight that the continuation of relations established on fisheries between the European powers and African states during the pre/colonial times have been significant for the preservation of geopolitical interests of Europe in Africa. Nevertheless, historical fisheries records of European countries in Africa reflect that catches was not high in quantity and volume for insisting on the continuation of fisheries relations through agreements. Moreover, claim of EEZ by African states after decolonisation might not have necessitated the signing of costly fisheries agreements whose returns, not politically but economically, is not high for the Europeans as a whole since the main beneficiaries of these agreements are Spain, Portugal, France, Italy, Greece and Germany. Although European Union has 28 members, because of the dominance of sector representative countries (i.e. Spain, France and Portugal) and lobbies in the EU, collective fisheries funds of the Union are spent to keep the commercial interests of only few Members and “the direct economic benefits of these agreements to the Union are highly concentrated in particular fishing communities in Spain, Portugal and, to a lesser extent France.”⁷⁵ The benefits of these agreements to the other Member States became cheaper fish product and meeting the demand for fish consumption in the internal market.

⁷⁴ COM(76) 500 final, op. cit..

⁷⁵ Bretherton and Vogler, op. cit, p. 410.

Therefore, besides all these historical relationships and results of late sovereign rights of developing states over their resources with the declaration of EEZs, the depletion of stocks in European waters formed the '*prime mover*' of the search for new sources by some Members of the Community and of the development of the external dimension of EU's fisheries. Thus, in the next chapter, there will be a detailed explanation of the internal functioning of fisheries policy, the distribution of fish quotas and the status of fish resources in European waters in order to provide a clear understanding of how the exploitation of internal stocks has shaped the positions of Member States on fisheries policies towards other regions.

CHAPTER 3

POSITIONS OF MEMBER STATES ON FISHERIES POLICIES INSIDE THE EUROPEAN UNION

This chapter of the thesis, in its first part, initially concentrates on the factors that led to the formation of structural and conservation policies as the two of the four pillars of the EU's Common Fisheries Policy (CFP).⁷⁶ There were different triggering events or factors that pushed Member States to unite their fishing activities and policies under one framework. These factors are noteworthy to mention in order to understand how the two pillars were structured and became the most controversial part of the internal European policies on fisheries and opened a road for the external dimension of the CFP.

After a brief explanation, in the first part, of the factors that necessitated fisheries policies of each Member State to be united under 'Common European Policy', positions of the Member States on the development of the first pillar, namely the structural policy, are going to be explained in the second part of the chapter in order to elucidate how this policy contributed to the excess fleet capacity and over-exploitation of stocks in the European waters and eventually has opened a road for the following improper policies and practices in the external fisheries relations.

Since the conservation policy came after 1980s - despite works on it had been started in the 1970s - formation and effects of this policy have started to be seen later than the effects of structural policy. Therefore, it is going to be explained under the third part of the chapter in order to technically elaborate how fish quotas were started to be distributed among the Member States for the sake of conservation and to clarify

⁷⁶ As stated before, the four pillars of the CFP are structural policy, market policy, conservation policy and external relations. Since the structural and conservation policies are seen as the most important pillars of the CFP in terms of the development of both internal fisheries policies and external fisheries relations, these two pillars are going to be examined in this chapter.

how this policy, contrary to expectations, brought about an increase in the exploitation of stocks at the end.

In the last two parts, it is aimed to provide a detailed explanation for the role of ‘prime mover’, referred in the first chapter as “the internal over-exploitation of fish stocks”, in the establishment of and increase in fisheries agreements with African countries. When the structural and conservation policies were established, they were based upon a high competition on stocks among the Member States. Each Member State tried to be sure that the best options for its fishermen on structural aids and conservation policies were chosen in the common decision-making system of the Community. This prevented the adoption of effective strategies suitable to the real, adverse situation of the stocks in the European waters. Therefore, ever since the common policies were formed, they have been considered to be unsuccessful fisheries policies of European Union in terms of letting over-exploitation in the Member States’ Exclusive Economic Zones and further contributing to the European dependence on fish resources coming from the developing states’ waters. This chapter, ultimately, paves the way for the justification of how this internal over-exploitation led to the externalisation of its costs through fisheries agreements to the developing (African) countries.

3.1 Factors for the Formation of Structural and Conservation Policies

The five of the initial six Members of the European Community (France, Netherland, Belgium, Italy, and Federal Republic of Germany (West Germany - between 1949-1990) (with the exception of Luxembourg) have their own national waters and traditional fisheries sectors. Nevertheless, at the beginning, fisheries did not become a common policy area of the Community. The Treaty of Rome (adopted in 1957) which led to the foundation of European Economic Community defined fisheries as an ‘agricultural product’ in its Article 38 and placed it under the Common Agricultural Policy. This reflects the situation that fisheries formerly was not a major policy area for the initial Members of the Community. The question to be

asked here is why and how the fisheries policies of each Member State became a common concern of the Community in the late 1960s.⁷⁷

The historical evolution of Common Fisheries Policy is explained through Figure 3.2 below. This figure reflects the years in which fisheries was managed under Common Agricultural Policy, the establishment of Common Fisheries Policy, reform processes and funding mechanisms of it year by year.

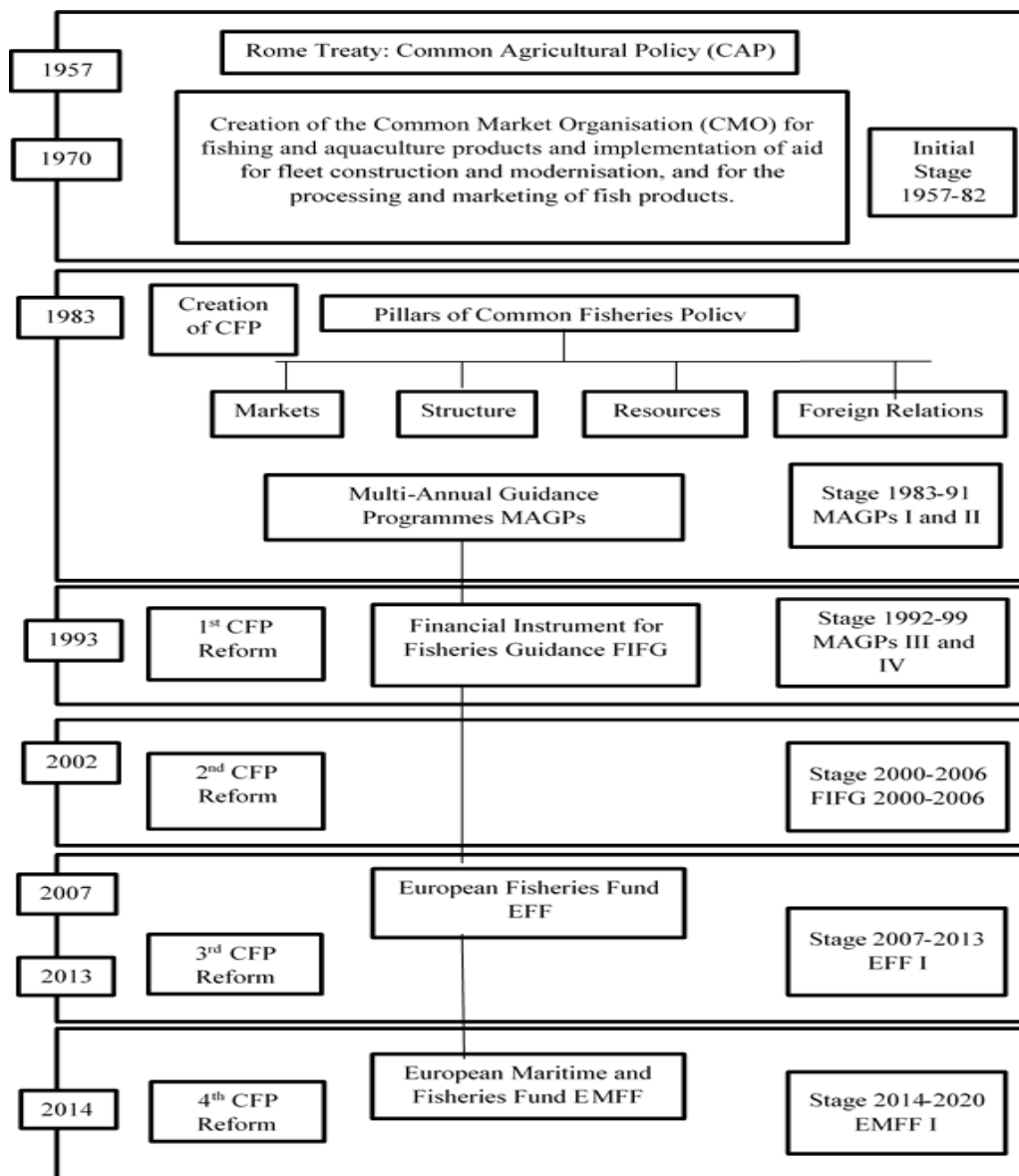


Figure 3.2: The Evolution of the Common Fisheries Policy (Surís-Regueiro et al., 2011⁷⁸)

⁷⁷ Eugénia da Conceição-Heldt, “Assessing the Impact of Issue Linkage in the Common Fisheries Policy”, *International Negotiation*, 13, 2008, p. 289.

However, fisheries policy of the Community did not arise all of a sudden. When the starting point of this evolution is analysed, actually, it is seen that the rise of the weight of fisheries for the six founding Member States of European Union bases on various factors. The factors that led to the rise of demand for a common policy on fisheries can be classified as the external and internal factors. The external factors that forced Member States to have Common Fisheries Policy can be listed as the developments within international law of the seas, the negotiation of tariff concessions in the GATT framework and the accession negotiations with four key fishing states (Norway, Great Britain, Ireland and Denmark). The establishment of the common customs tariff for the European Community (EC) and the changes within the fishing capacity of the EU fishing fleet can be ranked as the internal factors.⁷⁹

When the external and internal factors becoming a driving force for a new fishing policy for the Community are searched, initially, it is seen that the declaration of Exclusive Economic Zones after 1970s created additional pressure on European stocks. “Until the 1970’s fishermen could not only decide freely on where they conducted their fishing but also on how much they were going to fish. There was hence neither a technical limit on the amount nor in space” However, after 1970s change in the international law limiting European distant water fleets’ fishing rights in the high seas created a possible forthcoming devastating impact on European industrial high sea vessels.

With the establishment of EEZ by the UNCLOS, fishing fleets of European Union’s Members being active in the EEZs of third states were forced to leave these waters and travel back to the waters of the Union in order to continue fishing. This situation generated high possibility of further pressure on the stocks which were already over-exploited due to the internal factors. In order to solve the problem of excess fishing fleets and establish common Member States’ Exclusive Economic

⁷⁸ Juan C. Surís-Regueiro, Manuel M. Varela-Lafuente and M. Dolores Garza-Gil, “Evolution and Perspectives of the Fisheries Structural Policy in the European Union”, *Ocean & Coastal Management*, 54, 2011, p. 594.

⁷⁹ Two articles reflecting the factors that led to the establishment of common fisheries policy are: Ibid, p. 290 and Hans Martin Havstein, *Change and Continuity: 40 Years of Reforming the Common Fisheries Policy*, Master’s Thesis in European Studies, Institute for Historical Studies, Norwegian University of Science and Technology (NTNU), 2013, p. 1.

Zone to prevent third states' vessels to fish in Member States' waters, joint management of fisheries by all Members of the Community was urgently required.

In addition to the developments in international area on the use of high seas, liberalisation of trade all over the world, especially after 1947 with the adoption of General Agreement on Tariff and Trades (GATT) also affected the Community's decisions and policies on the fisheries sector. Since all of the Community's Members became the parties of GATT as from 1951, they needed to arrange their external tariff consistent with the rules of the General Agreement on Tariff and Trades (GATT). The external tariff on fisheries necessitated common action on the fisheries policy. Before starting negotiations on tariff concessions in the GATT framework, the objective of the EC was to create a common market for fish products within the EC. Moreover, while the Community had been trying to establish common external tariff compatible with GATT requirements, Member States realised that they have to come together to abolish their tariffs and quotas on fisheries against each other, too, in order to create custom union.⁸⁰

The time period between 1950 and 1970 also reveals that the catch levels of Member States inside of the European waters had been gradually increasing in time. According to the FAOstat data, total catch quantity of the coastal states of the EU increased from nearly 4 million tonnes in 1950 to nearly 8 million tonnes in 1970.⁸¹ Especially after the structural policy providing aid for vessel construction and modernisation, Member States realised that it became vital to take common action on the prevention of over-exploitation and the conservation of fish stocks.

All of these triggering events demonstrate that since the six original Members of the European Union did not have catching industries of vast importance until the end of the 1960s they did not need to take an action together in the context of fisheries. However, increasing catch levels, the change in international environment on the management of common resources (coastal states' jurisdiction on the fish stocks in their EEZs after the claim of EEZs) and the regulation of trade on goods all

⁸⁰ Ibid, p. 290.

⁸¹ FAOstat, Fisheries and Aquaculture Department Statistics, Online Query Panels, 2014.

over the world have started to force Member States to initiate negotiations on how to pursue their fishing relations with each other while preserving their own interests.

The process could be more slowly progressed and even be chocked up since there was a conflict of interest between France and Germany on the policy preferences and financial issues. However, on the contrary, the negotiations on a Common Fisheries Policy became an urgent issue for the founding six Members with the start of negotiations for the membership with Denmark, Norway, Ireland and the United Kingdom that have had long tradition in fisheries and noteworthy fishing sector which would certainly affect fisheries sector of all Members, at the end. This factor created *force majeure* for the Members to unite their fisheries policies under the 'Common' policy before the membership of new-comers was finalised.

The constitution of both structural and conservation policies witnessed a *power play* of the Member States during the negotiation process started in the 1970s in terms of struggling for preserving their interests. Despite the different initiatives on the new common policy area of the Community taken by the Members, Common Fisheries Policy was not established easily. The real initiative only came with the high probability of new memberships to the Community:

While there had indeed been plans on the table for the establishing of a common fisheries policy as part of the integration project, it was only when there were serious talk of enlargement (with the prospect members having vast fish resources) that the work towards a common policy gained impetus. As such, the policy was largely reactive, and based on national self-interest from the side of the initial six members.⁸²

3.2 Structural Policy Formation and the Situation of Fish Stocks within the EU Waters

These factors made a signal for the Members of European Union that they need Common Fisheries Policy in order to come through the difficulties they would experience in the future. However, both these external and internal factors brought with them a competition on how to formalise Common Fisheries Policy. As it is indicated above, due to the liberalisation of trade in all over the world since the end

⁸² Havstein, op. cit., p. 13.

of World War II, the first aim of the Members on fisheries policy was to create a common market for fish products in order to reorganise the Community's trade on fisheries through common external tariffs and customs in compliance with the reduced tariff-barriers and free trade goals of GATT. However, the establishment of common custom tariff in conformity with GATT preferences would create different impact on the six Member States' economy on fisheries due to the fact that before the common external tariff, tariff practices of each Member States were different from each other in accordance with their sectors' needs for protection from external competition.

For example, before the custom union, France had applied external tariff of between 25 per cent and 50 per cent on the imported fish products in order to protect its large traditional fishing industry. Fishing in France was more costly (it could be due to inefficient, small-scale fishing vessels, lack of technology or fuel prices etc.) than some other Member States which made French fishery products more expensive compared to other states' fishery products. In order to prevent cheaper products coming from abroad to negatively affect the internal French market, the external tariffs on imported products were kept high by the France government. However, other countries of the Community which had highly efficient and technologically developed fishing fleets had relatively low tariff barriers on imported fishery products.⁸³ Therefore, each Member State preferred different paths and demanded different measures to incorporate its international responsibilities into the common market for fish products.

The reduction of external tariffs in accordance with GATT preferences necessitated some Member States to protect their fisheries sector and to decrease the cost of fishing for their fishermen through financial supports to their sectors. Therefore, for some countries such as France and Italy, trade liberalisation must have brought with it common structural policy on fisheries funded by the Community to finance their fishing sector to handle worldwide growing rivalry on the sector. However, other countries - like Germany and the Netherlands - with lower fishing costs and cheaper fish products, preferred trade liberalisation. Elimination of trade barriers would be helpful to penetrate into other states' fisheries sectors which have

⁸³ Edward Nevin, *The Economics of Europe*, London: Macmillan Press, 1990, p. 177.

high fishing cost and expensive fish products. Therefore, they did not support the idea of the Community aid for fisheries sector under the name of structural policy which would strengthen their weaker competitors and increase their payment to Community budget.⁸⁴

These different positions of the Member States paved the way for a tough negotiation process. There was a strong competition between the countries which demanded common market organisation with the elimination of tariff barriers among the Members and the countries which was seeking for structural aid for their fisheries sector.⁸⁵ However, the upcoming possibility of enlargement towards the four northern European countries after 1970s changed the perceptions of disinclined Member States about the content of Common Fisheries Policy. This change in perceptions resulted in both structural policy and common market organization to be accepted as the two pillars of Common Fisheries Policy at the end of negotiations.⁸⁶

Council Regulation (EEC) 2141/70 laying down a common structural policy for the fishing industry was adopted on October 20, 1970. The acceptance of structural policy as one pillar of Common Fisheries Policy generated subsidies for European fishing fleets financed at the European level which led to the further modernisation of fishing fleet and increase in fishing activities in the European waters:

The structural policy focused almost exclusively on increasing the catch levels of the Community fleet and provided for substantial investment to this end. The adverse impact of the structural policy in particular on the sustainability of Community fisheries soon became evident. Throughout the 1970s, Community subsidisation was directed almost exclusively at fleet renewal and modernisation in terms of the structural policy resulting in a steady increase in Community fishing capacity.⁸⁷

⁸⁴ Ibid, p. 177.

⁸⁵ Havstein, op. cit., p. 15.

⁸⁶ Conceição-Heldt, op. cit., p. 393.

⁸⁷ Witbooi, op. cit., p. 94.

Through this structural policy, the initial aim of the Common Fisheries Policy being provision of equal access to fish resources through establishing common structure and market rules (in accordance with international developments and before the membership of new comers) turned into the Community-wide provision of structural funds which were a great interest of some Member States. Subsidies given for the modernisation of fishing fleets were gradually increased to equalize fishing sectors of different countries to each other which provided higher technical capability of catching and led fishermen to struggle less to conduct fishing activities with the help of technology. Since subsidies were carried out by both the European Union and the Member States, it is hard to know how much support was provided for fleet modernisation and expansion during the 1970s and 1980s. From the articles written on this issue or publications of European Union, the data on fisheries funds after 1990s can be gathered, however, this information is not found helpful here to explain the role of subsidies in the development of fisheries agreement with developing countries as from 1980s. Neither FAOstat nor Eurostat have the data of subsidies provided via structural policy between the years of 1970s-late 1980s. However, it is argued by Hatcher that:

“Firstly, from 1973-1977 a specific programme of aid was adopted for the re-conversion of the cod-fishing sector Under this programme a total of 9.8 million ECU in Community aid were granted to projects in France and Germany Secondly, a series of short-term programmes of aid for restructuring the inshore fishing industry were implemented from 1978-1982, during which period a total of 81.7 million ECU were provided in grants for the construction and modernisation of vessels between 6 and 24 metres in length. In addition, from 1971-1979 ... grants for individual vessel construction projects amounted to an additional 65.2 million ECU.”⁸⁸

⁸⁸ Aaron Hatcher, “The European Community’s Structural Policy for the Fishing Industry”, in Aaron Hatcher and Kate Robinson (eds.), *Overcapacity, Overcapitalisation and Subsidies in European Fisheries*, University of Portsmouth, April 1999, p. 50.

After Common Fisheries Policy with its structural policy pillars was accepted, there was a substantial reduction in the catch potential of the Community fishermen. Figure 3.3 taken from Communication to the Commission of 23 September 1976 reveals that from 1950 till 1976, although the number of vessels sailed for fishing and their technological capacity to fish increased in time (shown at the right side of the figure), quantity of catch targeted by these fishing vessels in each fishing activity of them decreased during the same time period (shown at the left side of the figure). It was reflected that especially after 1970, the fishing activities realised by the European vessels had regularly increased despite the decrease in the level of catch targeted by these vessels in each sailing activity for fishing.

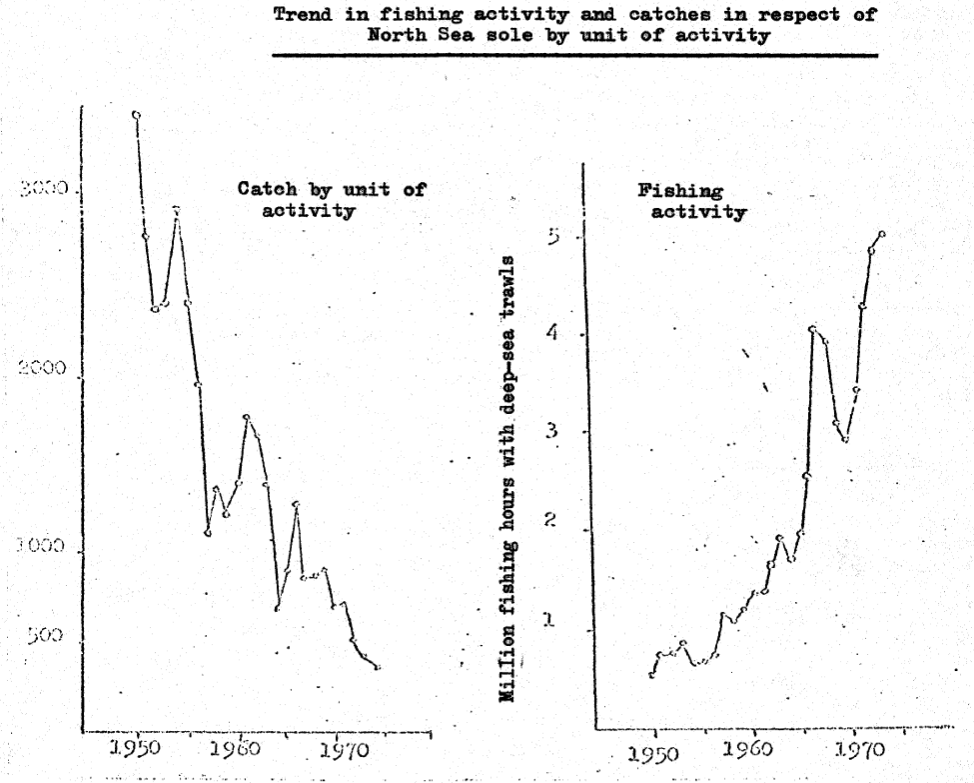


Figure 3.3: Fisheries of European Union’s Members in EU Waters (European Commission⁸⁹)

This substantial reduction in quantities despite the increased fishing activities was attributed to subsidies which led over-intensive fishing, aggressive competition

⁸⁹ COM (76) 500 final, op. cit..

between fishermen of the same state or of different states, irrational investments and the very rapid development of certain industrial fleets.⁹⁰

It was also accepted by the EC Fisheries Directorate that “massive state aids to the fishing fleets of EC Member States in the 1970s and 1980s had encouraged the growth the fishing capacity [capacity of the vessels] in the 1980s.”⁹¹ For further justification, it was indicated in the report of the British Information Services published on November 9, 1976 that “OECD [Members’] fishing fleets have increased by 54 percent in 7 years but the catches [of them have increased] by only 11 percent.”⁹² It is known that between these years the half of 24 Members of the Organisation for Economic Cooperation and Development⁹³ was constituted from the Member States of the EC which are Denmark, France, Germany, Greece, Belgium, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, United Kingdom. Therefore, it can be claimed that Member States of the European Community played significant role in the increase in the number of fishing vessels belonging to the OECD Members and decrease in the quantity of total catches realised by these vessels. This increase in capacity of fishing fleets caused the over-exploitation of the most of the commercial stocks in European waters.

Figure 3.3 is just for one fish stock - sole, however, it can be representative for most of the commercial stocks of European waters since for the other stocks there were also decreases in catch potentials. To illustrate, “between 1965 and 1975 the herring catch in the North Atlantic fell catastrophically from nearly 1.5 million tonnes to around 0.5 million; only a complete ban on herring fishing for a number of

⁹⁰ “Future External Fisheries Policy, An Internal Fisheries System”, op. cit.

⁹¹ European Commission, Directorate-General XIV, “Structural policy to assist fisheries and aquaculture”, discussion seminar held by the Commission with the European Parliament, 2-3 October 1995”, cited in Gareth Porter, “Fisheries and the Environment: Fisheries Subsidies and Overfishing: Towards a Structured Discussion”, *United Nations Environment Programme*, 1999, Date of Access: 20/03/2014, p. 12.
<http://www.unep.ch/etu/etp/acts/capbld/rdtwo/FE_vol_1.pdf>

⁹² British Information Services, “Fisheries Policy”, 9 November 1976, 845 Third Avenue, New York, *Policy and Reference Division, Archive of European Integration, University of Pittsburgh*, Date of Access: 20/03/2014. <<http://aei.pitt.edu/5116/1/5116.pdf>>

⁹³ Other Members of the OECD between these years were Finland, Austria, Sweden, Canada, Iceland, Australia, Japan, New Zealand, Norway, Switzerland, Turkey and the United States.

years enabled the species to survive in that area at all.”⁹⁴ Within the Communication to the Commission of 23 September 1976, it was stated that “the situation for most of the stocks in Community waters, such as mackerel, cod and plaice, will certainly become a cause for concern without effective conservation and supervision measures governing fishing activity.”⁹⁵

Since 1976, Member States have been trying to solve the problem of excess fleet capacity. For the excess vessels generated by structural policy, Commission recommended permanent withdrawal from fishing of outmoded and economically inefficient vessels and, if it is possible, the temporary removal of fishing vessels that are suitable to use for other activities (transportation, marine tourism and so on) than fishing.⁹⁶ Moreover, it was also written that “on account of present over-capacity in the fisheries sector, national aid for the construction of new fishing vessels should be limited and be harmonized at Community level.”⁹⁷ These recommendations also brought with them advices on how to establish conservation and management policy which is elaborated in the second part of this chapter. Conservation policy forced Member States to have their own fishing quotas and to stop their fishermen’s right to decide freely on where they conduct their fishing but also on how much they are going to fish. These limitations on fishing in the Community waters directed fishermen to put pressure on their politicians to find new places to carry on their economic activities which led to the negotiations for fisheries agreements with developing countries.

For the reduction of excess high sea vessels withdrawn both from African, Caribbean and Pacific countries’ and from the non-member European countries’ waters after their declaration of EEZs, especially during the 1960s and 1970s, Commission pointed out that “the extent of the reduction of these vessels depends on the extent to which fishing can be continued in the waters of non-member countries and also on the cooperation agreements (joint ventures) which can be concluded

⁹⁴ Nevin, *op. cit.*, p. 176.

⁹⁵ COM (76) 500 final, *op. cit.*.

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

between fleets in the Community and in non-member countries.”⁹⁸ This process also made inroads into fisheries agreements with developing states and led to the export of the EU’s over-capacity problems to third country waters.

Since the Common Fisheries Policy was initiated under the influence of national self-interests of the Members, it has still been so hard for the 28 Members of the European Union to fix the policy that has been going wrong nearly for 40 years. It needs to be acknowledged that earlier at the end of the 1970s they realized that the stocks had not been exploited sustainably and tried to solve this problem through initiating conservation policy. However, with the system used in the conservation and management policy of the Members, (which will be explained in the next part), it has been witnessed again the inefficacy of the efforts to stop this ongoing competition on stocks. “The provision of sustainable fish stock levels, which is one of the most important environmental objectives of the Common Fisheries Policy, has not yet been achieved in European fisheries.”⁹⁹

While European Community had started to take important measures to stop over-fishing in the Community waters, it continued to fund the development of its fishing fleet which can be perceived as ‘duplicitous and unsteady policy’. While it was trying to end over-exploitation through regulating fish quotas of each Member State and allowable mesh size to be used for each stock, it was known that “in Europe, between 1983 and 1990, EU [EC in that time] support for fisheries rose from \$80 million to \$580 million much of it for the construction of new vessels, modernization of old ones and for ‘exit grants’¹⁰⁰, encouraging the export of redundant vessels to distant countries.”¹⁰¹ All of these problems have not been

⁹⁸ Ibid.

⁹⁹ Zafer Kanık and Serkan Küçükşenel, “Implementation of the Maximum Sustainable Yield under an Age-Structured Model”, *ERC Working Papers 1303*, ERC - Economic Research Center, Middle East Technical University, 2013, p. 2.

¹⁰⁰ Exist grants: the fund given by the European Union for the withdrawal of fishing vessels from fishing activities. These funds are generally given for the owner of the vessel to be able to create new working area for himself in order to decrease pressure on the fish stocks.

¹⁰¹ Simon Fairlie, Mike Hagler and Brian O’Riordan, “The Politics of Overfishing”, *The Ecologist*, Vol. 25, No. 2/3, March/April, May/June 1995, p. 56.

completely solved for 40 years and have been still main discussion points of the European Union's Common Fisheries Policy.

3.3 Conservation Policy: Distribution of Total Allowable Catches through Relative Stability Method

Fishing states of the EC had thereupon started to worry about the observable fact of the over-exploitation of fish stock and initiated collective planning of how to fight against the possibility of total destruction of some stocks if the excess fishing was not intervened in. Since the fishing was not restricted only to one area for each Member State after the approval of the rule - equal access to waters and resources (except in the 12-mile zone which falls within the jurisdiction or sovereignty of the Member States¹⁰²) of any Member State by other Member States' fishermen - during the establishment of CFP, it was not possible for any Member State to conserve its resources through its own efforts. Moreover, fish, as a boundless and shared natural resource of all human beings, was needed to be managed together with all of the actors pursuing fishing activities in one region in order to provide sustainability. Otherwise, measures taken by one of the Members to protect fish stocks could have been meaningless if other Member States had continued to over-exploit fish stocks in the EEZs of EC's Member States. Therefore, in order to prevent further over-exploitation while protecting each state's right to fish in the EEZs of any Member State, the system of 'Total Allowable Catch' (TAC) was introduced by the joint act of the Members. TAC means "fixing a minimum national quota of caught fish from specific species [in the EEZs of the Member States] over a certain period of time for each Member State. When the quota has been exhausted the fishery must be closed."¹⁰³

¹⁰² For the restrictions on access to waters under Member States' sovereignty or jurisdiction within a maximum limit of 12 nautical miles, see Art. 100 of 1972 Act of Accession (OJ 1972 L73), Art. 6 of Council Regulation (EEC) No 170/83 (OJ 1983 L24), Art. 6 of Council Regulation (EEC) No 3760/92 (OJ 1992 L389), Art. 17 of Council Regulation (EC) No 2371/2002 (OJ 2002 L358), Art. 5 of European Parliament and of Council Regulation (EU) No 1380/2013 (OJ 2013 L354).

¹⁰³ Teresa Schare, "Europe and the "Tragedy of the Commons": A Detailed Analysis of the European Common Fisheries Policy (CFP)", *Institut Européen de l'Université de Genève*, December 2006. p. 19.

Before mentioning about the details of Council Regulation establishing the system of TAC, it would be quite valuable to reveal the previous history of the establishment of this system. It might be assumed that the system was easily accepted by the Members since all of them were aware of the adverse situation of fish stocks. However, this was not the case. The allocation of Community TAC among the individual Member States became a severe matter of debate.

Before the declaration of EEZs by the European Community and the non-member European Countries (UK, Denmark, Sweden and Iceland), the waters beyond 12 mile zone were counted as high seas and the Community vessels were free to fish in these high seas. However, after the claim of EEZs by both the Member States of the EC and non-member European countries, it was realised that the two-thirds of the Community's traditional fishing area belonged to the United Kingdom. Therefore, after its membership, Britain argued that it should get at least 45 per cent of the TAC that will be determined for the stocks. However other Member States painted out that although most of the fish stocks have been caught in British waters, this should not be the basis for how to distribute TACs among the Members. They put forward the situation that fish stocks are migratory. For example, despite the fact that some 60 per cent of mature fish (fish in the spawning age) had been caught in British waters, the same percentage of juvenile fish had indeed come from other states' waters. Therefore other states should also have had equal rights for the fish stocks migrated to British waters when they become mature.¹⁰⁴

The dispute on the distribution of TACs among the Members demonstrates that the claim of the EC's Exclusive Economic Zone as well as the limitation of fishing rights due to the over-exploitation and threat of extinction of some stocks made the allocation of TACs among the Members more complicated issue. Moreover, with the declaration of EEZs by non-member European states, Member States were forced to withdraw their distant water fishing vessels from these waters. However, the losses of each Member State from these withdrawals were not the same. Therefore, some Member States demanded these losses to be taken into account when the TACs were distributed.¹⁰⁵

¹⁰⁴ Nevin, op. cit., p. 180.

¹⁰⁵ Ibid, p. 180.

In the light of all of these disputes, Council Regulation No. 170/83 established the primary policy formation of the Conservation pillar of the CFP which brought already referred system of TAC for the species under the threat of extinction. Under this Regulation, maximum allowable catch quantity and the amount of fishing efforts¹⁰⁶ for each fish stock have been determined for the Community waters. These TACs were set for each year and for a certain species that were scientifically confirmed as under threat of extinction. However, no fishing quota has been set across the Mediterranean Sea, except for bluefin tuna.

There are different reasons of why the Community paid little attention to the Mediterranean. Before 1986 neither Spain nor Portugal were the members of the Community. Therefore, the fishing industry that the Community Members had in the Mediterranean were not big enough to apply specific measures. It comprised simply around 10 per cent of the entire EC fishing. Since the 70 per cent of the Community fisheries was mostly coming from the North Atlantic waters, the quota was determined for the stocks targeted in the North Atlantic. Moreover, despite the membership of Spain and Portugal in 1986, Mediterranean fisheries has generally been realised by small vessels fishing close the coastal line (within the territorial sea) and these small scale vessels have not targeted fish species outside of their territorial waters.¹⁰⁷ It is believed that big, industrial vessels of both Spain and Portugal have been fishing in the distant waters. Lastly, the diversity of fish species caught in the Mediterranean Sea is much more than the diversity of fish species targeted in North Atlantic waters. Because of this, it is believed that setting quota for each fish stock targeted by fishermen in the Mediterranean was hard to achieve and maintain. Therefore, the Community did not initiate a wide range of quota system. Instead of this, the EC took protective actions such as minimum mesh size, gear types and

¹⁰⁶ Fishing effort: The total amount of fishing activity on the fishing grounds over a given period of time, often expressed for a specific gear type e.g. number of hours trawled per day, number of hooks set per day or number of hauls of a beach seine per day. Fishing effort would frequently be measured as the product of (a) the total time spent fishing, and (b) the amount of fishing gear of a specific type used on the fishing grounds over a given unit of time. When two or more kinds of gear are used, they must be adjusted to some standard type in order to derive and estimate of total fishing effort. (FAO, Glossary of Fisheries and Aquaculture Department)

¹⁰⁷ Robin Churchill and Daniel Owen, op. cit., p. 249.

conservation areas to conserve fish stocks that were targeted by fishermen in the Mediterranean Sea.

The TACs determined by the EC - in accordance with the proportions agreed on for each country after a long discussion on how to allocate quotas – distributed between the Member States as their national quotas.¹⁰⁸ In Article 4 of the Regulation No 170/83, it was stated that “the volume of the catches available to the Community referred to in Article 3 shall be distributed between the Member States in a manner which assures each Member State relative stability of fishing activities for each of the stocks considered.”¹⁰⁹ The principle of ‘relative stability’ provides same national proportion of TAC for each year and for each species under the quota system. The quantity of Total Allowable Catch (total quota) for the Community as a whole may change every year according to scientific advices on whether stocks are in increase or decrease. However, the proportional share of each state from these annual quotas does not change in time. To illustrate, let’s assume that France get 10 per cent of 100 thousand tonnes annual Community quotas of cod fish. For the next year, if the Community quota for cod fish is determined as 200 thousand tonnes because of the improvement in the situation of the cod stocks, France will still get the 10 per cent of this 200 tonnes quota. After 1983, these national proportions of each state (determined first in 1983) have been used while allocating next years’ TACs among the Members.

As it was mentioned above, after a long discussion on who will get what, by Council Regulation (EEC) No 172/83 of 25 January 1983¹¹⁰, the Council distributed the stocks available in Community waters among Members in accordance with the three criteria indicated in the preamble to that regulation: traditional fishing activities, the specific needs of areas particularly dependent on fishing and its dependent industries and the loss of fishing potential in the waters of third countries.

¹⁰⁸ CFP Reform Watch, “Key Legislation and Documents: Allocation of Access to Fishing”, Date of Access: 22/03/2014. <<http://cfp-reformwatch.eu/2009/12/key-legislation-and-documents/>>

¹⁰⁹ Council Regulation (EEC) No. 170/83 of 25 January 1983, Establishing a Community System for the Conservation and Management of Fishery Resources.

¹¹⁰ Council Regulation (EEC) No 172/83 of 25 January 1983 fixing for certain fish stocks and groups of fish stocks occurring in the Community’s fishing zone, total allowable catches for 1982, the share of these catches available to the Community, the allocation of that share between the Member States and the conditions under which the total allowable catches may be fished.

Traditional fishing activities of each Member State in different geographical regions were determined through calculation of total catch by each Member State in reference period from 1973 to 1978 and converted into quantitative allocations. The proportions among the quantitative allocations for each Member State made first in 1983 have not changed since this date and have been taken into account for all allocations since that time.

It was argued that the first determination of TACs was based on scientific advices of international organisations on specific fish stocks under the threat of extinction for each region and the quota was determined in each regional area by European Council on the basis of these scientific recommendations. However, the system did not work well since the TACs were determined under the political pressures. “It is almost the rule that under political pressure and compromises the scientific advice is often altered and revised upwards in the Council of Ministers.”¹¹¹ Political pressures coming from the different stakeholders of the fisheries sector – such as fishermen, processors, wholesalers and so on.; and from the representatives of each Member States in the European Council hindered the Council to take an action on the stocks in appropriate with the scientific recommendations.

Therefore, it is clear that the conservation policy inside of the Europe could not completely achieve its aim of stopping pressure on stocks. Table 3.1, in the following page, gives the total catch quantity of the ten EC Members on certain fish species before and after the TAC system was introduced. It is realised from the table that due to the competition mentioned above on the allocation of stocks among the Members, the catch quotas for most of the stocks were settled on higher than the previous years’ total catch quantity and scientific advisory bodies of the EC recommended. The TACs were determined in the similar quantity with or higher than the previous years’ catches although it was known by the European Community that most of the fish stocks in the Community waters were under the threat of extinction after the wrong fisheries policies pursued in all of the Member States. In order to increase the quantity of fish their fishermen can catch, some Member States supported TACs for some species to be settled higher than what was proposed.

¹¹¹ A. Karagiannakos, “Total Allowable Catch (TAC) and Quota Management System in the European Union”, *Marine Policy*, Vol. 20, No. 3, 1996, p. 244.

Table 3.1 Catch Quantities of the EC Members in the North Atlantic before and after TAC System (this table is prepared by me through using the sources of FAO, FijshstatJ, 2014 & EU Legislations)

	1978 total catch (before TAC system) of 10 EC Members in quantity (tonnes)	1980 total catch (before TAC system) of 10 EC Members in quantity (tonnes)	1982 Community TAC (tonnes) (Council Regulation (EEC) No 172/83)
Cod	514.756	474.126	529.870
Haddock	127.690	138.488	201.700
Saithe	184.658	113.755	101.760
Whiting	201.448	171.840	208.120
European Plaice	138.957	134.298	159.410
Mackerel	501.313	495.271	375.000
Sprat	466.725	410.463	376.400
Horse Markerel	35.523	66.354	244.000
Norway pout	203.857	381.302	321.000
Blue whiting	107.555	93.416	415.000
Herring	176.037	185.250	219.400
	1984 Community TAC (tonnes) (Council Regulation(EEC) No 320/ 84)	1986 Community TAC (tonnes) (Council Regulation (EEC) No 3721 / 85)	1988 Community TAC (tonnes) (Council Regulation (EEC) No 3977/87)
Cod	516.010	377.470	330.465
Haddock	184.000	245.630	214.430
Saithe	122.700	157.000	138.200
Whiting	185.190	176.200	163.770
European Plaice	197.960	212.690	215.055
Mackerel	407.500	349.000	426.270
Sprat	237.250	147.600	121.500
Horse Markerel	175.000	112.250	289.750
Norway pout	340.000	300.000	171.000
Blue whiting	262.000	315.000	388.500
Herring	176.000	514.415	502.900

It cannot be denied that the Community worked hard to preserve the stocks in its waters, but this was beyond the supranational power of it. Still, although the desired outcome has not been achieved, there were considerable decreases, in time, in fish quotas of the Community for some fish stocks presented in Table 3.1. However, what is important for this thesis is the effect of this policy on external fisheries activities of European Union. It can be seen from the table that fishing quotas somehow limited fishing activities of Member States' fishermen in the EEZs of the EU's Member States. Member States were proportionately forced to decrease the quantity of their catch. Nevertheless, this decrease was not enough to prevent some species from being fully exploited. The EC required taking further action to decrease fishing capacity of the European vessels. This meant that there was a need for extra reduction in Total Allowable Catches. However, this was politically not desirable for some Member States with huge fisheries sector (such as France and the Netherland).

At the same time, the per capita consumption in the Community was gradually increasing.¹¹² "For instance, since the 1980s, Germany, which has a short coastline, has been able to meet only 20 percent of its local fish consumption requirements, while the other 80 percent is imported, and demand and consumption have increased with the rise in the incomes of the general population."¹¹³ This implies that the EC was forced to find solutions to decrease fishing capacity (means excess number of vessels) without considerable decrease in TACs and to meet the demands of European population for fish products.

The most effective solution for these problems was to sign fisheries agreements with the developing countries. The transfer of excess fishing capacity from the developed countries to the developing ones and the transmission of fish resources from the developing countries towards the developed ones could only be realised through fishing agreements with the developing countries. Moreover, by years, with the decreasing catch quotas, the European Union was becoming more

¹¹² Daniel Pauly, "Beyond Duplicity and Ignorance in Global Fisheries", *Scientia Marina*, 73(2), Spain, June 2009, p. 220.

¹¹³ "Namibia-Germany: Fishing Deal", *Africa Research Bulletin (Economic Series)*, 16 November- 15 December 1991, cited in Okechukwu C. Iheduru, "The Political Economy of Euro-African Fishing Agreements", *The Journal of Developing Areas*, Vol. 30, No. 1, October 1995, p. 69.

dependent on importation of fish stocks which was severely harmful for internal fisheries sector. It had to find solution to this problem, which was tried to be resolved through going and catching fish by the EC vessels against payment in non-member states' waters. Since these fish stocks were caught and landed to the European ports by the EU vessels, they were not counted as an importation of the European Union which led to the decrease in trade deficit in fish products as well as supply of fish to the European market.

The limitations on the total allowable catch quantity of the EC vessels and the need for fisheries agreements became more apparent and urgent at the time when Spain and Portugal were yet to join into the EC: both countries having more access to African fisheries than the EC countries.¹¹⁴ Spain, on its own, was the largest fleet in Europe. It did have so many fishermen, whereas, it did not have enough fish resources in its waters to meet the demand for catch of these fishermen. Spain and Portugal were fishing in the EEZs of mostly African states when these waters were assumed as high seas. However, with the claim of EEZs, a fishery in these waters was based upon agreements which brought additional burden on Spain and Portugal.

Therefore, it became reasonable for these two countries to fish in the European Community's waters since the membership would provide free access to Community waters. However, in order to prevent further pressure on already depleted European fish stocks, "under the transitional arrangements following their entry, they were offered only a limited improvement in their access to EU waters"¹¹⁵ by the European Council. The accession of the Portugal and the Spain to the European Union on 1 January 1986 did not bring about any change in the distribution formula: the two new Member States were excluded from quota allocation.

The TAC system of 1983 in the Community waters was scheduled to function for 10-year intervals till 2002. Under the transitional arrangements for the Spain and Portugal, the Commission planned to postpone Spain and Portugal acquiring full right to access to 'Community Waters'. The Commission's objective was to give

¹¹⁴ Coalition for Fair Fisheries Agreements, "The Battle for Fish Conference", Brussels, 1992, cited in Okechukwu C. Iheduru, "The Political Economy of Euro-African Fishing Agreements", *The Journal of Developing Areas*, Vol. 30, No. 1, October 1995, p. 68.

¹¹⁵ Christopher Barclay, "The Spanish Fishing Industry", *House of Commons Library*, United Kingdom, Research Paper 95/79, 27 June 1995, p. 2.

itself enough time for withdrawing excess fishing vessels of the Members before Spain and Portugal were completely integrated into the Common Fisheries Policy.¹¹⁶ However, what happened is that the European Community, rather than dealing with this problem of over-capacity, sought alternative sources of fishery products. It preferred to negotiate fisheries agreements with African states. This provided additional fishing areas to the Community where the Spain and Portugal could realise fishing activities. The Commission, through signing fisheries agreements with African countries, tried to prevent pressures that could come from Spain and Portugal for the permission to catch stocks in the Community waters that were under quota management. While this strategy of the Commission aimed to protect internal fish stocks, it created harmful effects in the African waters through transferring pressures, which would come from new Members, from European to the African waters.

It is clear that the negotiations on Common Fisheries Policy between the Member States ended with the adoption of various rules that led to the further exploitation of fish stocks within the European waters due to the political positions of Member States and weakness of the EU institutions in applying conservation and management policies.

Already by 1992, the ten year analysis of the CFP emphasised major turbulences and the EU had to admit that its subsidies ended up in over-exploitation. The introduction of multi-annual guidance programmes, TAC and the CFP regulations had not been respected honestly.¹¹⁷

Most of the writings on Common Fisheries Policy discuss about the failure of European Union in preventing depletion of European fish stocks. Scholars generally search on the reasons of this failure and effects of structural and conservation policies of the CFP on fisheries. However, the thesis does not aim to search on the adverse impacts of these two policies on internal European fisheries. Rather, it is tried to build a bridge between these two policies of the CFP and the fisheries

¹¹⁶ Ruth Lea, “The Common Fisheries Policy and the Wreckage of an Industry”, *Institute of Directors: EU Policy Comment*, December 2002, p. 2, Date of Access: 25/03/2014.
<http://www.liu.is/files/%7B33b3861b-ad87-4876-bf4e-ba1f9eac1e69%7D_commonfisheriespolicy1.pdf>

¹¹⁷ Schare, op. cit., p. 23.

agreements as an external dimension of it. The objective of linking these internal and external policies is to discover how the failures in internal policies affected fisheries in African states' waters. The deduction of this linking is that the already formed structural and conservation policies of the Common Fisheries Policy, eventually, led to the externalisation of costs of over-fishing towards the developing countries through fisheries agreements.

CHAPTER 4

POSITIONS OF MEMBER STATES ON FISHERIES POLICIES TOWARDS OTHER REGIONS

Historical fisheries relations between the EU Members and African countries and the over-exploitation of the European fish stocks, as they were explained in the previous two chapters, made the development of external dimension of the CFP inevitable. However, different positions of the Member States on fisheries policies towards other regions caused the external fisheries policy of the EU to become one of the issues of conflict among the Member States. The contentions among the Members, the changing situations within the European Union (new members, variations in the internal fish stocks etc.) and the criticisms directed towards fisheries agreements have obliged European Union to make the ongoing amendments in its fisheries agreements since 1976. This chapter aims to explain the changing EU policies about the external fisheries relations and the role of Member States in the establishment of the framework of fisheries agreements with the African countries after 1976. At the end, it is planned to reflect that despite the ongoing amendments in the fisheries agreements, these agreements could in no circumstances achieve to create win-win situation between the EU and African countries as an answer to the research question of the thesis.

The adoption of the Council Resolution of 3 November 1976 on the creation of a 200-mile fishing zone off the coastal areas of the North Atlantic and the North Sea was the precipitating incident for the Community's policy on fisheries agreements. Indeed, the international developments about the control of marine areas especially after the first years of 1970s induced the EC to adopt a certain position about non-member states' demand for claiming their EEZs. It was agreed in the Resolution of 1976 that, as from 1 January 1977, Member States should extend their

fishing rights to 200 mile Exclusive Economic Zones to prevent third countries to fish in the Member States' waters.¹¹⁸

In addition to the claim of 200 mile fishing zone, Resolution of 1976 asked the Community to conclude fisheries agreements to access fishing areas (EEZs) of other coastal states which are not members of the Community. Both the Council Resolution of 3 November 1976 and the Act of Accession of Spain and Portugal in 1985 gave sole responsibility to the European Community for negotiating fisheries agreements with the third countries on behalf of Member States. The European Community has shared the task of signing fisheries agreements among the Institutional Bodies of it. On the other hand, the prime responsibility - negotiation of the agreements - was given to the Commission. In the Special Report prepared by the Court of Auditors concerning the Commission's management of the international fisheries agreements, the main parties involved in the fisheries agreements since the first agreements signed in 1979 and their responsibilities were explained as follows:

Table 4.1: Main Parties Involved in the Fisheries Agreements and Their Responsibilities (Court of Auditors, Special Report No 3/2001¹¹⁹)

	Main Responsibilities
Council	Budgetary authority; gives the Commission a mandate to negotiate an agreement, including the level of fishing opportunities; adopts the agreement by means of a regulation and signs it.
Parliament	Budgetary authority; consulted for an opinion [binding after co-decision mechanism]
Commission: Brussels	Negotiates the agreements; takes care of the administrative, financial and technical management
Commission: Delegations	On a case-by-case basis, deconcentrated management by a fisheries unit in accordance with the provisions of the agreement

¹¹⁸ Here, the countries from Northern Europe such as Norway, Iceland, the Faroe Islands, Sweden, Finland, Estonia, Latvia and Lithuania (before the last five countries became the members of the EU) were referred as the countries fishing in the Member States' EEZs.

¹¹⁹ Court of Auditors, Special Report No 3/2001 Concerning the Commission's Management of the International Fisheries Agreements, Together with the Commission's Replies. Official Journal C 210, 27 July 2001, p. 5.

Member States	Responsible for applying the control measures and other provisions of the fisheries agreements
Third Countries	Negotiate the agreements; control and supervision in their ports and Exclusive Economic Zones
Ship-owners	For the agreements involving financial compensation payment of license fees to the third country in return for access rights; compliance with any specific conditions (for example crews to consist of nationals of the third country)

After the adoption of the Council Resolution of 1976, European Community has started to negotiate fishing agreements with third countries. However, there was no regulatory act, establishing framework rules, conditions and procedures to sign a fisheries agreement, adopted before the first fisheries agreements signed.¹²⁰ Rather than being one of the common policy areas of the EC, fisheries agreements were like the ordinary treaties signed between the parties. The primary legal instruments the fisheries agreements based on were explained by the Community as the conditions contained in the UN Law of the Sea Convention.¹²¹ As explained before, UNCLOS gives third states the right to fish only the surplus of the stocks determined by the coastal state. If the coastal state decides, through the best scientific methods available, that it has a surplus of stocks which is not caught by its fishermen, it can give permission to third states to fish this surplus. Therefore, it can be said that although responsible EC institutions and the primary condition to sign these agreements were known, the details of the agreements (financial compensations paid, fishing rights of each Member State, terms and conditions for EC vessels to fish in African zone) were regulated only in the bilateral agreements/protocols and separately for each coastal state.

After the first agreement signed between the EC and Senegal in 1979, the European Community initiated negotiations on fisheries agreements with another 19 least developed and developing countries. The agreements European Union signed before 2002 were divided into two as the first and second generation agreements.

¹²⁰ Koen Van Den Bossche and Nienke Van Der Burgt, “Fisheries Partnership Agreements under the European Common Fisheries Policy: An External Dimension of Sustainable Development?”, *Studia Diplomatica*, Vol. LXII, No. 4, 2009, p. 107.

¹²¹ Communication from the Commission to the Council and the European Parliament, Fisheries Agreements: Current Situation and Perspective, COM (96) 488 final, p. 4.

The agreement signed about the promotion of joint ventures and joint enterprises with Argentina in 1994 was named a "second generation agreement" and all the former agreements based on allocation of fishing rights rather than on joint ventures were termed as "classical" or "first generation agreements."¹²² The first generation agreements signed with the African, Caribbean and Pacific (ACP) countries gave the Community vessels right to access to the resources of ACP countries in exchange for financial compensation. Second generation agreements contributed to setting-up of joint ventures by private operators from the EU in African countries. However, the biggest change in the agreements came after 2002 with the 'Fisheries Partnership Agreements' which can be called "third generation agreements". The evolutions and details of these three types of agreements are explained below.

4.3 First Generation Agreements (Cash-for-Access)

Distant water fisheries is not a new phenomenon. However, the well-known reason of these fishing activities to be based upon legal ground through fisheries agreement is the declaration of EEZs by the coastal states. Before the claim of EEZ, fishing activities beyond the territorial waters of any coastal state were assumed to be pursued in the high seas where there is freedom of fishing. Nevertheless, with the claim of EEZs by the coastal state, previous high seas fell under the sovereign rights of the coastal states. Therefore, claim of the EEZs forced previous fishing activities by one state's fishermen in other states' waters to be grounded on the agreement between the parties. However, there should be a good return for the EC to sign fisheries agreements since these agreements created certain binding conditions (such as financial payment, training and research in third state and the employment of third state nationals) in order to be able to fish in the EEZs of the third countries. Although these newly binding conditions laid an additional burden on the EC budget, the Community Members did not give up their demand to carry out distant water fishing activities. The reasons to keep signing fisheries agreements despite their costs were listed by the European Commission as follows:

¹²² Ibid, p. 3.

- Protection of the level of direct employment on fishing vessels and indirect employment in on-shore processing facilities and related industries within the Community.
- Provision of alternative employment opportunities for the coastal communities dependent on fisheries sector.
- Supply of fish products to the Community market from Community sources in order to reduce trade deficit in fisheries products.
- Provision of potential access for the Community fleet to the waters of a range of countries.
- Reducing the fishing pressure on stocks in Community waters¹²³

All of the benefits and necessities mentioned above by the Commission urged the EC to render first generation fisheries agreements continuous policy of the Community. All of the benefits fisheries agreements provided to the European Community are the result of the high negotiating power of the EC on the scope of the agreements. The scope of the first generation fisheries agreements that the EC and third parties signed includes the items such as:¹²⁴

- Fishing licence for the EC vessels issued by the third country,
- **Licence fee by the ship-owners,**
- Management and conservation of the living resources,
- Statements of catches,
- Landing a proportion of the fish caught in that zone at ports of the host country,
- **Financial compensation paid by the European Union to third states,**
- Duration of the agreement,
- Number and type or gross registered tonnes of vessels,
- Study and training grants in the various scientific, technical and economic subjects.
- Measures in support of development cooperation.

When the scope of the agreements is examined, it is the financial compensation given from the Community's budget to the third states as an access fee

¹²³ Ibid, p. 3.

¹²⁴ As well as all first generation agreements, these items can be found in the first two fisheries agreements the EC signed with Senegal and Guinea Bissau:

- Agreement between the Government of the Republic of Guinea Bissau and the European Economic Community on fishing off the coast of Guinea Bissau, Official Journal L 226, 29/08/1980, pp. 34-42.
- Agreement between the Government of the Republic of Senegal and the European Economic Community on fishing off the coast of Senegal, Official Journal L 226, 29/08/1980, pp. 17-27.

for the European vessels standing out in sharp relief. Financial funds the Community had been providing for its fishermen created further discrepancy between developed Europe and the least developed Africa in terms of fisheries sector. Since the financial compensation to access fish stocks of the third country had been paid by the Community, fishermen themselves did not feel additional financial pressure to stop fishing in the distant waters. Through financial compensations paid from the EC budget, fishermen of the EC were accustomed to subsidized European fisheries sector to fish in the zones of African countries. This situation promoted the over-exploitation of African fish stocks and prevented fair-competition between historically exploitative European fishermen and already poor African fishermen.

In the study carried out by IFREMER, Institut Francais de Recherche pour L'exploitation de la Mer, it was stated that over the five-year reference period (1993-1997):

The Community financed 82.8% of the total cost of the southern agreements (an average of € **155 m** per year). The remaining 17.2% of the total cost was funded by the ship-owners themselves (an average of over € **32 m** per year in fees). Since the financial contribution of the Community was € **155 m** per year, with an estimated average annual catch value of € **485 m**, every € 1 paid by the Community for access rights to the EEZs of the southern countries generated an average turnover of € 3.1. If the costs paid by the ship-owners are added to the equation, this figure falls to € 2.6.¹²⁵

While the fishermen of the Member States had been benefiting from lower licence fees and higher surplus derived from subsidised distant water fishing policy of the EC, the fishermen in the African countries, due to the lack of financial support and technological capability, could not compete with their European counterparts. Therefore, they could not take the maximum advantage of their fish resources. Some scholars¹²⁶ even characterise this unequal competition as a neo-colonialism¹²⁷ since

¹²⁵ IFREMER, "Evaluation of the Fisheries Agreements Concluded by the European Community", Concluded by the European Community (Summary Report), Contract No.97/S 240-152919 of 10 December 1997 (1999), pp. 15-16.

¹²⁶ Witbooi, op. cit., p. 73; Charles Clover, *The End of the Line: How Overfishing is Changing the World and What We Eat*, New York: New Press: Distributed by Norton, 2006, p. 46; Serge Collet, "Appropriation of Marine Resources: from Management to an Ethical Approach to Fisheries Governance", *Social Science Information*, Vol. 41, No. 4, December 2002, p. 536.

the agreements have brought with them an ongoing dependence of former European colonies to developed European countries. Table 4.2 demonstrates, through reflecting the share of the payments made by the EC itself and by the fishermen from the EC to third states, how European fishermen were supported through access payments most of which made from the EC budget.

Table 4.2: Compensation and Fees under the Agreements (€ thousand, averages over the period 1993-97) (IFREMER, 1999¹²⁸)

Agreements	Average Cost of Fisheries Agreements and Proportions for the EC and Vessel-owners as %			
	EC's financial compensation and its proportion to total payment for each third state		Vessel-owners' licence fee and its proportion to total payment for each third state	
	In €	As a %	In €	As a %
Angola	10 890	73.0	4 017	27.2
Cape Verde	555	86.3	88	15.4
Comoros	281	80.5	68	19.5
Ivory Coast	710	81.3	163	24.2
Gambia	286	91.6	26	8.4
Guinea-Bissau	6 912	74.1	2 419	25.9
Guinea	2 092	83.6	409	22.0
Equatorial Guinea	200	79.0	53	24.5
Madagascar	726	85.0	128	15.0
Morocco	90 597	83.6	17 802	16.5

¹²⁷ Neo-colonialism: The idea of neo-colonialism belongs to the Kwame Nkrumah, the former and first president of Ghana. According to him, "the essence of neo-colonialism is that the State which is subject to it is, in theory, independent and has all the outward trappings of international sovereignty. In reality its economic system and thus its political policy is directed from outside. ... The result of neo-colonialism is that foreign capital is used for the exploitation rather than for the development of the less developed parts of the world." (Kwame Nkrumah, *Neo-Colonialism, the Last Stage of Imperialism*, 1965, p. ix and x)

¹²⁸ IFREMER, op. cit., p. 34.

Mauritius	458	92.4	38	7.6
Mauritania	28 580	84.9	5 071	15.0
Mozambique	31	-	-	-
Sao Tome	718	90.4	76	9.6
Senegal	9 368	90.1	1 028	9.9
Seychelles	3 543	80.6	854	17.0
TOTAL	155 947	83.8	32 240	17.2

European fishermen had been targeting African fish resources with a low cost than estimated and creating added value in their sector through processing of fish, vessel maintenance/repairs and port activities. Value added through processing of fish, vessel maintenance/repairs and port activities mean that European fishermen created added value for the fish caught in African waters through establishing processing factories, fishmeal or fishoil factories and diversifying their products as salted, dried, smoked or filleted. The processing of fish provided both employment for the Member States and increase in the selling price of the seafood. Moreover, through building ships and shelters in the ports and repairing and overhauling vessels coming from distant waters, Member States created additional employment and economic value in fisheries sector. Besides, additional employment was provided for the check and control of the landings of distant water fishing vessels in terms of marketing standards (quality, size, labelling, hygiene and so on.)

For the EC, the direct value added created through southern agreements accounted for € 231 million per annum between the periods of 1993-1997. However, the share of the direct value added falling to the third states through the southern agreements (around € 63 million as an annual average) was nearly one fourth of the total direct value added (€ 231 million) created for the EC through southern fisheries agreements.¹²⁹ The sum of direct and indirect added values and the number of total jobs created in the EC and third states demonstrate that while the European Community had been gaining more from these agreements, the least developed

¹²⁹ IFREMER, op. cit., p. 17 & 20.

African states had gradually lost the possibility to get the maximum benefit from their natural resources themselves (see Table 4.3.).

Although the inequality between the gains of the EC and third states coming from fisheries agreements was clear in the Table 4.3, African countries had neither technical capacity to exploit their stocks themselves nor political and economic power to have better negotiated agreements or to give up signing them. Taking into account the EC's influential negotiating mechanism, third states usually found it tough to effectively negotiate fair compensation.¹³⁰

Table 4.3: Averages for Value Added and Jobs Linked to the Southern Agreements and the Argentine Agreement between the period of 1993-1997, by Member States and by Third Country (€ million and number) (IFREMER, 1999¹³¹)

For Member States	Averages for Value Added and Jobs Linked to the Southern Agreements and the Argentine Agreement		For Member States	Averages for Value Added and Jobs Linked to the Southern Agreements and the Argentine Agreement	
	Total Annual Value Added	Total Annual Jobs		Total Annual Value Added	Total Annual Jobs
Germany	1,47	64	Netherlands	9,74	68
Spain	649,99	26.963	Portugal	49,44	3.507
France	45,75	3.301	U.K.	0,27	6
Greece	0,84	75	TOTAL	767,70	34.282
Italy	10,20	298			
For Third Country	Averages for Value Added and Jobs Linked to the Southern Agreements and the Argentine Agreement		For Third Country	Averages for Value Added and Jobs Linked to the Southern Agreements and the Argentine Agreement	
	Total Annual Value Added	Total Annual Jobs		Total Annual Value Added	Total Annual Jobs
Angola	6,76	22	Morocco	36,11	922
Cape Verde	0,24	-	Mauritius	2,70	160
Comoros	0,17	-	Mauritania	13,80	307

¹³⁰ Mwikya, op. cit., p. 5.

¹³¹ IFREMER, op. cit., p. 35 & 37.

Ivory Coast	10,34	2.397	Sao Tomé	0,25	-
Gambia	0,07	1	Senegal	9,13	1.583
Guinea	0,94	12	Seychelles	8,24	844
Guinea-Bissau	4,82	53	Total Southern	97,96	7.670
Equatorial Guinea	0,59	-	Argentina	19,40	1.351
Madagascar	3,79	1.368	TOTAL	117,36	9.021

The problem in the first generation fisheries agreements does not just originate from the amount of financial compensation and the actual gains of the Member States. It was understood from the agreements that the sole responsibility for the use of compensation was given to the governments of African countries. However, the problem is that the compensation was paid to the governments of third states without making any condition for where to spend. This facilitated African countries to use the compensation paid by the EC for their debts rather than fisheries sector or for the overall development of their economy. To illustrate, in the Protocol signed by the EC and Senegal in 1982, it was written that:

The compensation shall be paid out in accordance with the following procedure:

- for one-third into an account opened in the name of the State Secretariat for Sea Fisheries,
- for two-thirds into the account of the Treasurer-General of Senegal. (Article 2(2))¹³²

Therefore, it is seen that there was no conditionality or control for which purposes two-thirds of the fund were spent for. Moreover, there was no control on whether the remaining one-third of the fund given for the State Secretariat for Sea Fisheries used for the improvement of the fisheries sector. European funds conditioned to the fisheries agreements forced leaders of the African countries, due to their countries' poor economic conditions and debts, to welcome the funds coming from European Union's budget to balance their deficit without questioning the conditions of the agreements. Likewise, signing agreement without questioning for

¹³² Agreement between the European Economic Community and the Government of the Republic of Senegal Amending the Agreement on Fishing off the Coast of Senegal, signed on 15 June 1979, Official Journal L 234 , 09/08/1982, pp. 9 –11.

which purpose financial contribution would be used opened the doors for the Member States to easily get fishing rights in the third states' waters. At the end, the money given for the fishing rights by the EC had been turning back to the developed part of the world as a payment of the debts by the African countries to the international monetary institutions (such as World Bank, IMF) created by the powerful developed countries.

In addition to the financial part of these agreements it was found out that in the first generation fisheries agreements, there was a statement about conservation and management of the living resources in the third states' waters. However, it was realised that the mentioning of the conservation and management of the stocks in the agreements was designed to legalize and to facilitate signing these agreements; and these two terms have been subordinated to the fishing interests of the Member States.

In order to conserve living resources, the Convention on the Law of the Sea requests fisheries agreements to be based upon cooperation on the conservation and management of the resources. UNCLOS allows only the surplus of the stocks that are calculated by scientific methods to be caught by the other states in order to prevent over-exploitation and to provide sustainability of the stocks. However, the responsibility for the determination of the surplus of the stocks is given to the coastal countries. Since the European Community is part of the Convention on the Law of the Sea, it agreed in the agreements that conservation and management of living resources in the coastal states' EEZs should be ensured. Despite this, it gave the sole responsibility of conserving living resources to the coastal states. The problem is that if the African countries had had the economic and technological capabilities to carry out scientific researches on stock assessments, they would probably have used these economic and technological powers to fish the valuable species in their EEZs themselves to get the real value of their natural resources. African countries' lack of technology facilitated negotiation process for the EU since the 'surplus of the stocks' has been determined on the table rather than through scientific researches.

Another problem about the scope of the first generation fisheries agreements is the statement of catches and landing duties. The first generation agreements made the statement of catches and landing a proportion of the fish caught in that zone at ports in third country obligatory for ship-owners. However, since the African

countries generally did not have the capacity to carry out control, monitoring and surveillance activities on foreign vessels operating in their zones, catch records were underreported by ship-owners. This gave way to the less quantity of fish to be landed in the coastal states' ports and less licence fee and compensation to be paid and, at the end, to the over-exploitation of the stocks. In Kaczynski's (et al.) article, this situation was explained as follows:

To protect commercial interests of the EU fleets, all information related to the execution of the agreement ... are not reported to the coastal countries ... nor are the data made public in Europe. Information on tuna operations in West African coastal waters is not reported to the coastal states ... so they remain ignorant as to the amount and type of resources harvested within their 200 mile EEZ. This permits payment of extremely low license fees by tuna vessel owners, and avoids coastal state's control of these fleets and possible demands for increased financial compensation.¹³³

Although these problems about conservation, catch statements and landing obligations had already been known by the Community, the Commission neither conducted self-control of its' fleet activities nor determined the standards of catch monitoring and reporting. In the Commission's answers given to the written questions that were sent to the Commission between the years of 1997-2001 on overfishing of EU vessels and lack of control and inspection in the African waters, it was stated that:

- European Commission is aware of the similar criticisms in the European press about the overfishing.¹³⁴
- The conditions for the Community vessels' fishing operations, including as regards areas, technical measures and monitoring fisheries activity (catch reporting, landing requirements, observer boarding, vessel monitoring system (VMS), etc.) are always set in the protocols signed after each fisheries agreement. Control and monitoring of the execution of conservation measures in coastal states' waters are not under the responsibility of the Community. However, the Community is empowered to impose a number of obligations

¹³³ Vlad M. Kaczynski and David L. Fluharty, "European Policies in West Africa: Who Benefits from Fisheries Agreements?", *Marine Policy*, 26, 2002, p. 78.

¹³⁴ Written Question by Johanna Maij-Weggen (PPE) to the Commission, E-2948/97, 17 September 1997.

with regard to monitoring the actions of its vessels operating in third states' waters in accordance with the terms of the agreements.¹³⁵

- Commission has taken a number of actions. Initially, it has asked the Member States to monitor the catch declarations of their vessels fishing in West African waters. Secondly, it has requested Member States to make the control of catch landings of these vessels in Community ports. Finally, it has recommended to the coastal states' authorities that they provide the presence of national scientific observers on board in order to get complete and correct numbers about the fishing activities concerned.¹³⁶
- While there are certain Community regulations in the control and implementation area, the activities of a distant water vessels fishing in the waters outside of Community jurisdiction are not covered by such regulations.¹³⁷
- Third state holds the whole competence for monitoring and control of fishing activities in waters under its sovereignty.¹³⁸

As it is seen, in the first generation fisheries agreements, the Commission, despite EU's commitment to the conservation of fish resources via signing UN Convention on the Law of the Sea, passed the buck to the African countries by arguing that these waters are under third states' sovereignty that the Community cannot interfere in.

Due to the problems in the first generation fisheries agreements, harsh criticisms came from various scholars. First generation fisheries agreements with African countries were seen by most of the scholars as part of unequal relations European Union tried to maintain with African nations after decolonisation process. For Kaczynski (et al.), "until the mid-1990s, fishery cooperation agreements between EU and West African coastal states were signed for 1 or 2 years duration and were termed as "cash for access" or "compensate and take back fish raw material to Europe" arrangements."¹³⁹ These agreements were the primary way to decrease

¹³⁵ Written Question by Struan Stevenson (PPE-DE) to the Commission, E-0452/01, 19 February 2001.

¹³⁶ Written Question by Angela Sierra González (GUE/NGL) to the Commission, E-2579/98, 1 September 1998.

¹³⁷ Written Question by Robert Goebbels (PSE) to the Commission, E-1464/01, 17 May 2001.

¹³⁸ Written Question by Carmen Fraga Estévez (PPE-DE) to the Commission, E-1854/98, 13 October 1999.

¹³⁹ Kaczynski et al., op. cit., 2002, p. 82.

excess fishing fleet capacity of the EC and they helped to find new resources from other regions to meet the fish demand in Europe.¹⁴⁰ According to the Mwikya, “it is ... a result of the desire to export overcapacity from EU waters to other regions with surplus stocks, especially after collapse of some fisheries in northern European waters.”¹⁴¹ The collapse of fish stocks in Northern European waters led to the externalisation of the cost of internal over-exploitation in European waters and resulted in over-exploitation of fish stocks throughout Africa.

Witbooi also argues that “these agreements operate as means to inequitably promote the self-interests of the parties involved. They run contrary to sustainability tenet of international fisheries law and expose its weaknesses.”¹⁴² The interviews reflected in Jönsson’s (et al.) article also affirm the idea that fisheries agreements had been benefiting powerful European states which have had long term fishing interests in the African zones. This situation made people in Africa to believe that fisheries agreements are the continuation of colonial understanding of European states. As the interviewee Idrissa, local fisherman, from Senegal said:

Colonialism has not ended. They have just changed the process, to continue to colonize in a different way.... Powerlessness and dependence relations are produced and reproduced. Africa has been colonized and is now re-colonized in a different way where the sectors of fisheries and agriculture are just two examples of this.¹⁴³

Nick Johnstone also confirms that “the motivation for the EU striking such agreements is usually derived from specific national interests based upon historical fishing patterns.”¹⁴⁴ In order to protect certain powerful Member States’ huge fishing sector such as Spain, France, Italy and Portugal, other Members of the European Community closed their eyes to adverse results of fisheries agreements on African

¹⁴⁰ Ibid, p. 77.

¹⁴¹ Mwikya, op. cit., p. 5.

¹⁴² Witbooi, op. cit., p. 370.

¹⁴³ Jessica H. Jönsson and Masoud Kamali, “Fishing for Development: A Question for Social Work”, *International Social Work*, 55, 2012, p. 510.

¹⁴⁴ Johnstone, op. cit., p. 3.

waters. Cheaper fish that came from African waters and was sold in all Member States' markets resulted in all Member States to accept and shut their eyes to the exploitative economic relations between the EC and African states.

In addition to the accusations of academics reflected above, the criticisms about the scope of agreements, their application in practice and about the attitude of the EU towards its Members' former colonies also came from a broad spectrum, ranging from the widespread newspapers' columnists, NGOs to institutions as the European Parliament and the ACP-EU Joint Assembly. The New York Times prepared a series on the relationship between Europe's demand for fish and the world's supply. Two articles were written on January 14, 2008 and January 15, 2008 to explain this relationship.¹⁴⁵ In these two articles, interviews with African fishing people were given place.

It is understood from these interviews that the main triggering events for the European nations to covet African nations' fish resources were the **excess fleet capacity** and the **over-exploitation of internal stocks**. The imbalance between the supply and demand in internal EC market forced Member States to find new fish resources outside of its waters. Since the poor African countries were seen as sitting targets to get what they want without giving much, Member States tended toward African waters to solve their internal market problem with external resources. It is believed by the African people that the excessive demand of European nations for the fish products exceeding the amount agreed in the treaties led to the illegal trade between Africa and Europe. Nearly half of the fish sold in the EU market caught illegally beyond the limits of treaties in the developing states' waters.¹⁴⁶

Moreover, Greenpeace also published a variety of articles and brochures to bring the inequalities in fisheries agreements to the world's attention. For example, Greenpeace stated that "excess vessel capacity of the Member States ... led to the declines in fish stocks across Europe. This forced EU fishing vessels to move

¹⁴⁵ Sharon Lafraniere, "Europe Takes Africa's Fish, and Boatloads of Migrants Follow", *The New York Times*, January 14, 2008, Date of Access: 10.09.2013 and Elisabeth Rosenthal, "Europe's Appetite for Seafood Propels Illegal Trade", *The New York Times*, January 15, 2008, Date of Access: 15.09.2013.

<http://www.nytimes.com/2008/01/14/world/africa/14fishing.html?pagewanted=all&_r=0>

<<http://www.nytimes.com/2008/01/15/world/europe/15fish.html?ref=africa>>

¹⁴⁶ See the Article of Rosenthal.

towards distant fishing grounds.”¹⁴⁷ It is known that these vessels caused excessive fishing in the waters of some of the poorest nations on the Earth and there was not enough effort made by the EU to take these vessels back. After all of these criticisms about the external fisheries policy of the EU that came from different parts of the society inside and outside of the EU, the EU started to search for new ways to bring the problem of domestic and international discredit faced with to an end. Then, this ended up with comprehensive reform process on the external dimension of the CFP.

4.2 Second Generation Agreements (Joint-Venture)

Before passing to the comprehensive reform process and to the third generation agreements as a result of this process, it is necessary to mention second generation agreements initiated in 1993. With the second generation fisheries agreements, the European Community aimed to create joint ventures between the EU ship-owners and third states’ ship-owners. Through joint-ventures, second generation agreements were expected to contribute European fishermen to have fishing rights (quota) in third states’ waters. Moreover, it was intended to transfer European excess fleet capacity to the third states and to ease the exportation of third states’ fish to the EU market.¹⁴⁸ All of these aims were desired to be achieved in order to decrease fishing and conserve fish stocks inside of the European waters.

The main benefit of these agreements for the third states would be the increase in export earnings through trade concessions. It was decided that “throughout the lifetime of the agreement, annual tariff reductions would be granted *erga omnes* on imports of certain fish.”¹⁴⁹ On the other hand, these agreements could have several negative outcomes for the third states such as depletion of fish stocks, excess fishing vessels, destruction of national fisheries, and scarcity of (fish) food in internal market. Moreover, in order to sign this type of agreement, third states needed to have vessel-owners who have financial power to establish joint venture with their

¹⁴⁷ Greenpeace, “How Africa is Feeding Europe: EU (Over)fishing in West Africa”, *Expedition Report West Africa Ship Tour*, September 2010, p. 3.

¹⁴⁸ Court of Auditors, *op. cit.*, p. 5.

¹⁴⁹ European Commission, Press Release Database, Date of Access: 16/11/2014. <http://europa.eu/rapid/press-release_IP-94-422_en.htm>

European counterparts. However, this was not a big problem for European ship-owners since the Community ensured the financial assistance for its fishermen for the formation of joint ventures; and this financial assistance was paid to the Community ship-owner to cover part of his financial contribution for the establishment of a joint venture.¹⁵⁰ All of these negative sides of the ‘second generation agreements’ caused the EU to be able to sign only one second generation agreement with Argentina in 1993.

Agreement with Argentina was signed for the period of five-years through the Council Regulation (EC) No 3447/93.¹⁵¹ The main beneficiary of this agreement from the EC side was Spain. Through this agreement, it was allowed the European vessels to fish 130.000 tonnes of the surplus of the stocks and to fish 120.000 tonnes of the non-surplus of the stocks normally belonging to the national vessels. It was stated that the fishing for the non-surplus of the stocks can be carried out by the European vessels in substitution for vessels flying the Argentinian flag without any change in fishing effort¹⁵².¹⁵³ This led to the replacement of existing Argentinian boats with new boats coming from the European Community of an equal fishing capacity. However, according to the Godelman, the statement was suspicious and the result was different than expected:

The argument is itself self-deluding: boats with a capacity to catch and process 10,000-12,000 tonnes annually have had transferred to them licences to catch and process around 2,500-4,000 tonnes annually. Without any controls, who could possibly believe that these quotas would be adhered to? This only increased overfishing.¹⁵⁴

¹⁵⁰ Agreement on Relations in the Sea Fisheries Sector between the European Economic Community and the Argentina Republic, OJ No: No C 64 / 6, Date of Publishing: 06/03/1993, p.15.

¹⁵¹ Council Regulation (EEC) No 3447/93 of 28 September 1993 on the conclusion of the Agreement between the European Economic Community and the Argentine Republic on relations in the sea fisheries sector. OJ No: L318/1, Date of Publishing: 20/12/1993.

¹⁵² Fishing Effort: The amount of fishing gear of a specific type used on the fishing grounds over a given unit of time for example hours trawled per day (FAO Fisheries Glossary, Date of Access: 10/11/2014. < <http://www.fao.org/fi/glossary/>>)

¹⁵³ Agreement between the European Economic Community and the Argentina Republic, op. cit., p. 9.

¹⁵⁴ Ernesto Godelman, “Fisheries Agreement: Squawking like a wild fowl: Argentina”, *SAMUDRA Report, Triannual Report of ICSF*, Issue No: 20, May 1998, p. 4.

It is understood that the results of the second generation agreement on Argentina's fisheries were similar with the results of first generation agreements on the African countries' fisheries. As it is previously seen in the Table 4.3, Argentina is added to calculations made for the first generation agreements since it is the only example of second generation agreements. It is demonstrated in this table that both value added and jobs created through the agreement between the EU and Argentina led Argentina to be the losing side of this game. Total value added created through Argentina Agreement was 19.4 million Euro/year for the Argentina, whereas, the same Agreement created total value added of 37 million Euro/year for the Member States.¹⁵⁵ For the period of 1993-97, 80 million Euro was paid by the EC to Argentina as compensation, although a total value of the catch under the agreement with Argentina in the 1995-98 period was 180 million Euro.¹⁵⁶

Since there was no positive result different than the results of the first generation agreements attained through second generation agreements; and since the EU prepared for the new reform period of external fisheries policy after 2000 which resulted in the formation of the 'third generation agreements', no new deal under the terms of second generation agreement was signed between the EU and any third state.

4.3 Third Generation Agreements (Fisheries Partnership Agreements)

The modification/reform in the external relations was not only the result of criticisms coming from all over the world but also a part of the latest reform process of the overall Common Fisheries Policy which was agreed in 2002. European Common Fisheries Policy was established in 1983. Since then, the CFP has been reviewed every ten years. However, the 1992 reform was related to the conservation policy rather than the complete CFP. The Council Regulation (EEC) No 3760/92 which was accepted after reform process and established a Community system for fisheries and aquaculture did not involve any revision part about the fisheries agreements. Nevertheless, all of these criticisms coming from inside and outside of

¹⁵⁵ IFREMER, op. cit., p. 17 & 37.

¹⁵⁶ IFREMER, op. cit., p. 11 & 34.

the EU made fisheries agreements to be brought into the agenda of both the Members and the Institutional Bodies of the European Union in the late 1990s.

4.3.1 ‘Friends of Fishing’ vs. ‘Friends of Fish’

However, before the next reform process in 2002, two different types of approaches to these criticisms had started to be constituted by the Member States. These two separated groups are classified by Grynberg as:

- ❖ ‘Friends of Fishing’ (Spain, France, Italy, Greece and Ireland), mainly from Southern Europe, and all with interests in distant water fishing.
- ❖ ‘Friends of Fish’ (UK, Denmark, Sweden, Germany, the Netherlands), all from Northern Europe, with only the Netherlands having a major stake in deep water fishing. (It has a fleet of super-trawlers fishing for small pelagics in West Africa.)¹⁵⁷

Actually the starting point of the discussion between these two groups was the situation of stocks in the Exclusive Economic Zones of the Member States. The ‘Friends of Fishing’ wanted to continue direct grant support for vessel construction and modernization and were opposing to stock conservation measures; however, since there were the signs of over-exploitation of European stocks and further vessel construction and modernisation would worsen the situation of fish stocks, the ‘Friends of Fish’ advocated withdrawal of such subsidies and strong recovery plans for over-exploited stocks.

However, the problem here is that Spanish and Portuguese vessels were excluded from certain zone of the North Sea and Irish Box until the end of 2002 for the conservation of the stocks although they were accepted to the Community in 1986.¹⁵⁸ As it is explained in the previous chapter, quotas (TACs) for most of the species in the North Sea were determined in 1980s and distributed among the Member States. For the following years, the relative stability method was preserved

¹⁵⁷ Roman Grynberg (eds.), “Fisheries Issues in WTO and ACP-EU Trade Negotiations”, *Economic Paper 56 (Economic Paper Series)*, Commonwealth Secretariat, United Kingdom, 2003, p. 14.

¹⁵⁸ Treaty between the Member States of the European Communities and the Kingdom of Spain and the Portuguese Republic concerning the accession of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and to the European Atomic Energy Community, Act Concerning the Conditions of Accession of the Kingdom of Spain and the Portuguese Republic and the Adjustments to the Treaties, Article 158, 15.11.1985, Official Journal No. L 302, p. 70.

between the Member States. When Spain and Portugal were accepted to the Community, they were excluded from this distribution of certain fish stocks in order to preserve relative stability of the shared stocks among the Members. They were given right to fish for unregulated and unallocated species in these zones. However, although in the Act of Accession they accepted their exclusion from catching stocks that were subject to the quota management in the certain zone of the North Sea, Spain and Portugal have later argued against this exclusion since with their membership they have gained legal right to enter the zones of other Member States. It was believed that Spain and Portugal most likely used this undue dealing as a bargaining issue to get privilege in the evolving policy on distance water fishing.¹⁵⁹ The outcome of the discussion between these two divided groups was expressed in Grynberg's writing as:

December 2002 Council of Fisheries meeting showed that while 'relatively' strong measures may have been taken in relation to stocks in EU waters, Friends of Fishing have been given some assurances about EU activities in third country waters and the continuation of subsidies for vessel transfers until the end of 2004. This has been described as a 'gesture toward countries with a severe overcapacity [excess fleet] problem, notably Spain'.¹⁶⁰

Still, with the increasing criticisms, noteworthy developments about external fisheries policy of the EU came with the process of 2002 reform. However, these disagreements between the Member States about the structural and conservation pillars of Common Fisheries Policy contributed to the continuation of some mistakes made within the first generation fisheries agreements in the future 'Fisheries Partnership Agreements' (also named third generation fisheries agreements), too.

2002 reform process encompasses five important documents that shaped the future fisheries agreements:

- Green Paper on the Future of the Common Fisheries Policy. Brussels, 20.03.2001, COM(2001) 135 Final.

¹⁵⁹ Grynberg, op. cit., p. 15.

¹⁶⁰ Ibid, p. 14.

- Court of Auditors, Special Report No 3/2001 Concerning the Commission's Management of the International Fisheries Agreements, 27.07.2001.
- Communication from the Commission. Community Action Plan for the Eradication of Illegal, Unreported and Unregulated Fishing, 28.05.2002, COM(2002) 180 Final.
- Communication from the Commission on an Integrated Framework for Fisheries Partnership Agreements with Third Countries, Brussels, 23.12.2002, COM(2002) 637 Final.
- Council Conclusion on a Communication on an Integrated Framework for Fisheries Partnership Agreements with Third Countries (Document Number: 11485/1/04)

4.3.2 'Green Paper on the Future of the Common Fisheries Policy'

In 20 March 2001, European Commission published the 'Green Paper on the Future of the Common Fisheries Policy'. In this consultation document on general fisheries policy of the EU, several weaknesses of fisheries agreements were expressed. Initially, it was believed that treaties on fisheries were not planned beforehand to quickly intervene in emergency situations. For example, conditions of the agreements were not ready to change when there was a scientific finding about the adverse decrease in stocks. Secondly, fishing possibilities provided for European fleet in Africa were not determined through scientific assessment of the situation of fish stocks. Fish stocks had been caught by European vessels without carrying out any study on the situation of fish stocks in African waters. Thirdly, the quantity of fishing mortality in the African sea caused by throwing of by-catches¹⁶¹ from the vessels to the sea was not known.

It was also acknowledged that artisanal (small-scale) fishery has always been an important economic activity for the least developed African nations to make their living from fishing. However, some first generation agreements did not take into account the significance of the small scale coastal (artisanal) fisheries for the African population. Vessels of the European Community fished in the zones reserved for the artisanal fishermen and created an unequal competition between the European and African fishing people which left behind, at the end, the devastated artisanal fisheries

¹⁶¹ **By-catch:** Catching not only the target species but also many other fish species and marine animals as well. (World Wide Fund, Date of Access: 12/11/2014. <<http://www.worldwildlife.org/threats/bycatch>>)

in the third states. Lastly, the external dimension of the Common Fisheries Policy and the internal EC policy about fisheries (subsidies to the vessels) were not found compatible to each other.¹⁶² While the EC was signing fisheries agreements to transfer excess fishing capacity to the third states, it continued to give subsidies for vessel construction and modernisation. This created a vicious cycle between the construction of new vessels and the transfer of excess vessels to the third states.

These weaknesses necessitated ‘a partnership approach’ in the fisheries agreements signed with the third countries. ‘Partnership approach’ encompasses partnership on sustainable management of fish resources, research and control, development and environmental policies of the coastal states. Green Paper gave the signals of what the new external fisheries policy would be based on and what would be the changes in the fisheries agreements. The Commission demanded new fisheries agreements to be based on ‘partnership on sustainability’ and ‘partnership to have coherence between fisheries agreements and development policy of the EU’. Before passing to the other documents shaping new external policy of the EU after 2002, it is necessary to explain why the Commission stressed the importance of making new agreements to be based upon these two principles. This will provide background information about whether or how the term of sustainability and development policies took place in the first generation fisheries agreement in order to understand the reasons of stressing by the Commission the importance of these two terms for the future agreements.

a. Term of Sustainable Fisheries in the EU’s Agreements

Sustainable fisheries can be defined with the term of ‘Maximum Sustainable Yield’ (MSY). MSY is “the largest catch that can be taken from a fish stock over an indefinite period without harming it.”¹⁶³ Sustainable fisheries can be achieved through remaining loyal to MSY for each species in the region concerned. Actually the Total Allowable Catch for each species in the European Union has been

¹⁶² Green Paper on the Future of the Common Fisheries Policy, Brussels, 20.3.2001, COM(2001) 135 final, p. 18.

¹⁶³ European Commission, “CFP Reform: Maximum Sustainable Yield”, p. 1, Date of Access: 15/11/2014. < http://ec.europa.eu/fisheries/reform/docs/msy_en.pdf>

determined on the basis of Maximum Sustainable Yields. However, MSY can only be estimated through scientific data on the biological structure of a given fish population and reliable previous years' catch data.¹⁶⁴ However, there has been not enough capacity in Africa to estimate MSY for each stock and establish a quota system for the fisheries agreements. Therefore, partnership on sustainable management of fish stocks should be based on partnership between the EU and the third states in making scientific assessments on stocks and in monitoring, control and surveillance activities on the vessels in the African waters.

The reason for the Commission to lay stress on partnership on sustainability is that, till the publication of the Green Paper, the mostly criticised activity of the European Union's fishing vessels in ACP states' waters was the over-exploitation of stocks and uncooperative attitude of the EU about the assessment of the situation of fish stocks. The rational exploitation of the fishery resources of the ACP states has become the concern of the Community since 1985 (with the Third Lomé Convention explained in p. 88). However, the terms of sustainable exploitation and sustainable development of fisheries were rarely used in the fisheries agreements signed before 2000s. Moreover, there was nothing effective done to stop the depletion of fish stocks in African waters. There was no quota system to limit the European vessels' total quantity of catch. Financial contribution was given to have access rights rather than to support scientific researches. There was no by-catch limitations ensured in the fisheries agreements. Therefore, European vessel abused their landing obligations through generally landing by-catches (mostly inferior, low quality and small fish) targeted out of the access rights adopted in the agreements to the coastal states. The monitoring and control was not enough in African waters to stop the illegal catches and to ensure the stock conservation. The EU might not be legally responsible to stop these illegal fishing activities; still, it had enough power and resources to prevent them.¹⁶⁵ However, the EU did not prefer to stop unsustainable fishing activities of its vessels since this was somehow in contrast with the prime reasons of signing

¹⁶⁴ Kanık and Küçükşenel, op. cit, p. 3.

¹⁶⁵ Okechukwu C. Iheduru, "The Political Economy of Euro-African Fishing Agreements", *The Journal of Developing Areas*, Vol. 30, No. 1, October 1995, p. 75.

fisheries agreement: excess demand for fish in Europe and the profit-making desires of European fishermen.

b. Term of Development in the EU's Agreements

With 2002 reform, the Commission, in the Green Paper, stated that “ensuring access ... to surplus stocks in the EEZ of third countries remains an objective of the ... external fisheries policy. However, this objective should be achieved in a manner coherent with other objectives, such as, development policies.”¹⁶⁶ European Union's development policy takes its source from the Treaty of Rome signed in 1957. Part IV of the Treaty of Rome was committed to the issue areas about the ‘associated countries’¹⁶⁷ as the former colonies of France, Belgium, Italy and the Netherlands were entitled. This part provided all EC Countries the right to have access to the Member States’ (still colonised at the time) colonies in Africa. In return, all EC Countries were hold responsible to provide financial support for the development policies in this region.¹⁶⁸ In order to gather the financial support of each Member State for the development activities in the ‘associated countries’, ‘European Development Fund’ was created.

After the adoption of Rome Treaty, although all African countries linked with the Community had gained their independence, they asked for the continuation of the links with the Community. Therefore, initially, Yaoundé Convention was signed for the five-year period between the Community and previous 18 colonies (associated countries) and Madagascar in 1963 to found the root of cooperation on the development. This Convention had two purposes: the provision of developmental aids to the African states through the European Development Fund (EDF) and the facilitation of trade relations between the former colonies and the EC Members.¹⁶⁹ The agreement was renewed in 1969 and lasted till 1975. However, with the

¹⁶⁶ Green Paper, op. cit., p. 35.

¹⁶⁷ The list of the associated countries can be found in the footnote under chapter 2.

¹⁶⁸ Stephen Woolcock, *European Union Economic Diplomacy: The Role of the EU in External Economic Relations*, Ashgate Publishing Company, 2012, p. 150.

¹⁶⁹ “Fisheries Agreements under the Lomé Convention”, *International Collective in Support of Fish Workers*, No. 4, May 1991, p. 7, Date of Access: 13.10.2013.
< http://aquaticcommons.org/258/1/fisheries_agreemts__LOME_convention.pdf>

membership of Great Britain, Ireland and Denmark in 1973, the Community required to expand cooperation on development to other third states that have had historical links with the new Member States. Expansion of cooperation to other third states necessitated signing new agreement on the development package of the EU named Lomé Convention in 1975. After that, till new development policy was established with Cotonou Agreement in 2000, cooperation on development was pursued through Lomé Conventions (I, II, III, IV) signed in 1975, 1979, 1984 and 1989 with African, Caribbean and Pacific Countries.

The First Lomé Convention signed in 1975 contained a short Annex on fisheries in which the Community stated its' willingness to encourage the development of fisheries and related industries in ACP states. Moreover, both sides declared their enthusiasm for negotiating bilateral agreements likely to guarantee satisfactory conditions in the fishery activities in the sea waters¹⁷⁰ within their jurisdiction.¹⁷¹ However, there was no stress on the complementarity between fisheries agreements and overall development policy of the EU and on how these fisheries agreements would serve for the development of local community. There was no specific mentioning about the details of the industrial, financial and technical cooperation activities for the development of fisheries sectors of the third states.

The Second Lomé Convention, signed in 1979, also contained an Annex relating to fisheries which was more detailed than that of the first Convention. In Annex XVIII, the importance of the development of fishery resources in sea waters¹⁷² within the jurisdiction of coastal ACP states was recognized by the Community and the ACP states. The ACP states declared their willingness to negotiate with the Community bilateral fishery agreements likely to guarantee mutually satisfactory conditions for both sides. The EC acknowledged that compensation payments serve to encourage the development of fishing industry of

¹⁷⁰ It is believed that the sea waters referred in the First and Second Lomé Conventions refer to the Exclusive Economic Zones of coastal ACP states. However, since the process of UN Conference on the Law of the Sea had been continuing when the First and Second Lomé Conventions were signed, the EEZ was not frankly used within the first two Lomé Conventions. However, it is seen that the Third Lomé Convention makes mention of the Exclusive Economic Zones of coastal ACP states.

¹⁷¹ CP-EEC Convention of Lomé, Signed at Lomé on 28 February 1975, Complete Text, The Courier No 31, Special Issue, March 1975, [EU Council of the EU Document], p. 77.

¹⁷² See the explanation made above for the sea waters.

the ACP states concerned and this Convention on Development would provide additional allocation relating to projects in the same sphere under the financial and technical co-operation provisions of the Convention.¹⁷³

After this Convention, the first fisheries agreement was signed between the EC and Senegal in 1979. In this agreement, the two parties agreed that the competence and know-how of persons engaged in fishing should be improved through study and training grants. It was also stated that the compensation would be used to finance projects and services of a rural nature, in particular relating to sea fishing.¹⁷⁴ However, although fisheries agreement with the Senegal was renewed in the years of 1982, 1985, 1987, 1990, 1992 and 1994, expenditures for the development of Senegalese fisheries sector were not high enough to meet the requirements of development cooperation agreements (Lomé Conventions) signed between the EC and ACP countries. To illustrate, for Senegal:

The total compensation package tends to be divided between: direct payments paid to the Senegalese Treasury; support for the Ministry of Fisheries; support for the monitoring agency; bursaries for students; support for research institutes and programmes; and support for the artisanal sector. However, the Treasury takes the majority, having never received less than 77% of total compensation, and in most years well over 90%.¹⁷⁵

In the Third Lomé Convention, signed in 1984, fisheries became more of an issue. Rather than previous agreements stating the importance of fisheries for the development of the ACP states in the annexes of them, Third Lomé Convention gave place to fisheries in the separate title as a new area of cooperation. Title II (Article 50) of the Convention put emphasis on the urgent need to support the improvement of fisheries in the ACP states which would, at the end, contribute towards the

¹⁷³ The Second ACP-EEC Convention signed in Lomé on 31 October 1979, Complete Text Reproduced from The Courier No. 58, Special Issue, November 1979, [EU Council of the EU Document], p. 101.

¹⁷⁴ Agreement between the Government of the Republic of Senegal and the European Economic Community on Fishing off the Coast of Senegal, 29/8/1980, Official Journal No L 226/17-27.

¹⁷⁵ Johnstone, *op. cit.*, p. 8.

development of economic sectors of them.¹⁷⁶ The priority objectives of this cooperation were stated as the encouragement of the rational exploitation of the fishery resources of the ACP states and the enhancement of the contribution of fisheries to rural development and to industrial development by increasing catches, output and exports.¹⁷⁷

In the Convention, the provision about the assistance from the Community for fisheries development encompassed the support for the fisheries production, including the acquisition of boats, equipment and gear and for the development of infrastructure for rural fishing communities and the fishing industry. Moreover, there were commitments on funding for the fisheries management and protection, including the assessment of fish stocks and of aquaculture potential, for the improvement of environmental monitoring and control and lastly for the processing and marketing of fishery products. Particular attention was also paid to the training of ACP nationals in all areas of fisheries, to the development and strengthening of ACP research capabilities and to the promotion of intra-ACP and regional cooperation in fisheries management.¹⁷⁸

The Convention has precise statement on fisheries agreements: both the EC and ACP states officially reaffirmed their readiness to agree on fisheries agreements. It was stated that compensation would be provided for partly by the Community and partly by the ship owners. This financial compensation would include licensing fees and where appropriate, any other elements agreed upon by the two sides of the fisheries agreements, such as obligatory landing of part of the catch, employment of ACP nationals, the taking on board of observers, transfer of technology, research and training grants.¹⁷⁹

The last Lomé Convention (IV) signed in 1989 lasted for ten years. In the Title III of this Convention, statements on the development of fisheries in ACP states were made. There is nearly no difference between the statements made in the third

¹⁷⁶ Third ACP-EEC Convention signed in Lomé on 8 December 1984, Complete Text. The Courier No 89, Special Issue, January-February 1985, [EU Council of the EU Document], pp. 19-20.

¹⁷⁷ Ibid, pp. 19-20.

¹⁷⁸ Ibid, pp. 19-20.

¹⁷⁹ Ibid, pp. 19-20.

and fourth Conventions. The only difference is that the priority objectives of such cooperation were extended in the last Convention by adding objectives mentioned below to others stated in the Third Lomé Convention:

- improve knowledge of the fisheries environment and its resources;
- increase the means of protecting fishery resources and monitoring their rational exploitation;
- increase the involvement of the ACP states in the exploitation of deep-sea fishery resources within their exclusive economic zones;
- a recognition of and support for women's at the post-harvest stage and in the marketing of fish.¹⁸⁰

It is understood that the development policies of the European Union have gradually evolved from 1970s till 1990s under the Lomé Conventions and started to be associated with other policy areas of the Union. However, development objectives of the European Union about the fisheries sectors of the third states were inadequately reflected in the fisheries agreements signed between the years of 1980-1990. Although this evolution was institutionalised in the Treaty of Maastricht (1992) when the principle of 'policy coherence for development' (PCD) was inserted into the Treaty, there was not any considerable change in the contribution of the fisheries agreements to the development of the ACP nations. With the 'policy coherence for development' principle, the EU aimed to insert development objectives of the EU for the ACP countries into all policy areas (trade, fisheries, agriculture and so on.) that the EU has been working on in cooperation with the ACP states. For example, after the Maastricht Treaty, when the EU wants to pursue fisheries relations with any of the African nations, development objectives mentioned in the Maastricht Treaty (Article 130u) have to be taken into account in the establishment of these relations.

After the Maastricht Treaty, however, fisheries agreements continued to be signed without respecting 'policy coherence for development' principle. With the end of the duration of the Fourth Lomé Convention, new agreement – Cotonou Agreement – on development cooperation with ACP states was signed in 2000.

¹⁸⁰ Fourth ACP-EEC Convention signed in Lomé on 15 December 1989. Complete Text. The Courier No. 120, March-April 1990. [EU Council of the EU Document], p. 19.

However, there was no mentioning on how fisheries agreements would serve for the development objectives of this agreement. In the initial version of the Cotonou Agreement, there was just a statement about the willingness of the parties to negotiate fisheries agreements. This demonstrates that Maastricht Treaty was not able to change the spirit of fisheries agreement (pay and fish) signed after 1992.

The coverage of the agreements – Lomé, Maastricht, and Cotonou – reflects that although there were kind efforts made by the EU to harmonise fisheries policies in the ACP states with the development objectives, these efforts were not sincere enough to change the adverse results of the fisheries agreements. To illustrate, the statistical data on fisheries agreements valid between 1981–2006 presented by Kaczynski and Fluharty reflects the spending made by the EU for fisheries agreements. When the payments for access right and for developmental aim are compared, it is understood that funds for development (26 million Euro) are in small quantities compared to financial compensations (648 million Euro). Moreover, the ratio of payments for the development activities (training&science) to the payments for financial compensation was 1,2% for Mauritania, 4,8% for Senegal, 9% for Gambia, 5% for Guinea Bissau and 13,7% for the Republic of Guinea.¹⁸¹ These numbers demonstrate that the money used for development purposes between the years of 1981-2006 remained insignificant when it is compared to the financial compensation sent to the treasury of African states. This financial compensation was indeed sent back to the developed countries since they had paid their debt to the international financial institutions through this fund.

Besides this, Iheduru took the example of three-year 1993-96 agreement between the EU and Mauritania to reflect that the financial compensation was only based on access rights. When the Mauritania decreased the access rights in its waters due to the depletion of stocks, rather than keeping financial compensation same on the condition of using part of it for resource conservation activities, the EU reduced its financial compensation from \$32.5 million to \$29 million.¹⁸² Since the amount of financial compensation was vital for poor African countries, they could not easily

¹⁸¹ Kaczynski et al., op. cit., 2002, p. 78.

¹⁸² Iheduru, op. cit., p. 74.

limit the fishing activities of European powers in their waters despite the depletion of stocks since it would mean the loss of state income.

Kaczynski and Fluharty also used 2-year fishery cooperation agreement between EU and Guinea-Bissau valid from June 1995 to June 1997 to demonstrate how the EU undermined the development goals for the African states. For the period of two years, the Government of Guinea-Bissau requested from the EU to land the fish caught in the waters of Guinea-Bissau by the European vessels in its own ports. The reasons for this demand were to meet the local demand for fish consumption and to increase the use of local ports and facilities (such as processing factories) which would increase value added and employment at the end. However, the EU rejected Guinea-Bissau's request of landing in Guinea-Bissau's ports in order to provide these value added and employment for its Member States. This attitude of the EU prevented Guinea-Bissau, as a poor coastal state, to meet the immediate need for seafood and hindered the development of its economy.¹⁸³

As it was explained above, although sustainable distant water fisheries and coherence between development and fisheries agreements had been on the agenda of the EU since 1980s, there was a failure in sustainable exploitation of fish stock in ACP states' waters. Moreover, there was a lack of coherence between development policy and fisheries agreements exemplified above. This situation led the European Commission, in the Green Paper, to express the importance of sustainable fishing in ACP states' waters where the problem of resource depletion was already manifested. It also stressed the importance of linking future fisheries agreements to the activities of the EU for the development of African countries.

4.3.3 'Special Report No 3/2001 Concerning the Commission's Management of the International Fisheries Agreements'

After release of the 'Green Paper' by the Commission, European Court of Auditors also expressed its criticisms on the first generation fisheries agreements in 2001. The outline of the complaints made in this Special Report can be made as follows:

¹⁸³ Kaczynski et al., op. cit., 2002, p. 83.

- 85.7% of the total cost of the agreements was financed from the EU budget.
- There was no clear and complete report on the total value of the catches and direct or indirect impact (on jobs, for example) of the agreements. The Commission provided data only on the cost of the agreements.
- There was no consistency between structural policy and the fisheries agreements of the Community.
- There was no systematic check as to whether the catch capacities of the EU vessels were appropriate for the resources covered by the agreements.
- There was no consistency between fisheries relations and development objectives of the EU.
- There were not enough inspections and monitoring of fishing vessels operating in the waters of third countries.
- The catch and landing obligations were not sufficiently fulfilled.
- There were problems of the landing of juvenile fish, incomplete or incorrect logbook information (mostly under-declaration of catches), incomplete logbook pages and infringements of the crewing requirements.¹⁸⁴

All of these findings of the Court of Auditors are, indeed, a summary of complaints about first generation fisheries agreements made by different scholars, NGOs or governmental organisations in the world, particularly in the European Union. However, it is crucial that these criticisms were made by the official legal Institution of the EU itself which is composed of one representative from each EU Member State. This demonstrates the idea that the European Union itself was also aware of the problems that fisheries agreements were responsible for; and initiated investigations to find solutions to these problems or to camouflage these problems to prevent the loss of the prestige of the Union as a major and responsible international player.

4.3.4 ‘Communication on the Community Action Plan for the Eradication of Illegal, Unreported and Unregulated Fishing’

One of the problems, European Court of Auditors emphasized was the lack of control and inspection of fisheries activities of Member States’ vessels in distant waters. As a response to criticisms about monitoring, control and surveillance,

¹⁸⁴ Court of Auditors, op. cit.

European Commission published ‘Communication on the Community Action Plan for the Eradication of Illegal, Unreported and Unregulated Fishing (IUU) in May 2002. In this Communication, in addition to the sections devoted to the monitoring, control and surveillance activities inside the European waters, special part was allocated to the assistance for developing countries to control unlawful fishing. EU committed to provide technical and financial assistance for monitoring, control and surveillance of fishing activities.¹⁸⁵ This was one of the vital steps in which the Union admitted that it is also the responsibility of the Union to finance inspection activities in the third states’ waters and cooperate with the third states throughout the execution of monitoring, control and surveillance actions.

4.3.5 ‘Communication from the Commission on an Integrated Framework for Fisheries Partnership Agreements with Third Countries’

Then, in December 2002, European Commission issued its basic document (the Communication) establishing an Integrated Framework for Fisheries Partnership Agreements with Third Countries. In this Communication, the Commission proposed that EU fisheries bilateral relations should gradually move from **access agreements to partnership agreements** with a view to contribute to responsible fishing in the mutual interest of the parties concerned. However, still, the specific aim of these agreements was expressed as to maintain the European presence in distant fisheries and to protect European fisheries sector’s interests. Besides this, it was stated that the specific objective of the CFP should be connected to the specific objective of the European Development Policy which is to foster developing countries capacities to exploit their marine resources, to increase local value added and to obtain the fairest price for access rights to their EEZ by foreign fleets.¹⁸⁶

¹⁸⁵ Communication from the Commission on the Community Action Plan for the Eradication of Illegal, Unreported and Unregulated Fishing, 28 May 2002, COM(2002) 180 final.

¹⁸⁶ Communication from the Commission on an Integrated Framework for Fisheries Partnership Agreements with Third Countries, Brussels, 23.12.2002, COM(2002) 637 Final, p. 4.

As a response to one of the criticisms made by the European Court of Auditors on excess vessel capacity¹⁸⁷, the European Commission stood up for the presence of European excess vessels in African waters in its Communication and claimed that:

With the departure of the Community fleet from third country fishing grounds the amount of fishing does not decrease, but stays the same or is even increased, as Community vessels are replaced by vessels from other third countries In cases where private licenses are sold to operators, there is also no guarantee that the financial counterpart benefits the fisheries industry and their employees in the third country in the way that the Community targeted actions do.¹⁸⁸

The European Commission, through this response, reflected that the EU will not give up transferring its excess fishing vessels to the third states' waters.

In the Communication on an Integrated Framework for Fisheries Partnership Agreements (FPAs), the European Commission also responded to criticisms about the financial contributions that the EU has been paying for fisheries agreements. It was pronounced that in the future, these financial contributions would be justified by a mutual interest of the two parties to invest in sustainable fisheries policy. It would not involve just a financial compensation to get the accession rights for fishing possibilities. According to this Communication, a clear distinction will be done between:

- The part of the financial contribution given in exchange of fishing possibilities for European vessels. The private sector will gradually take larger responsibility for the financial contribution.
- The part of the financial contribution devoted to fisheries partnership actions such as stock assessments, control monitoring and surveillance activities.¹⁸⁹

¹⁸⁷ As it explained in previous chapter while clarifying structural policy of the EU on common fisheries policy, massive aids under the structural policy to the fishing fleets of EC Member States in the 1970s and 1980s had led to the huge growth in the number of fishing vessels which caused over-exploitation in the 1980s.

¹⁸⁸ Ibid, p. 4.

¹⁸⁹ Ibid, p. 4.

This means that the Commission asked for the future financial contributions to be divided into two as payments for access rights and payments for development of fisheries sector. Payments for development of fisheries sector mainly cover expenses linked to the management costs, scientific assessment of fish stocks, fisheries management, control and monitoring of fishing activities, as well as expenses for the follow up and evaluation of a sustainable fishing policy. Moreover, the Commission insisted that the Community must ensure greater transparency and consistency with the overall Community ruling on budgetary and development policy. Nevertheless, it is going to be seen in the following pages that the amendment plans as a response to the criticisms made by the Commission on financial part of the agreements have not worked well: nothing has changed in terms of the ratio of the financial compensation the EU has been paying for fisheries agreements to the licence fees paid by European ship-owners, and in the partnership agreements, it is seen that the financial contribution for the development has remained considerably low when it is compared with the compensation payment.

After the examination of the Communication on Integrated Framework for Fisheries Partnership Agreements, it can be deduced that the European Union started out to do something good for both its distant water fishing and ACP states' fisheries sector. However, the explanations on the specific objective of the agreements and excess fishing capacity gave signals of the situation that future fisheries agreements would not be respectful to the sustainability of the stocks and development objectives as it was expected. It is, to some extent, reasonable that Member States as sovereign bodies have been primarily trying to preserve their interests against other competing countries in the world. In order to have power to compete with other countries and to secure their place in world trade on fisheries, they need to keep their inputs cheap and sell their products cheaper than others. However, a fishery is not like an automobile or textile industry. The input is not a machine, a fabric or working hours of an employee that you can get cheaper in the third states. The input is a shared fish stock of all human beings, and more prominently, it is one of the main nutritional sources of the least developed coastal African states.

If the European Union, together with other states, continues to do excessive fishing in African waters, this would put the lives of most of the African people at

risk. Therefore, the fisheries in African waters should be completely left out of the customary competition rules of the free trade. However, the Communication on Integrated Framework for Fisheries Partnership Agreements reflects that the EU preferred to preserve its interest in a best way it could do while trying to carry out its distant water fisheries in compliance with sustainable fishing rules and development aims. However, it would not be possible to pursue both of these objectives at the same time as it will be demonstrated later with the examples of fisheries agreements signed after 2002 reform process.

4.3.6 ‘Conclusion on a Communication on an Integrated Framework for Fisheries Partnership Agreements with Third Countries’

In response to the Commission’s recommendations on its Communication, Council adopted its ‘Conclusion on a Communication on an Integrated Framework for Fisheries Partnership Agreements with Third Countries’ in which the new system of ‘Fisheries Partnership Agreement’ (FPA) was adopted. FPA was defined as a binding instrument which lays down the rights and obligations of the parties and stakeholders of both sides. The new scope of the Fisheries Partnership Agreements would encompass terms on:

- **Financial contribution**
- Fishing possibilities (quotas) for the European fishermen,
- Fishing licences and licence fees,
- Control and monitoring of fishing activities
- Processing and marketing of fishery products;
- **Funding for scientific, technical and institutional development of fisheries,**
- Transfer of capital, technology and know-how;
- Procedures for implementing, monitoring and reviewing the FPA.

With this new arrangement, it has become obligatory for the Commission to carry out *ex-ante* and *ex-post* evaluations to assess the environmental, economic and social impact of a partnership agreement. Lastly, the Council of the European Union demanded financial contributions to be based on fishing rights given to the

Community fishing vessels, actions to promote the sustainable development of fisheries and actions towards developmental aims.¹⁹⁰

After this reform process ended in 2004, sixteen Fisheries Partnership Agreements were signed with the ACP states.¹⁹¹ The general framework text was created for all FPAs and almost all agreements included same provisions for different third states. However, the conditions on how FPAs would be harmonised with sustainable fisheries and development objectives of the EU have been regulated through the protocols setting out the details (financial contribution and fishing possibilities) of the agreements.

These new protocols have ensured new agreements to be more transparent in comparison to the old ones. Fisheries Partnership Agreements and their protocols decoupled financial funds for the responsible fishing and sustainable exploitation of fisheries resources from the financial compensation for the access rights. Moreover, FPAs enhanced scientific and technical knowledge regarding the fish resources. Vessel monitoring system by satellite was promulgated to provide better monitoring and control. Provisions on the declaration of catches, landing obligations and employment of seamen from the coastal state and the procedures of granting fishing licences were improved to clearly define the detailed conditions of them. By-catch limitations, total quota for some species, authorised gear, number of vessels and the sum of the fee vessel owners need to pay was frankly explained in these agreements.

However, still there has been no statement about making vessel owners to pay a higher share of the costs of the FPAs. Moreover, the problem of subsidies for fisheries access rights under the name of financial compensation has continued. Coastal states' authorities still have had full discretion regarding the use of this financial compensation which could pave the way for using this money to pay the national debts rather than for the development of the sector. Lastly, still there have been doubts about the accurate declaration on catches and fulfilment of the landing

¹⁹⁰ Council Conclusion on a Communication from the Commission on an Integrated Framework for Fisheries Partnership Agreements with Third Countries, Brussels, 15 July 2004, Document Number: 11485/1/04.

¹⁹¹ FPAs were signed with Cape Verde, Comoros, Côte d'Ivoire, Gabon, Guinea, Guinea-Bissau, Kiribati, Madagascar, Mauritania, Mauritius, Micronesia, Morocco, Mozambique, São Tomé and Príncipe, Seychelles and Solomon Islands.

obligation due to the lack of adequate monitoring and control. The scientific knowledge on certain stocks in foreign waters has been insufficient.

The real results of the new type of fisheries agreements, particularly for African countries, after the reform process can only be observed through *ex-post* evaluations European Commission undertook. In the Commission's website, evaluations of FPAs with Cape Verde, Comoros, Côte d'Ivoire, Gabon, Gambia, Guinea-Bissau, Mauritania, Mauritius, Mozambique and São Tomé and Príncipe were published. After the examination of these evaluations, several deductions were made. Firstly, the specific fund for the promotion of sustainable and responsible fishing in the coastal states has been separated from the financial compensation for access rights. However, the ratio of this specific fund to compensation payments has still remained very low. On the other hand, since the coastal states, in certain agreements, committed to allocate higher part of the EU's total financial contribution to the implementation of a fisheries sector policy, this can be assumed as a vital gain for the coastal states' fisheries sector.

Moreover, European fishermen have still undertaken lower amount of access costs through low licence fees. Subsidised distant water fishing vessels by the way of financial compensation have still created unequal competition between the European fishermen and their counterparts in Africa. It was realised that the total catch value coming from the agreements has well passed beyond the value of total financial contribution which has still caused inequality. It was also mentioned in the reports that there has been still considerable uncertainty in the stock assessments which has raised concern regarding the sustainability of the agreements. More efforts have been required to improve information on the catch and by-catch. There have been concerns regarding non-compliance with reporting conditions imposed on EU vessels in terms of entry and exit reporting and submission of catch reports by the European vessels.

There have also been positive developments to mention in the reports. Progress in the implementation of some policy supports (institutional development, sanitary controls, and artisanal fisheries) has been made. With regard to policy coherence, Fisheries Partnership Agreements have created employment, made the catches of the EU vessels to be used in the coastal states' processing and export

activities, built institutional capacity, provided facilities for small-scale fisheries and promoted the improvement of sanitary conditions. However, there has been still lack of coherence with sustainable fisheries. Progress on the measures relating fisheries Maximum Sustainable Yield has been almost negligible. Moreover, there has been no achievement in preventing illegal, unregulated and unreported fishing.

Most of these findings are reflected in Table 4.4 in the following page with the help of numeric data specified in the agreements. However, since the evaluations for each agreement were carried out by different companies (Cofrepeche, MRAG, POSEIDON, Oceanic Développement) contracting with European Commission, information provided in these evaluations differ from each other; it was not possible to find information on the same research areas (division of total financial contribution, total catch value, total contribution, employment, value added and etc.) for each agreement.

Moreover, some evaluation reports were only published in French; therefore, it became difficult to frankly attain all the information. Lastly, there are some inconsistencies in the numbers mentioned in the Agreements and Protocols and in the Evaluation Reports. Therefore, there can be small variations in the numbers and percentages reflected below. Still, statistical data provided in the following table contributed to reach a general result that total payment for financial compensation made by the EU has always outcompeted the total payment for sustainable and responsible fishing. Still, statistical data provided in the following table contributed to reach a general result that total payment for financial compensation made by the EU has always outcompeted the total payment for sustainable and responsible fishing.

Table 4.4: Evaluations of the Fisheries Partnership Agreements (the table is prepared by me through FPAs, Protocols and Evaluation Reports)

Name of Third State / Years	Division of Total Financial Contribution between the EU / Vessel-owners	Total Catch Value € / Total Contribution €	Total Payment for Financial Compensation € / Total Payment for Sustainable and Responsible Fishing €
Cape Verde 2007-2009	%71 / %29	13.21 million / 1.15 million	975 thousand / 180 thousand
Ivory Coast 2007	% 80 /%20	4 million / 595 thousand	455 thousand / 140 thousand
Comoros 2011	% 79 / % 21	-	315 thousand/ 300 thousand
Guinea Bissau 2007-2009	%84 / %16	96 million / 16.5 million	13.6 million/2.9 million
Mozambique 2012-2014	% 86 / % 14	-	1.5 million /1.3 million
São Tomé and Príncipe 2011-2014	%70 /%30	1.1 million / 2.7 million	1.8 million /910 thousand

Name of Third State / Years	Cost/Benefit Ratio for the EU €	Employment EU/Coastal State	Value Added EU/Coastal State €
Cape Verde 2007-2009	every 1 € spent, € 3.6 generated	259/ 113	17.8 million /2.82million
Ivory Coast2007	every 1 € spent, € 2.7 generated	- / 120	1.6 million/360 thousand
Comoros 2011	every 1 € spent, € 3.1 generated	100/ 0	2 million/ 215 thousand
Guinea Bissau 2007-2009	every 1 € spent, € 2.2 generated	470/ 148	43.5 million /3.6 million
Mozambique2012-2014	every 1 € spent, € 2.08 generated	- / 0	-
São Tomé and Príncipe 2011-2014	every 1 € spent, € 2.7 generated	- / 0	252 thousand / 139 thousand

Together with the adoption of Fisheries Partnership Agreements after 2002 reform process, agreements were tried to be based upon sustainable exploitation of stocks and development objectives of the EU. In 2010, when the revised version of Cotonou Agreement was signed, it was stressed again that any fishery agreement that may be negotiated between the Community and the ACP states should give due consideration to consistency with sustainable aquaculture and fisheries and the development strategies in these states.¹⁹² However, these efforts were not enough to make fisheries agreements serve for responsible fishing and the development of coastal states' fisheries sector. This is why the Commission recommended to establish new 'Sustainable Fisheries Partnership Agreements' with the end of 2012 reform process of Common Fisheries Policy.¹⁹³

In line with this recommendation, in the new Common Fisheries Policy which was started to be applied in 2014, there has been a higher stress on the sustainability of fisheries agreements. The new framework of the agreements consists of the support for the necessary scientific and research institutions, enhancement of monitoring, control and surveillance capabilities and other capacity building elements concerning the development of a sustainable fisheries policy of the third country. Moreover, these new Sustainable Fisheries Partnership Agreements are going to have a clause concerning respect for democratic principles and human rights in the coastal states to link the provision of financial assistance to the fulfilment of these two objectives.¹⁹⁴ After the adoption of new external fisheries policy in 2014, protocols with Mauritius, Guinea-Bissau and São Tomé and Príncipe were signed. Breach of the respect for human rights was assumed in these protocols as a reason for

¹⁹² ACP-EC Partnership Agreement (Cotonou Agreement) between the Members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, revised in Ouagadougou on 22 June 2010.

¹⁹³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on External Dimension of the Common Fisheries Policy, Brussels, 13.7.2011, COM(2011) 424 final.

¹⁹⁴ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC, 28.12.2013, Official Journal No. L 354/22-60, p. 43.

the suspension of the Agreement.¹⁹⁵ However, the clear results of the new provisions about the FPAs agreed on after the 2014 reform can only be observed when the duration of first FPAs signed after 2014 ends and the *ex-post* evaluation reports on these agreements are published by the Commission.

Besides that, as it is seen, till 2014, the evolution from first generation fisheries agreements to Fisheries Partnership Agreements has not brought so much positive change in the primary reasons and aims of signing these agreements. It can even be argued that not signing any fisheries agreements with the EU could have been more advantageous for the African states. In order to prove these arguments, two case studies are going to be analysed in detail in the following chapter. First one is going to be about the comparison of first generation fisheries agreement and third generation 'Fisheries Partnership Agreement' signed with Mauritania (as it has the biggest fisheries sector and biggest share in the financial contribution among the African countries signing fisheries agreements with the EU) to analyse the changes in the agreements. Second one is going to be about Namibia who preferred not to sign any fisheries agreement with the EU after its independence in 1990. This example is going to be helpful to see whether signing or not signing a fisheries agreement does really bring advantages to the African coastal states.

¹⁹⁵ Protocol setting out the Fishing Opportunities and the Financial Contribution provided for by the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius, 18.3.2014, Official Journal No. L 79/9-33, p. 11.

Protocol setting out the Fishing Opportunities and the Financial Contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau, 13.11.2014, Official Journal No. L 328/3-32, p. 6.

Protocol setting out the Fishing Opportunities and the Financial Contribution provided for in the Fisheries Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe, 07.06.2014, Official Journal No. L 168/3-26, p. 5.

CHAPTER 5

CASE STUDIES OF TWO AFRICAN COUNTRIES: MAURITANIA AND NAMIBIA

The analysis of the case studies of Mauritania and Namibia becomes helpful to clarify the differences of the fisheries sectors of these two African coastal states. There are some substantial differences in terms of the fisheries of these two countries since one of them, Mauritania, has continuously been signing fisheries agreements with the European Union, whereas, the other, Namibia, has never signed any fisheries agreement with the EU.

Whose fisheries sector has been working well and contributed to the overall development of the country are going to be understood at the end of the chapter via deep analysis of both countries' fisheries. This understanding is going to give the clear result about whether signing fisheries agreement is much profitable and preferable than the establishment of developing state's own national fisheries sector. At the end, the question of whether signing fisheries agreements with the EU has been creating win-win situation for both the EU and the coastal states of the Africa is going to be answered through deductions made from the agreements between the EU and Mauritania.

The chapter is divided into two main parts on the case of Mauritania and Namibia. The establishment of and general information about the fisheries sector of these two countries, the details of fisheries agreements between the European Union and Mauritania and the development of the 'Namibianisation Policy' of Namibia on fisheries sector are going to be detailed under the sub-headings. The part devoted to the case of Mauritania is going to be longer than the part devoted to the case of Namibia due to the long history and results of the each fisheries agreement signed between the Mauritania and the EU since 1987. In the wake of the analysis under

these sub-headings, it is aimed to prove the hypothesis that fisheries agreements signed from 1979 till now have mostly become advantageous for the stakeholders inside from the Member States of the European Union instead of providing equal benefits for the both sides of the agreements.

5.1 The Case of Mauritania

5.1.1 The Fisheries Sector of Mauritania

Mauritania (officially the Islamic Republic of Mauritania) is located in the Northwest Africa, between the meridians of 4° 48' and 16° 30' west and between the parallels of 14° 45' and 27° 22' north. It borders Atlantic Ocean, Western Sahara, Algeria, Mali and Senegal.



Figure 5.1: The Map of Mauritania (Central Intelligence Agency¹⁹⁶) Mauritania gained independence from France on November 28, 1960.

From then on, fisheries has gradually started to be mentioned as one of the key sector for the development of Mauritanian economy. The fish stocks, as rich and renewable natural resources inside of Mauritania’s territorial waters, have been perceived as an important opportunity for the future income, job and food generation.

¹⁹⁶ “The World Factbook: Mauritania”, *Central Intelligence Agency*, Date of Access: 22/12/2014. <<https://www.cia.gov/library/publications/the-world-factbook/graphics/maps/mr-map.gif>>

The role played by the fisheries sector inside the Mauritanian economy has gradually increased. Recently, according to the document prepared by European Parliament in 2010, fisheries accounts for 10 per cent of the Gross Domestic Product (GDP) of the Mauritanian economy. Moreover, it constitutes between 35% and 50% of Mauritanian exports. Fishing also provides 29% of the income for the national budget and generates 45.000 direct and indirect jobs, accounting for 36% of all employment.¹⁹⁷ General information about the country and its fisheries sector can be found below.

Table 5.1: General Information on the Islamic Republic of Mauritania (the table is prepared by me through using the sources of UNDP, Human Development Report, 2014¹⁹⁸, CIA Website¹⁹⁹, Trade Map²⁰⁰ and *Ex-post* Evaluation of DG MARE, 2014²⁰¹)

<i>Independence from France:</i>	1960
<i>Declaration of EEZ:</i>	1978
<i>Coastline:</i>	720 km
<i>Exclusive Economic Zone:</i>	234.000 km ²
<i>Population:</i>	3.8 million
<i>Area:</i>	1.000.000 km ²
<i>Capital City:</i>	Nouakchott
<i>Natural Resources:</i>	Iron ore, gypsum, cooper, phosphates, diamonds, gold, oil, fish

¹⁹⁷ Ibid, p. 9.

¹⁹⁸ “Human Development Report 2014: Mauritania”, *United Nations Development Programme*, Date of Access: 12/10/2014.
< http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/MRT.pdf>

¹⁹⁹ “The World Factbook”, *Central Intelligence Agency*, Date of Access: 09/10/2014.
<<https://www.cia.gov/library/publications/the-world-factbook/fields/2097.html>>

²⁰⁰ Intra-trade between the Members of the EU was excluded from the assessment. Trade Map, “List of Supplying Markets for a Product Imported by European Union (EU 28): Product: 03 Fish, crustaceans, molluscs, aquatic invertebrates nes”, *International Trade Centre*, Date of Access: 12/10/2014.
<http://www.trademap.org/Country_SelProductCountry_TS.aspx>

²⁰¹ *Ex-post* Evaluation of 2014, op. cit., Executive Summary.

<i>Cultivable Land:</i>	0,4%
<i>Political Status:</i>	A military junta gained control after a coup in August 2008 On 18 July 2009 new election was made
<i>Life Expectancy:</i>	61.6
<i>Illiteracy:</i>	41,4%
<i>GNP per capita:</i>	2.988 \$
<i>Population in multidimensional poverty:</i>	65,97%
<i>Employment to Population Ratio:</i>	44,50%
<i>HDI Ranking:</i>	161
<i>The competent Mauritanian authority for fisheries:</i>	Ministry of Fisheries and Maritime Economy (MFME)
<i>Scientific monitoring of fisheries activity:</i>	Mauritanian Institute for Oceanographic and Fisheries Research (MIOFR)
<i>Granting licences and monitoring payments for access rights:</i>	Directorate of Industrial Fishing (DIF)
<i>Planning, collection and processing of statistical fisheries data:</i>	Directorate for the Management of Oceanic Resources (DMOR)
<i>Monitoring at sea:</i>	Mauritanian Coast Guard (MCG)
<i>Total Production for 2012 (FAO, 2014):</i>	422.709 tonnes
<i>Export of Marine Resources to EU Market:</i>	24 th largest exporter to the EU, 5 th largest exporter among the coastal states of Africa.

Before the independence, Mauritania had not had serious sectorial policy on fisheries. Developments in fisheries policy, gathering of statistical data on fishing sector and long term planning on this policy area have simply started after 1960. However, in contrast to rich fish resources within its 720 km of coastline on the Atlantic Ocean, Mauritanian population was initially not interested either in fishing or in consumption of fish products. Total catch of Mauritania was only 12.000 tonnes in 1960.²⁰² Despite its independence in 1960, fisheries sector has become one of the

²⁰² FAOstat, Fisheries and Aquaculture Department Statistics, Online Query Panels, 2014.

important economic sectors for Mauritania only after the end of 1970s with the claim of EEZ. Mauritanian fish stocks before 1978 was freely exploited by foreign fleets, processed on the foreign vessels and landed abroad without making any contribution to Mauritanian economy.²⁰³ Until 1978, there was no significant regulation on the management of the fishing sector. The efforts of Mauritania before 1978 to establish and manage fisheries sector mostly ended with frustration.

First regulations on fisheries came with the Law No. 62.038 adopted in 1962 containing the Code Governing the Merchant Marine and Maritime Fishing. This law regulated zones and times of the year in which fishing is permitted and species which may be caught, fishing methods and equipment, actions to prevent the depletion of fish stocks, measures to ensure the conservation of fish and sanctions and fines.²⁰⁴ This regulation, in the beginning, did not help fisheries to play a vital role like mining of copper and iron ore played in the national economy. Due to the low interest in fisheries, national economy was mostly based on revenue coming from ore reserves whose export constituted 87 per cent of the total value of the exports in 1974.²⁰⁵ However, there had been some efforts by the Mauritanian authorities to establish national fisheries industry initiated in the second half of 1960s, especially with the help of revenue coming from mining.

The government established, in 1965, the mixed company SOMAP (Societe Mauritanienne de l'Armement a la Peche/ the Mauritanian Shipping and Fishing Corporation) to form its national fisheries policy and purchased a fleet of fourteen vessels.²⁰⁶ These vessels were bought to supply primary fish product to local processing facilities which were expected to contribute, at the end, to the

²⁰³ Ahmed Mahmoud Cherif, "History of Mauritanian Fisheries: Tension Between the National Ambitions & International Pressures", in P. Chavance, M. Bâ, D. Gascuel, J.M. Vakily and D. Pauly (eds.), *Proceedings of International Symposium on Marine Fisheries, Ecosystems and Societies in West Africa: Half a Century of Change*, Dakar (Senegal), 24 - 28 June 2002, p. 445.

²⁰⁴ Library of Congress, "Draft Environmental Report on Mauritania", *U.S. Man and the Biosphere Secretariat, Department of State*, Contract No: SA/TOA 1-77, Washington, D.C., Date of Publication: 01/10/1979, p. 9.

²⁰⁵ "Report on Mauritania - Education: Problems and Prospects", *UNESCO*, No date; probably 1978, p. 7-8.

²⁰⁶ "The Current Economic Situation and Prospects for Mauritania: Fisheries." *International Bank for Reconstruction and Development*, Report AW-27a, Vol. III., Washington, D.C., 1971, Annex II, p.4

development of fishing industry. The detailed information about the establishment and termination process of SOMAP could not be found. However, it was explained in the World Bank's report on the economic situation of Mauritania that due to the difficulties in operating these vessels and low catch levels, SOMAP encountered with ongoing financial losses which led to the closure of company on January 31, 1969.²⁰⁷ Ongoing financial losses were resulted from lack of trained local personnel, poor management, and inadequate planning.²⁰⁸

Therefore, first initiatives by the Mauritanian government came to grief which forced Mauritania to be convinced that it could benefit from this sector only through selling fishing licences to the foreign fleets. Therefore, Mauritania inclined towards inactive national policy on fisheries sector and chose the easy way to get revenue from fisheries via selling licences especially after 1970.²⁰⁹ With the new system based on open licences, Mauritanian fish resources became much more easily accessible for foreign vessels. The system made way for the further destruction of national fisheries sector. Within this system, nearly 95 per cent of the catches targeted in Mauritanian waters were landed and processed outside of Mauritanian borders. The revenue coming from licence fees accounted for less than one-tenth of the total value of the fish caught by foreign vessels. Moreover, illegal fishing without getting licence could not be prevented and controlled due to the lack of trained personnel and technical equipment.²¹⁰

However, in 1978, Mauritanian fisheries policy underwent a change again because of several developments that took place in the 1970s. Economic decline in the 1970s due to the agricultural aridity, worldwide diminishing demand for iron ore and copper and a fight on the Western Sahara territories against to Morocco resulted in serious trade and budget deficit and political turmoil in Mauritania. This political turmoil ended with the military coup in 1978 which led a new government (the

²⁰⁷ Ibid, Annex III, p. 1.

²⁰⁸ David Gibbs, "The Politics of Economic Development: The Case of the Mauritanian Fishing Industry", *African Studies Review*, 27, No: 4, December 1984, p. 82.

²⁰⁹ Ibid, p. 82.

²¹⁰ Ibid, p. 82.

Comite Militaire de Salut National - CMSN) to be installed.²¹¹ It was realised by the CMSN that economic success could not be achieved only through mining since international prices for copper and iron exports dropped considerably by reason of slow industrial growth in Europe and the United States.²¹² The new source of recurring revenue had to be invented which led fisheries to take on a new significance for Mauritania. The New Fisheries Policy was established with the Law No. 78-043, laying out the Code of the Merchant Marine and Maritime Fisheries, of 28 February 1978. Within this law, Mauritanian Exclusive Economic Zone was defined and established²¹³; and Mauritania decided to take the full control of fishing activities inside its EEZ. It can be claimed that “the key component of the New Policy was the 'Mauritanisation' of all fisheries in Mauritanian waters.”²¹⁴

With the new policy on fisheries announced by the new government, Mauritania tried to compensate its losses on this sector before 1980 and aimed to create additional revenue, foreign exchange, employment, and food for its nation. New Fisheries Policy set forth four main components as follows:

First, all foreign fishing companies were required to establish joint ventures with at least 51 percent Mauritanian ownership. Second, all foreign vessels were required to land their entire catch at the port of Nouadhibou, or to have their catch inspected at sea, where Mauritanian officials were to determine the percentage of the catch to be processed locally, the amount to be exported without processing, and the required fees. Third, foreign firms had to construct fish processing plants in Nouadhibou during a prescribed period, usually within two years. Fourth, all foreign vessels were required to employ at least five Mauritians.²¹⁵

²¹¹ Ibid, p. 83-84.

²¹² Ibid, p. 83.

²¹³ English version of Article 184 of Law No. 78-04 establishing EEZ of Mauritania can be found in the book referred: Robert W. Smith, *Exclusive Economic Zone Claims: An Analysis and Primary Documents*, Boston: Martinus Nijhoff Publishers, 1986, p. 281.

²¹⁴ Cherif, op. cit., p. 445.

²¹⁵ Gibbs, op cit., p. 84.

All of these requirements reflect that Mauritania's New Fisheries Policy started with great ambition to create new sector which would generate high national income. This 'nationalization policy' on fisheries, to some extent, became successful: new joint ventures established, Mauritania developed its domestic fishing fleet, licence fees (\$12 million in 1979 to \$31 million in 1981) and fishery exports (\$19 million in 1979 to \$91 million in 1981) increased and land-based facilities and port of Nouadhibou were used more efficiently by foreign vessels.²¹⁶ Moreover, Mauritania founded the Mauritanian Fishery Product Marketing Company (SMCP – public company) in 1984 to market and export fish products. In 1986, second fishing port off Nouakchott was opened in addition to the port in Nouadhibou.

However, flexibility in the implementation of these requirements due to the strong opposition by some domestic and foreign vessel-owners precipitated the failure of the New Fisheries Policy, too.²¹⁷ The details about the reason for the failure of New Fisheries Policy could not be found in the articles/books explaining Mauritania's fisheries policies. Nevertheless, it is believed that nationalisation policy of Mauritania on fisheries caused significant economic harms on foreign industrial vessels which could not fish in Mauritania without establishing joint ventures, could not anymore land Mauritanian fish in their own ports and could not process Mauritanian fish outside of Mauritania. Moreover, it is estimated that this policy also created internal complaints due to the creation of huge national fleet (leading excess capacity) in contrast to the poor investment in land facilities. In order to realise the nationalisation policy, Mauritania tried to create its national fishing fleet. Nevertheless, since there was no shipyard in Mauritania to build a vessel, Mauritania promoted the purchase of fishing vessels from foreigners. Vessels bought by Mauritanian fishermen from foreign vessel-owners made them debtor to the banks or foreign vessel-owners.²¹⁸ However, there was not enough investment in processing or marketing of fish products to help these fishermen to pay their debt through

²¹⁶ Ibid, p. 85.

²¹⁷ Chérif Ould Toueilib, "Fisheries Agreements and Their Impact on the Globalisation of the Fisheries Sector in Mauritania", *Globalisation and Fisheries: Proceedings of an OECD-FAO Workshop*, OECD/FAO, 2007, p. 171.

²¹⁸ WWF, op. cit., 1998, p. 37.

creating added value for fish caught by Mauritanian fishermen. Therefore, it is estimated that all of these problems created pressure to stretch the rules of the New Fisheries Policy of Mauritania and at the end forced Mauritania to give up the nationalisation goals in fisheries.

Lack of alternatives for New Fishing Policy and failures on the nationalization of the fisheries sector directed Mauritania towards signing first fisheries agreement with the European Community as a means of guaranteeing the financial needs of the national economy.²¹⁹ Fisheries agreements became a new approach in Mauritania towards fisheries sector which is called ‘rent optimization policy’ by Chérif Ould Toueilib. However, Toueilib claims that “while rent related targets have generally been met, liberalised access has marked the beginning of the end for the domestic fleet and proved disastrous for the creation of value-added by land-based industries.”²²⁰ The outputs of the rent related fisheries policy of Mauritania after 1987 are analysed in detail in the following part which is about the fisheries agreements between the EU and Mauritania.

5.1.2 Fisheries Relations between the EU and Mauritania

Unsuccessful measures²²¹ applied in the fisheries sector and the need for external finance to fix the severe economic situation of the country necessitated Mauritanian government to negotiate fisheries agreement with the EU which committed to pay for the utilization of Mauritanian fish resources. Before the agreements, there had been ongoing illegal fishing in Mauritania. The licence fees had not been paid and export taxes could not be collected. According to the Kaczynski, only 33 per cent of the fees payable by distant water fishing vessels was actually paid to the government. Moreover, in 1983, only about 38 per cent of the expected revenues from fish exports were actually collected by the Mauritanian

²¹⁹ Ibid, p. 171.

²²⁰ Ibid, p. 160.

²²¹ Initiative of SOMAP, open licence system (selling fishing licences to foreigners) and lastly New Fisheries Policy of Mauritania are counted as unsuccessful measures of Mauritania applied in fisheries sector.

government.²²² The widespread illegal catching, under reporting, low fee and tax payments were the results of poor inspection system and very limited surveillance and enforcement capability of Mauritania.²²³ It has been difficult even for the developed countries to control fishing activities in their waters since control, monitoring and surveillance activities have always necessitated technologically capable coastguard, developed satellite system and trained personnel. Mauritania, as one of the newly independent and less developed countries, established its fisheries sector only after 1960s. Therefore, it was not possible for Mauritania to immediately improve its institutional capacity.

Mauritania, as a result of these incapacities, was not able to guarantee that investment in fisheries would quickly provide return for national income. Therefore, European Community as a powerful and respected structure was seen by Mauritania as a reliable and regular source of income instead of taking the risk of national investment for the development of fisheries sector.

The first agreement on fishing off the coast of Mauritania was signed in 1987 for a period of three years. The starting point for the first agreement was the previous fishing agreement Portugal signed with the Mauritania in 1984. Since signing a fisheries agreement on behalf of its Members became the responsibility of the European Community in 1976 (with the Resolution of 3 November 1976), continuance of the 1984 agreement signed between Mauritania and Portugal had to be provided by the European Community, itself, after the membership of Portugal in 1986. Following the agreement, a protocol setting out fishing rights and conditions for the three-year period was adopted in 1987. The Member States benefiting most from this protocol and the following agreements are Spain, Portugal, France, Italy, the Netherlands and Greece.²²⁴ The terms of the first Agreement were renewed twice through protocols signed for the three-year periods of 1990 -1993 and 1993-1996. In 1996, a new agreement on cooperation in the sea fisheries sector between the EC and

²²² Vlad M. Kaczynski, "Foreign Fishing Fleets in the subSaharan West African EEZ: The Coastal State Perspective", *Marine Policy*, Vol. 3, Issue 1, 1989, cited in World Wild Fund (WWF), *The Footprint of Distant Water Fleets on World Fisheries*, Godalming, WWF-International, Endangered Seas Campaign, 1998, p. 37.

²²³ WWW, op. cit., 1998, p. 36.

²²⁴ IFREMER op. cit., p. 30.

Mauritania was signed. In 2001, a new protocol based on 1996 Cooperation Agreement was initiated for a period of five years. However, the year 2006 was the turning point for the fisheries agreements since partnership approach²²⁵ was included in the new form of cooperation. Then, fisheries agreements and their conditions have become much more detailed and clear. Through the agreements signed after 2006, it has been given an impression by the EU that the agreements have been converted from cash-for-access agreements to deals on fishing for development.

All of the deals on fisheries between the EU and Mauritania are based upon three important documents: an agreement, its annex and protocol (supplements). Agreements are like a framework documents that two parties indicate their commitments to the terms of them and to their supplements. There are three main agreements signed between the EU and Mauritania in 1987, 1996 and 2006 as mentioned above. Agreements other than these three are in the form of exchange of letters for the provisional application of new protocols based on previous main agreements of 1987, 1996 or 2006. Annexes and protocols of these agreements detail the framework conditions of the agreements: quantity of fishing opportunities, number of fishing vessels, value of financial contribution and licence fees, conditions for getting licence, employment of Mauritanian people and training of them and conditions for landing, control and monitoring.

As it is mentioned in chapter 4, fishing agreements of the European Union have gradually changed from cash-for-access agreements to the partnership agreements based on more comprehensive deals. This change can also be observed in the case of Mauritania. The comparison made in the next page (in Table 5.2) about the scope of three main agreements reflects that first agreement was signed just for the purpose of getting fishing rights without taking the development of fisheries sector and sustainable fisheries in Mauritania into consideration. However, in time, development purposes, sustainability, training of Mauritanian fishing people and cooperation among economic operators have been included in the terms of the agreements. Moreover, later on, financial contribution given for the purposes of development of the sector and improvement of scientific studies has been added to following agreements.

²²⁵ See chapter 4 for the 'partnership approach'.

Table 5.2: Comparison of the Scope of Three Main Agreements (the table is prepared by me through using the official texts of 1987, 1996 and 2006 Fisheries Agreements)

Scope of 1987 Fisheries Agreement (O.J. No: L 376/111 31.12.1986)	Scope of 1996 Fisheries Cooperation Agreement (O.J. No: L 334/20 23.12.1996)	Scope of 2006 Fisheries Partnership Agreement (O.J. No: L 343/4 8.12.2006)
Purpose of the Agreement: setting the principles and rules for the fishing activities of Community vessels in Mauritania's EEZ	Purpose of the Agreement was extended: setting the principles and rules for: <ul style="list-style-type: none"> • the fishing activities of Community vessels in Mauritania's EEZ • the cooperation in the conservation and development of fishery resources • the cooperation in the creating of added value directly or by processing 	Purpose of the Agreement was extended: setting the principles and rules for: <ul style="list-style-type: none"> • economic, financial, technical and scientific cooperation in the fisheries sector to guarantee the conservation and sustainable exploitation of fishery resources and to develop the Mauritania's fisheries sector • the fishing activities of Community vessels in Mauritanian EEZ • policing fisheries in Mauritanian fishing zones • partnership between companies • the conditions for landing and transshipment of catches • the terms for taking seamen on board Community vessels
Area of application was indicated	Area of application was indicated	Area of application was indicated
Commitment to provisions of UNCLOS was made	Commitment to provisions of UNCLOS was made	Commitment to provisions of UNCLOS was made
Concert action for the management and conservation of living resources was promoted	Concert action for the management and conservation of living resources was promoted	Concert action for the management and conservation of living resources was promoted
Licence, fee, statement of catch and compensation obligations was defined	Licence, fee, statement of catch and compensation obligations was defined	Licence, fee, statement of catch and compensation obligations was defined
Establishment of the Joint Committee was adopted	Role of the Joint Committee was extended.	Role of the Joint Committee was extended, again.

Table 5.2 (Continued)

Scope of 1987 Fisheries Agreement (O.J. No: L 376/111 31.12.1986)	Scope of 1996 Fisheries Cooperation Agreement (O.J. No: L 334/20 23.12.1996)	Scope of 2006 Fisheries Partnership Agreement (O.J. No: L 343/4 8.12.2006)
Duration and validity of agreement was decided	Duration and validity of agreement was decided	Duration and validity of agreement was decided
	Areas of cooperation was included and economic, commercial and industrial development was promoted	New principles and objectives were included: <ul style="list-style-type: none"> • Principles of non-discrimination, dialogue and prior-consultations, good environmental, economic and social governance Carrying out <i>ex ante</i> , ongoing and <i>ex post</i> evaluations
	For the first time, the term of sustainable development of fisheries sector was mentioned	<ul style="list-style-type: none"> • Conditions for the employment of seamen were based on International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work
	For the first time, financial contribution for sustainable development activities and training of seamen was added	Financial contribution was divided into two: <ul style="list-style-type: none"> • Financial contribution due (financial compensation in previous agreement) Financial support (financial contribution in previous agreement)
	Administrative cooperation to prevent and combat illegal fishing was mentioned	<ul style="list-style-type: none"> • Administrative cooperation to prevent and combat illegal fishing was mentioned
		Cooperation among economic operators was promoted
		Joint Scientific Committee was established (Scientific Working Group was first mentioned in 2001 Protocol)
		Conditions for the termination or suspension of agreement was indicated

In the first agreement, employment of a certain number of Mauritanian seamen in the EU vessels was given as a condition to sign a fishery agreement. Second and third agreements have also brought with them the condition of the training of these seamen (in addition to employment clause) which is important for the creation of national professional fishing people. Use of 'sustainable development of fisheries' as a term in the agreements after 1996 is also important in terms of reflecting European Union's commitment to rational exploitation of Mauritanian fish stocks. When the comparison of these three agreements is analysed, it can be assumed that the conditions of agreements have been improved for the benefit of Mauritania. However, it is necessary to examine protocols and annexes as the supplements of the agreements in order to evaluate whether there is a real improvement in the conditions and what the pros and cons of fisheries agreements are for Mauritania. Comparison of the documents is going to provide the real facts in terms of the amount of financial compensation given to Mauritania as its real gain and the actual gains of the Member States, ratio of financial compensation to financial contribution and to licence fees, the contribution of agreements to training of Mauritanian seamen, the scientific research and the development of Mauritanian fisheries sector and lastly to the situation of fish stocks.

The most determinant element in the protocols and annexes to assess whether fisheries agreements create win-win situation for both sides is the financial part of the deals. As it was explained before, since Mauritania could not get enough financial benefit from its own initiatives, it tended towards signing fishery agreement with the EU. Therefore, the most important incentive for most of the African countries can be defined as the financial return of these agreements.

The initiative of Mauritania for the nationalisation of fisheries sector was a failure because Mauritania was not able to provide enough finance to modernise its fishing fleets, facilities on its land, its ports and to train fishermen for the industrial fishing. Moreover, fisheries was not a traditional economic sector in Mauritania. Therefore, in order to get the real value of its rich resources of fish, Mauritania had to invest in this sector before making money from it. However, Mauritania, as one of the poorest countries in the world, was not in a good financial situation to invest money in fisheries sector and to wait for a long term return. Indeed, Mauritania was

searching for the areas that it could easily generate an income due to its national debt to international financial institutions. Therefore, fisheries agreements with the EU became an opportunity to get rid of both the investment in fisheries and failure to pay national debts.

These two reasons for signing agreement on fisheries can be assumed as a short term advantages fisheries agreements brought with them to Mauritania. However, in order to esteem these agreements advantageous for Mauritania, the financial gains agreements brought to Mauritania till now have to be more than Mauritania could have got if it had established its own fisheries sector.

Financial yield of the agreements can be examined through analysing three ways of payments from the EU to Mauritania:

1. Financial due/compensation
2. Financial support/contribution
3. Licence fees by private ship-owners

Financial due/compensation has been given for in exchange of fishing rights provided for European fishermen in Mauritania's EEZ. The compensation was paid from the EU's budget to the different Institutional Bodies of the coastal states (e.g. Treasury, Ministry on Fisheries or other related Institutions on marine resources). Financial support/contribution has been given for the developmental goals pursued in Mauritania such as the training of the Mauritanian seamen, improving control and monitoring systems and enhancing the technology in fisheries. Financial contribution was included in to the terms of the agreements in order to guarantee that fisheries agreements serve for development policies of the EU in Africa. It was also paid from the EU's budget. Licence fees have been paid by the European fishermen to get fishing licence in Mauritanian EEZ for a certain period of time. The amount of licence fees was negotiated between the EU and the coastal states in accordance with the gross tonnes of authorised vessels. Table 5.3 shows the amount of these three payments indicated in all of the protocols and annexes of the agreements signed till now.

Table 5.3: Payment of the EU to Mauritania in the fishery agreements (**in million Euro**) and share of the three elements on total payments (the indicated vessel owners' licence fee is the maximum amount that would have been paid in the case that all licences were used) (Nagel, 2010²²⁶)

Years	Total Payments	Not Earmarked (access due and licence fees)	Access Due	Earmarked and Additional Payments	Licence Fees	% Access Due	% Earmarked Payments	% Licence Fee
1987-88	10.2	10.0	6.8	0.2	3.3	65.9	2.2	31.8
1988-89	10.2	10.0	6.8	0.2	3.3	65.9	2.2	31.8
1989-1990	10.2	10.0	6.8	0.2	3.3	65.9	2.2	31.8
1990-1991	16.1	15.7	9.3	0.4	6.5	57.4	2.6	40.0
1991-1992	16.1	15.7	9.3	0.4	6.5	57.4	2.6	40.0
1992-1993	16.1	15.7	9.3	0.4	6.5	57.4	2.6	40.0
1993-1994	12.8	12.4	8.2	0.4	4.2	64.3	3.3	32.4

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²²⁶ Philipp Nagel, *The EU-Mauritanian Fisheries Relationship: A Political Scramble To Govern The Commons*, Master Thesis, Master of Science in Environmental Governance, Albert Ludwig University, November 22, 2010, p. 118.

Table 5.3 (Continued)

Years	Total Payments	Not Earmarked (access due and licence fees)	Access Due	Earmarked and Additional Payments	Licence Fees	% Access Due	% Earmarked Payments	% Licence Fee
1994-1995	12.8	12.4	8.2	0.4	4.2	64.3	3.3	32.4
1995-1996	13.2	12.7	6.8	0.5	6.0	51.1	3.8	45.2
1996-1997	65.2	64.1	54.1	1.1	10.0	83.1	1.6	15.3
1997-1998	66.4	65.3	53.3	1.1	12.0	80.3	1.6	18.1
1998-1999	66.6	65.5	52.5	1.1	13.0	78.8	1.6	19.6
1999-2000	66.3	65.2	51.1	1.1	14.1	77.1	1.6	21.3
2000-2001	66.2	65.1	50.5	1.1	14.6	76.3	1.6	22.1
2001-2002	100.7	96.7	82.0	4.0	14.7	81.4	4.0	14.6
2002-2003	100.9	96.9	82.0	4.0	14.9	81.3	4.0	14.8
2003-2004	101.0	97.0	82.0	4.0	15.0	81.2	4.0	14.9

Table 5.3 (Continued)

Years	Total Payments	Not Earmarked (access due and licence fees)	Access Due	Earmarked and Additional Payments	Licence Fees	% Access Due	% Earmarked Payments	% Licence Fee
2004-2005	101.2	97.2	82.0	4.0	15.2	81.1	4.0	15.0
2005-2006	101.3	97.3	82.0	4.0	15.3	81.1	3.9	15.1
2006-2007	105.8	94.8	75.0	11.0	19.8	70.9	10.4	18.7
2007-2008	106.4	95.4	75.0	11.0	20.4	70.5	10.3	19.2
2008-2009	102.6	91.6	75.0	11.0	16.6	73.1	10.7	16.2
2009-2010	93.1	77.1	60.0	16.0	17.1	64.5	17.2	18.3
2010-2011	90.5	72.5	55.0	18.0	17.5	60.8	19.9	19.4
2011-2012	87.6	67.6	50.0	20.0	17.6	57.1	22.8	20.1

Through this Table, it can be deduced that all of these agreements are helpful to provide extra revenue for the Mauritanian government. Moreover, from the beginning of fisheries agreements between the European Union till now, the European Union has been allocating fund for the development of fisheries sector in African countries.

However, when the effects of the agreements on the development of Mauritanian fisheries economy and on fish resources are analysed, the adverse results of the agreements become clear. Firstly, in the Table 5.3, it is demonstrated that money provided for the development of fisheries sector is insignificant when it is compared with the compensation payment. Although, cash-for-access agreements have been converted firstly into the cooperation agreements and, then, into the partnership agreements, it is seen that financial contribution paid for development has always remained low when it is compared to the compensation for fishing rights.

Besides, the full discretion on the use of financial compensation was again given to Mauritania in 1996 Agreement. In the agreement of 2006, the terms for the money given for access rights and development of the sector changed again. This time, the term of financial contribution was used to encompass both financial due (previously compensation) and financial support (previously contribution). The important point here is that according to 2006 agreement, financial contribution can be decreased if any reduction in the fishing opportunities provided for the EU's vessels is made. However, this article does not indicate whether the decrease will be made in financial due or in financial support in case of a decrease in financial contribution.

Another point about the financial parts of the agreements is that they have always given cause for unequal competition between European and African fishermen and for excess fishing of European vessels in African waters. If the EU had not pay for fishing rights, it would have been expensive for the fishermen to meet the total cost (both financial due and fee) of fishing in the distant waters. However, fishermen from the EU have always remained eager to fish in Mauritania's EEZ since the cost of fishing has been low due to subsidies under the name of compensation. This has caused the surplus (profit) of fishing to be always high for the European fishermen.

The (subsidy based) payment system of the agreements has been constantly criticised as being harmful for African fishermen and, at the same time, distorting free market. It is also known that signing fishing agreement has been costly for the European Union since although the value of landed fish has been distributed inside of the certain powerful coastal states of the EU such as Spain and France, the cost of the agreement has been paid from the EU budget. However, although the value of landed fish was shared in few Member States' fisheries sectors and the agreements created high costs for the EU budget, the value created has been all the time higher than the total cost of the agreements which led the EU to continue its external fisheries policy. This situation is presented in Figure 5.2 below. Therefore, the real winner of the game has always become the developed part of the world which is the EU's Member States in our case.

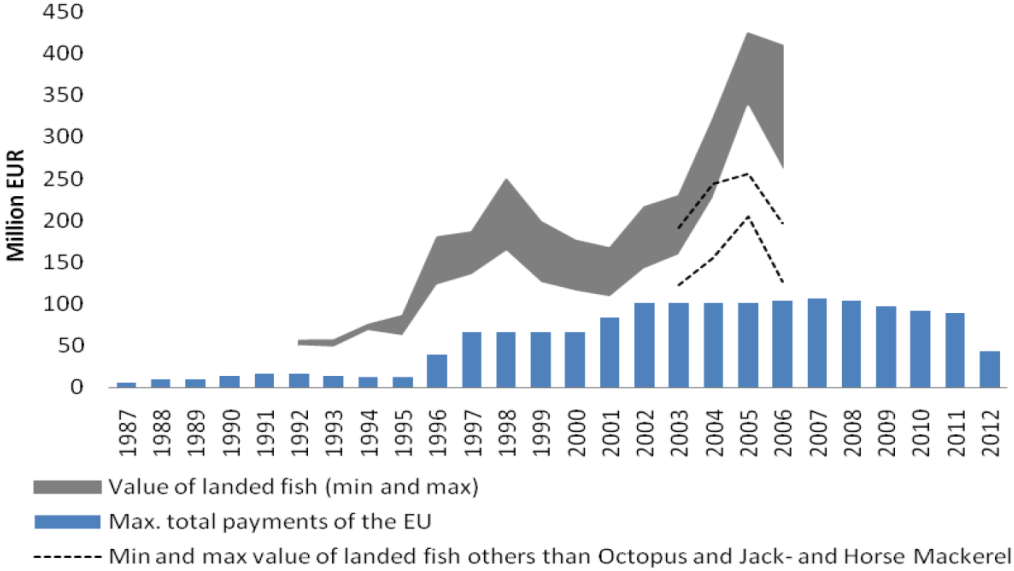


Figure 5.2: Comparing EU payments for fishing rights in the EEZ of Mauritania with the value of fish originating from this EEZ landed by EU vessels (Nagel, 2010²²⁷)

The subsidised fishing of European Unions' fishermen has always caused unfair competition between the EU part and Mauritanian part of the sector and this issue has not been solved in the new Fisheries Partnership Agreements, too. The compensation payment for fishing rights from the EU's budget in addition to the fees of fishing vessels has always become an incentive for European fishermen to fish the

²²⁷ Nagel, op. cit., 2010, p. 63.

already over-exploited fish stocks of Mauritania. Nevertheless, the EU has still continued to pay the biggest share of the payment for the permission of fishing in Mauritania's EEZ.

In the fisheries agreements, fishing rights provided for the EU vessels have been given on the basis of gross (registered tonnes till 2006) tonnes of vessels and total permitted number of the vessels. Since there has not been any specified allowable catch quantity (quota) in the agreements, it is not possible to know the exact amount of catch originating from the EEZ of Mauritania by the EU vessels. However, total landings (except for pelagic species) of the EU's Member States originating from the EEZ of Mauritania are provided in the Figure 5.3. Total landing does not equal to the total catch quantity since European vessels have generally transhipped their excess catches to other vessels or discard their by-catches.

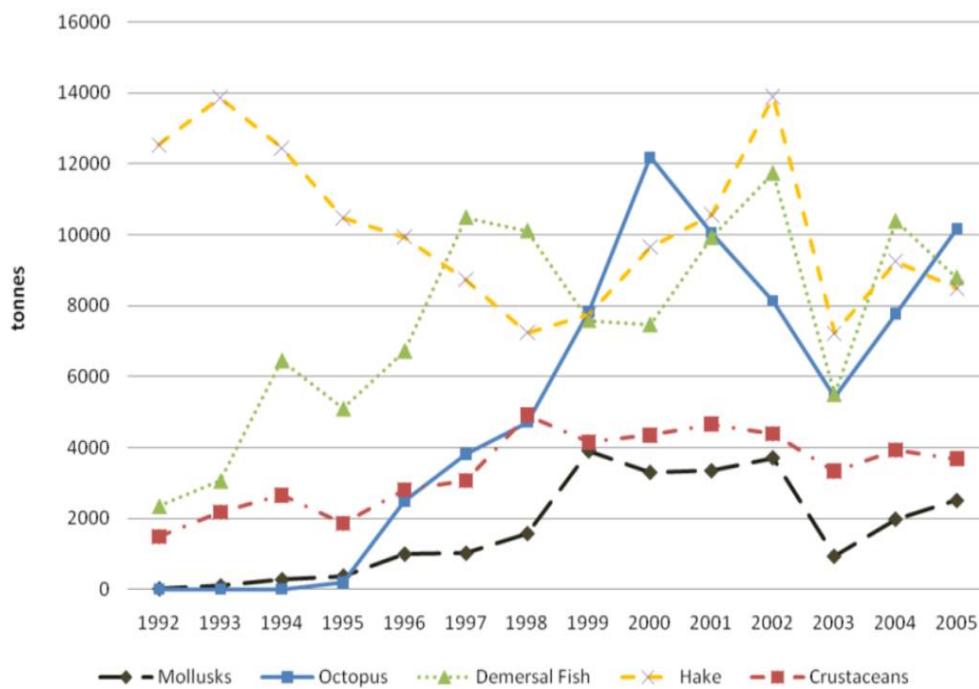


Figure 5.3: Landings of the EU Member Countries by taxa others than pelagic originating from the EEZ of Mauritania (Nagel, 2010²²⁸)

²²⁸ The table is prepared by Philipp Nagel through using the sources in Mauritanian Institute for Oceanographic Research and Fisheries (IMROP). Official language of the website of IMROP is French. Therefore, direct statistical information could not be attained. See: Nagel, op. cit, 2010, p. 56.

It is the fact that if the quota system had been introduced in the fishing agreements, it would, still, have not been possible to know exact catch amount of the distant water fishing vessels because control, monitoring and surveillance activities of Mauritania has not been technically sufficient to prevent the excess fishing, transshipment of catches between the vessels and the discards. Moreover, since there has been a lack of knowledge on the biological situation of the stocks, it has not been possible to assess whether there is a deterioration or improvement in the fish stocks. Therefore, fisheries agreements have been criticised since 1990s because it has not become possible to prevent damages European vessels have been giving to the fish stocks. Fish stocks of the Mauritania have been important both for the supply of food for its population and for the development of Mauritanian economy and employment. The damage to fish stocks has resulted in both the decrease in food for the natives and the loss of employment for the artisanal fishing people.

The adverse results of overfishing and illegal fishing of EU vessels were time and again asked in the written questions sent by the Members of the European Parliament to the Commission in 1997, 1998 and 2001²²⁹. However, in the answers given by the representatives of the Commission, it was indicated that the responsibility for the control and inspection of fishing activities in the Mauritanian waters belongs to Mauritania, itself. Moreover, it was argued that for the fishing rights provided for the EU, although European Union has worked in cooperation with Mauritanian authorities and Joint Committee to decide on fishing opportunities, Mauritania has the responsibility to decide the surplus of its stocks. Therefore, the answers given to the written questions are not sufficient to explain whether the

²²⁹ For the questions and answers, see:

- Written Question No. 2948/97 by Johanna MAIJ-WEGGEN to the Commission. Danger of overfishing off the coast of Africa, OJ C 134, 30.4.1998, p. 42
- Written Question No. E-2579/98 by Angela Sierra González Effects of the activities of the trawler fleet on African fishing grounds, OJ C 289, 11.10.1999, p. 5.
- Written Question E-1463/01 by Robert Goebbels (PSE) to the Council. Illegal fishing in Mauritania's EEZ, OJ C 81E, 4.4.2002, p. 26.
- Written Question E-2025/01 by Margrietus van den Berg (PSE) to the Commission. Fisheries agreement with Mauritania, OJ C 93E, 18.4.200, p. 48.
- Oral Question No. H- 0927/01 for Question Time at the part-session in December 2001 pursuant to Rule 43 of the Rules of Procedure by Mary Banotti to the Commission, Date of Document: 27.11.2001.

agreements really cause to over-exploitation of the stock or they are in compatible with the development strategy of the EU for the African countries.

The situation of over-fishing has not changed after the partnership agreements. The complaints of Mauritanian artisanal fishermen have continued on the uncontrolled activities of European fishermen in Mauritanian EEZ. In the interview made, in 2009, with Sid 'Ahmed Sidi Mohamed Abeid, chairman of the Regional Permanent Forum of Artisanal Fisheries Professional Actors in West Africa, it was pointed out that:

Since 2008, there has been a serious crisis in octopus fishing. ...The problem is that the EU ships didn't stop fishing In less than one year the price has fallen by 57 percent and in Mauritania we have stored 3.000 tonnes of octopus that we cannot sell. It's unfair competition! Our fishermen are poor and the government has put an extra tax on fuel, whilst EU ships are subsidised by European taxpayers! They don't care; they can sell at much lower prices than we can! Of course, they also have much better trading channels and all sorts of sophisticated equipment. We are completely against Mauritania having an agreement with the EU for fishing octopus!²³⁰

The effects of fisheries agreements on fish stocks and problems about the financial part of these agreements have continued from 1987 till 2014. As it was stated before, financial part of the agreements is the most determinant element to assess the influence of agreements on African countries. Without overcoming the problems about the financial part of the agreements and the contribution of financial part to the excess fishing, it is not possible to deem these agreements as successful in terms of creating win-win situation for both sides of the deal.

Other parts of the agreements that are claimed by the EU to be improved in time are also worth mentioning to assess the success of the agreements in terms of their contribution to the development of the economies of world's poorest countries. These parts are about employment and training of coastal states' nationals, added value for the coastal state's economy and the improvement in institutional capacity on scientific research, control and monitoring. The assessment of the real influence

²³⁰ "To Draw the Line: EU Fisheries Agreements in West Africa", op. cit., p. 16.

of fisheries agreements on the development of the economies of the world's poorest countries is going to be evaluated in the following paragraphs.

Table 5.3 presented before indicates that the support (earmarked payment) given for the development of fisheries sector, scientific research and training/employment of Mauritanian seamen has increased in each updated version of the agreement between the EU and Mauritania. Nevertheless, it is seen that the increase in money devoted for the development of the sector and for the sustainable fisheries is the result of decrease in financial due. It is perceived that especially with the new period of Fisheries Partnership Agreement started in 2006, the increase in the earmarked payment has been almost at the same amount of decrease in the financial due. To illustrate, the earmarked payment in 2006 was increased almost three times more (from 4 million in 2005 Euro to 11 million Euro in 2006) than previous year payment. However, the same amount of the money (7 million Euro) increased in earmarked payment has been decreased from the access due (from 82 million Euro in 2005 to 75 million Euro in 2006). This means that the EU has been giving, in total, nearly the same amount of money since 2000. The argument that not so much thing have changed after partnership approach can also be observed through the statistical findings about the contribution of agreements to the development before and after 2000.

According to the study of IFREMER encompassing the period of 1993-1997, average value of the production under agreements with Mauritania for this period was 97,46 million Euro. Average total (direct and indirect) value added in the Member States created through fisheries agreement with Mauritania was 132,34 million Euro. Moreover, total jobs created in the Member States were 4448. However, it was pointed out that annual average total value added created through fisheries agreement for Mauritania was 13,80 million euro and the jobs created were just 307.²³¹

The disparity in the benefits of the agreement for the two sides has not changed in the agreements after 2000. European Commission claimed in 2011 that the idea behind the 2002 reform of the CFP is “to help the third countries to put in place their own fisheries policies that can help them meet their aim of economic

²³¹ IFREMER, op. cit., p. 32, 35 & 37.

development while protecting fish resources.”²³² However the partnership understanding of the new reformed fisheries policy could not go beyond being cosmetic facelifts or a mask.²³³

Firstly, value added through processing of fish products has continued to be created in the territories of the Member States. It is written in the report published in 2011 on the *ex-post* evaluation of the fisheries agreement between the EU and Mauritania that “during the period of 2008-2010, 87 million Euro/per year was paid as a financial compensation. As a result, the income for the EU fleet was 186 million Euro/per year. The value added by the EU distant water fleet in Mauritania was 162 million Euro of which only 13% generated in Mauritania.”²³⁴ According to the study carried out by UNDP in 2006, the funds coming from access agreements have caused of high dependency and reduced Mauritania’s negotiating powers in the talks of new agreements. Mauritanian fisheries sector has become a raw material supplier rather than fish processor. Since the European distant water vessels have been transporting the fresh, frozen or chilled fish to Europe, the processing stage of the value chain has been realised in Europe. In the study, several negative effects of the dependency to agreements are mentioned. These are the decoupling of production part from the value chain of fisheries sector in Mauritania, no investment in Mauritania’s processing facilities, lack of local market supply in fish and rise in the prices, tendency towards species with lower value and quality.²³⁵

Secondly, the landing obligation for a certain amount of the fish caught by the European fishermen has not been obeyed which has prevented both the development of local facilities for processing and the improvement of local food supply. In the agreement encompassing the period of 2001-2006, it was stated that fishing vessels

²³² Philipp Nagel and Tim Gray, “Is the EU’s Fisheries Partnership Agreement (FPA) with Mauritania a Genuine Partnership or Exploitation by the EU”, *Ocean & Coastal Management*, Volume 56, February 2012, p. 27.

²³³ *Ibid*, p. 27.

²³⁴ Thomas P. A. Brunel, “Notes and Comments on the *Ex-post* Evaluation of the Fisheries Agreement EU- Mauritania”, *IJMuiden: Report*, 2011 (Report C096/11), p. 6.

²³⁵ United Nations Development Programme (UNDP), “Environmental Impact Assessment of Trade Liberalisation: A Case Study on the Fisheries Sector of the Islamic Republic of Mauritania: Summary”, *UNDP*, 2006, p. 4.

of the EU have to land their catches 70 times in Mauritanian ports.²³⁶ However, in 2008-2012 Agreement this obligation was replaced with the voluntary landing based on incentive. In Chapter VII of the Annex, it was stated that “Community vessels making landings in Mauritania shall have their licence fees reduced (25 %) for the period during which the landings are made.”²³⁷ This incentive was against to the interests of Mauritania since it led to the decrease in Mauritania’s income coming from licence fees when the Community vessels used this incentive. The fee paid by the European fishermen to Mauritania in 2008-2009 decreased to 16 million Euro which was 20 million Euro for the 2007-2008 period.

Thirdly, in terms of number of employment in the agreements after 2000, there has been not enough compliance to the terms of agreements. In 2003, 35 local seamen were employed by the European tuna boats which was only 31% of the agreed percentage. Actually, they had to take 105 local seamen. In 2005, the ratio increased to 35% with the hiring of 57 local seamen although the agreed number was 171.²³⁸ For the recent years, it may be again claimed that employment clause of the agreements has not been fully complied. In the executive summary of the 2014 Evaluation Report of the protocol encompassing 2012-2014 period, it was stressed that the number of jobs created on board was more than 550, of which 130 are for Mauritanian staff.²³⁹ However, it was pointed out in 2008 Protocol that 37% of the crew must be formed from local seamen²⁴⁰ which is equal to 203 jobs of the total 550 jobs created on-board which is far more than actual job (130) created.

²³⁶ Protocol setting out the fishing opportunities and the financial contribution provided for in the Agreement on cooperation in the sea fisheries sector between the European Community and the Islamic Republic of Mauritania for the period 1 August 2001 to 31 July 2006, Official Journal No: L 341/128, Date of Publication: 22/12/2001, p. 142.

²³⁷ Council Regulation (EC) No 704/2008 of 15 July 2008 on the Conclusion of the Protocol setting out the Fishing Opportunities and Financial Contribution provided for in the Fisheries Partnership Agreement between the European Community and the Islamic Republic of Mauritania for the Period 1 August 2008 to 31 July 2012, Official Journal No: L203, Date of Publication: 31/07/2008, p. 1.

²³⁸ Toueilib, op. cit., p. 177.

²³⁹ *Ex-post* Evaluation of 2014, op. cit., Executive Summary.

²⁴⁰ Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership agreement between the European Community and the Islamic Republic of Mauritania for the period 1 August 2008 to 31 July 2012, Official Journal No: L 203/4, Date of Publication: 31/07/2008, p. 28.

Lastly, in terms of control and monitoring of fishing activities of European vessels, it cannot be denied that satellite monitoring system of the EU's vessels developed after 2002 reform process has been working well. European vessels are the best monitored vessels being active in the EEZ of Mauritania.²⁴¹ Nevertheless, this does not mean that efforts on the control and monitoring of European fishing vessels are sufficient to prevent illegal fishing. The total catch amount of the EU vessels is still not transparent. Moreover, complaints about European vessels fishing in the zone left for artisanal fishermen have continued to come.²⁴²

Briefly, despite some advantages of fisheries agreements for the Mauritania, it is clear that disadvantages of signing agreement with the EU have always a lot more than its benefits. Pros and cons of the agreements for Mauritania detailed above are listed briefly in the Table 5.4. When the list is analysed, it is perceived that signing agreement has been done more harm than good for Mauritania. This is why despite the end of the duration of 2012 Protocol in August 2014, the EU and Mauritania could not agree on the new agreement and suspended their negotiations.

Table 5.4: Advantages and Disadvantages of Fisheries Agreements for Mauritania (this table is prepared by me through assessing the results of the Agreements)

Advantages of Fisheries Agreements for Mauritania	Disadvantages of Fisheries Agreements for Mauritania
Direct income for Mauritanian government	Subsidisation / unfair competition
Landing of some part of the catches by the EU vessels	Inadequate control and monitoring
Employment and training of Mauritanian seamen	Illegal fishing and over-exploitation / depletion of the stocks
Indirect contribution to debt reduction	Destruction of local artisanal fisheries sector

²⁴¹ Nagel and Gray, op. cit., p. 31.

²⁴² This issue is pointed out in the studies referred below:

- Milan Ilnyckyj, "The Legality and Sustainability of European Union Fisheries Policy in West Africa", *MIT International Review*, Spring 2007, p. 40.
- Mary Kimani, "Safeguarding Africa's fishing waters", *Africa Renewal*, Vol. 23, No. 2, July 2009, p. 12.
- Matthias Mundt, "The Effects of EU Fisheries Partnership Agreements on Fish Stocks and Fishermen: The Case of Cape Verde", *Berlin Institute for International Political Economy*, Working Paper, No. 12/2012, p. 18.

Transfer of know-how	Lack of nutrition for the natives / inadequate supply
	Lack of long term investment on fisheries industry in Mauritania and loss of value added
	Lack of control on financial compensation (due)
	Low ratio of financial support to financial due / loss of income
	Inadequate scientific control on fish stocks and inadequate social analysis of agreements
	Incompatibility with the development objectives and sustainable fisheries

The name of the agreements from 1987 till 2014 has changed several times. When the modifications in these agreements and their supplements are examined, it is, firstly, understood that in terms of payment given for the development of fisheries sector, there has been an increase in funding. It is also not deniable that the European Union can always be accepted as more reliable business partner than the other countries (China, Senegal or etc.) Mauritania has had fisheries agreements. It is clear that, in terms of employment of Mauritanian seamen, provision of fish to local people through landing some of their catches and earnings coming from fisheries export to the EU, fisheries agreements have provided observable benefits to Mauritania. However, when we compare these advantages to the disadvantages of these agreements, it is clearly seen that Mauritanian government's plan of benefiting from this sector without investing any money backfired.

If Mauritania had achieved to create its national fisheries sector, it would have brought revenue almost three times higher than it brings with the agreements. For example, according to 2001 Court of Auditors report, the value of the catch for the EU in 1996 was 109 million Euro and the cost of the agreement for the EU was 62 million Euro. In 1997, the value was 150 million Euro with a cost of 54 million Euro.²⁴³ This assumption was also acknowledged by the European Union in 2011 Evaluation Report with the argument that “the 2008-2010 agreement was not optimal for Mauritania in terms of the economic gains generated by their fish resources.”²⁴⁴

²⁴³ Court of Auditors, op. cit., p. 19.

²⁴⁴ Brunel, op. cit., p. 7.

Moreover, if Mauritania had created its own fishing industry, value added generated through processing facilities inside of the Mauritanian borders rather than EU Members' territories would have helped Mauritania to get rid of being raw product exporter. When we take into account the total employment of 4755 person (both from the EU and Mauritania) between the period of 1993-97 mentioned above, if the Mauritania had accomplished to establish its own industrial fleet and land facilities, this number of seamen would have only been made up of Mauritanian nationals. Briefly, if Mauritania had achieved to escape from reliance on agreements, the nationalisation of fisheries would have become one of the steps that lead Mauritania to the real development and independence from its former colonial powers.

5.2 The Case of Namibia

5.2.1 The Fisheries Sector of Namibia

Namibia, officially the Republic of Namibia, lies in Southern Africa, between 22°00' South of the Equator and 17°00' East of Greenwich Meridian. It borders Atlantic Ocean, Angola, Botswana, South Africa and Zambia.



Figure 5.4: The Map of Namibia (Central Intelligence Agency²⁴⁵)

²⁴⁵ Central Intelligence Agency, "The World Fact Book: Namibia", Date of Access: 22/12/2014. <<https://www.cia.gov/library/publications/the-world-factbook/graphics/maps/wa-map.gif>>

Namibia is a young country which gained its independence on March 21, 1990 only after tough struggle against the South Africa. Before South Africa's control on Namibia, it was colonised by Germany in 1884 and, in that times, it was known as German South-West Africa. Geographically, Namibia's fishing activities are positioned in one of the few main ocean upwelling systems in the world. In this system, the deep sea waters go up to the surface, making it highly productive in terms of marine resources. Therefore, Namibia has always had rich fish stocks in its waters which led the exploitation of fish to start much earlier than the independence of it.

The Namibian fishery is mentioned as thriving sector since the mid-1990s. After its independence, the Namibian fisheries sector and the fish stocks in its waters²⁴⁶ (in the territorial sea and EEZ of it) have been assumed as developing and recovering. Moreover, Namibia's fisheries sector presents a good economic and social table on the amount of the landings, generation of the revenue and the employment of the people. Management and development of fisheries in Namibia has become the responsibility of Ministry of Fisheries and Marine Resources (MFMR) after its independence. Ministry has followed 'Namibianisation Policy' after the independence of Namibia which is going to be detailed below. With the help of this policy, today, fisheries in Namibia is the second important economic activity after mining. The contribution of fisheries to the GDP of the country was 5% in 2009. Fisheries is also the country's second biggest foreign currency earner (after mining) which accounted for the 15% of total export earning of the country in 2010. Final value of the landed fish in 2010 was 4.059 million Namibian Dollar, whereas, the revenue of the country generated through fisheries sector was 113.785 million Namibian Dollar in 2010.²⁴⁷ General information about the country and its fisheries sector can be found in the following page.

²⁴⁶ Through Namibia's waters, both the territorial sea and EEZ of Namibia are referred.

²⁴⁷ "Annual Report of Ministry of Fisheries and Marine Resources", Namibia, 2010/11, p. 22 and 25. US\$ 1: N\$ 7.6 in June 2010.

Table 5.5: General Information on the Namibia (this table is prepared by me through using the sources of UNDP, Human Development Report, 2014²⁴⁸, CIA Website²⁴⁹, Trade Map, 2014²⁵⁰)

<i>Independence:</i>	1990
<i>Declaration of EEZ:</i>	1990
<i>Coastline:</i>	1.570 km
<i>Exclusive Economic Zone:</i>	560,152 km ²
<i>Population:</i>	2.2 million (2012)
<i>Area:</i>	824.260 km ²
<i>Capital City:</i>	Windhoek
<i>Natural Resources:</i>	Diamonds, copper, gold, zinc, lead, uranium, fish
<i>Cultivable Land:</i>	0,97 %
<i>Political Status:</i>	Republic with executive President
<i>Life Expectancy:</i>	64.48
<i>Illiteracy:</i>	15 %
<i>GNP per capita:</i>	5.655 \$ (2012)
<i>Population in multidimensional poverty:</i>	42,09 %
<i>Employment to Population Ratio:</i>	63,5 %
<i>HDI Ranking:</i>	127
<i>The competent Mauritanian authority for fisheries :</i>	Ministry of Fisheries and Marine Resources (MFMR)
<i>Total Production for 2012 (FAO, 2014):</i>	465.878
<i>Export of Marine Resources to the EU Market:</i>	14 th largest exporter to the EU, 2 nd largest exporter among the coastal states of Africa, 48,9% of the total export of Namibia goes to the EU

²⁴⁸ “Human Development Report 2014: Namibia”, *United Nations Development Programme*, Date of Access: 12/10/2014.

<http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/NAM.pdf>

²⁴⁹ Central Intelligence Agency, op. cit., Date of Access: 12/10/2014.

<<https://www.cia.gov/library/publications/the-world-factbook/fields/2097.html>>

²⁵⁰ Trade Map, “List of Importing Markets for the Product Exported by Namibia in 2013”, *International Trade Centre*, Date of Access: 03/11/2014.

http://www.trademap.org/Country_SelProductCountry.aspx

Trade Map, “List of Supplying Markets for a Product Imported by European Union (EU 28): Product: 03 Fish, crustaceans, molluscs, aquatic invertebrates nes”, *International Trade Centre*, Date of Access: 03/11/2014. (Intra-trade between the Members of the EU was excluded from the assessment.)

<http://www.trademap.org/Country_SelProductCountry_TS.aspx>

The successful fisheries sector mentioned above was not the case before Namibia got the jurisdiction over its Exclusive Economic Zone in 1990. Before the sovereignty of Namibia, Namibia did not have defined territorial waters and today's EEZ of Namibia was deemed as high sea where vessels could operate without taking permission from Namibia. For that reason, Namibia had no control of the fishing in these waters by distant water fishing nations. Numerous foreign vessels, therefore, got already used to target the fish stocks of Namibia before the claim of EEZ following its independence. The most important distant water fishing vessels operating in Namibian EEZ (in today's context) since the early 1960s were: the former USSR and Spain (since 1964); Japan, Bulgaria and Israel (1965); Belgium and Germany (1966); France (1967); Cuba (1969); Romania and Portugal (1970); Poland (1972); Italy (1974); Iraq (1979); Taiwan (1981); and the Republic of Korea (1982).²⁵¹

It was known that before Namibia gained its sovereignty, more than 300 mid-water and bottom trawl vessels were performing fishing activities off the Namibian waters.²⁵² These vessels led Namibia to inherit mostly depleted or over-exploited marine resources when it declared its sovereignty. To illustrate, 8,585,000 tonnes of hake were caught from 1969 to 1990 which caused 80 per cent decrease in the hake biomass from its level in 1969.²⁵³ Moreover, in 1986, only 2 per cent of the pilchard stocks of 1976 remained in Namibia's waters after ten years fishing.²⁵⁴ The excess fishing activities realised by other countries in Namibia's waters is presented in Figure 5.5. There is a huge distinction between the catch levels of the years of 1950-1990 and the years after 1990 when Namibia gained its independence.

²⁵¹ WWF, op. cit., 1998, P. 78.

²⁵² WWF, op. cit., 1998, p. 78.

²⁵³ Paul Goodison, "The Namibian Fisheries Experience: Analysis", *SAMUDRA Report*, Triannual Report of ICSF, Issue No: 5/6, June 1991, p. 16.

²⁵⁴ WWF, op. cit., 1998, p. 78.

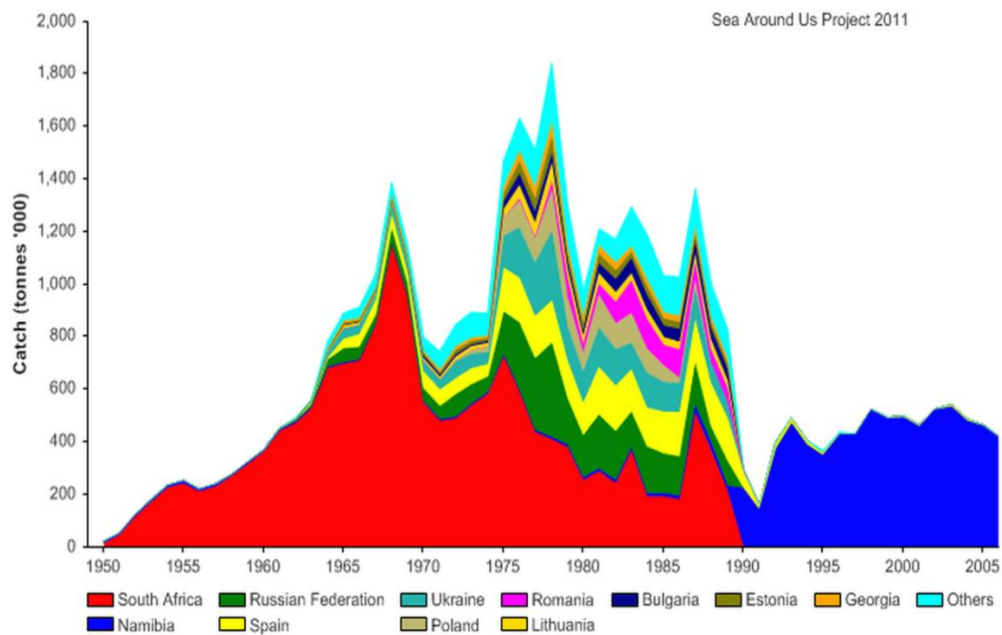


Figure 5.5: Landing by Fishing Country in the Waters of Namibia (Sea Around Us Project, 2011²⁵⁵)

Since there is no sufficient data about the total catch amounts (due to the uncontrolled, unreported and illegal fishing) or about the total value of the fishing in the waters of Namibia before 1990, it is not possible to assess the real influence of fishing by distant water vessels on Namibian economy and environment. Nevertheless, it is known that Namibia got little economic benefit from the fishing activities.²⁵⁶ Moreover, environmental degradation is clear in the sense that most of the fish stocks were seriously depleted due to uncontrolled fishing activities as it is exemplified in the previous paragraph. Therefore, upon independence, the new government exerted high effort to find a way to protect its already depleted natural marine resources and to prevent its fisheries economy to be further exploited by the foreign nations.

²⁵⁵ Sea Around US Project, Landings by Fishing Country in the Waters of Namibia, 2011, Date of Access: 10/10/2014. <<http://www.seararoundus.org/eez/516/4.aspx>>

²⁵⁶ Glenn-Marie Lange, “The Value of Namibia’s Commercial Fisheries”, Research Discussion Paper, Number 55, Directorate of Environmental Affairs, Ministry of Environment and Tourism, Republic of Namibia, February 2003, p. 3.

5.2.2 ‘Namibianisation Policy’ of Fisheries

Namibia, determined to benefit from its natural resources on its own, initiated New Fisheries Policy called ‘Namibianisation’ in 1990. One of the first actions by the government was the declaration of Exclusive Economic Zone to control fishing activities in its zone by excluding the large number of foreign vessels that had been fishing in Namibian waters without restrictions for many years. Act No. 3 of 1990 on Territorial Sea and Exclusive Economic Zone of Namibia defined the sea within a distance of 200 nautical miles from the low water line or any other baseline as the Exclusive Economic Zone of the Namibia. After the claim of EEZ, more than 90 per cent of former unlicensed foreign vessels fishing in the area were excluded from the Namibian waters.²⁵⁷

After the claim of EEZ, Namibia laid out its main fisheries objectives in 1991 in a White Paper named ‘Towards Responsible Development of the Fisheries Sector’. Then, the objectives that were set out in the White Paper were incorporated into the legislation entitled the ‘Sea Fisheries Act’, which came into force on October 1, 1992. Act 29 of the Sea Fisheries Act comprises of 5 main components about fisheries:

- Rights of Exploitation
- Quotas
- Promotion of fishing industry and levies
- Licensing and other control measures
- Offences and penalties

In the Act, Minister was hold responsible for giving right of exploitation. This was the first step towards Namibianisation since granting right of exploitation was based upon following criteria:

- whether or not the applicant is a Namibian citizen;
- where the applicant is a company, whether the beneficial control of the company is vested in Namibian citizens;

²⁵⁷ WWF, op. cit., 1998, p. 78.

- the beneficial ownership of any vessel which will be used by the applicant;
- the ability of the applicant to exercise the right of exploitation in a satisfactory manner; and
- any other matter as may be prescribed.²⁵⁸

In the Policy Statement on the Granting of Rights of Exploitation to Utilise Marine Resources and on the Allocation of Fishing Quotas of 8 July 1993, other matters to have the right for exploitation were defined as whether the given right contributes to:

- the advancement of persons in Namibia who have been socially and educationally disadvantaged by discriminatory laws or practices which have been enacted or practiced before the independence of Namibia;
- regional development within Namibia;
- cooperation with other countries
- the conservation and economic development of marine resources.²⁵⁹

In order to use the right of exploitation, all fishing vessels have been required to obtain a licence which has been given in exchange for licence fee. The most significant management policy of Namibia is that fishing has been grounded on individual quotas allocated to right owners and the fee has been demanded from the right owners in return for the quota allocated. Total Allowable Catches (TACs) for each stock started to be determined on the basis of best scientific researches available in 1990. Henceforth, TACs have been distributed among the people who have had fishing rights. In respect of granting rights of exploitation and allocating quotas, the aim was to give priority to Namibian fishermen and Namibian private companies. Therefore, fishing rights were given for 4 years for a Namibian owned company without investment (for the newcomers), for 7 years for a foreign-owned joint venture with investment, or for 10 years for a Namibian owned company with

²⁵⁸ Sea Fisheries Act, 1992 (Act 29 of 1992), Government Gazette of the Republic of Namibia, No. 493, Date of Publishing: 1 October 1992, p. 21.

²⁵⁹ "Policy Statement on the Granting of Rights of Exploitation to Utilise Marine Resources and on the Allocation of Fishing Quotas", *Ministry of Fisheries and Marine Resources*, Republic of Namibia, 8 July 1993, pp. 2-3.

investments. Moreover, 10 years of exploitation right could be entitled to foreign-owned ventures with the capacity to make a major contribution to economic and overall development in Namibia. Onshore employment of 500 Namibians was given as an example to the major contribution.²⁶⁰ It is necessary to point out that right of exploitation and individual quotas have not been transferable. The reason of this policy was not explained in the Act, but, it is believed that this policy was adopted in order to prevent transfer of fishing right and quotas to foreign vessels.²⁶¹

As a country which did not have traditional fishing sector carried out by Namibian fishermen before independence, it was much easier for Namibia to start establishing fisheries sector from scratch. Therefore, the rules of fishing were constituted from top to bottom. This is why Namibia achieved to collect money from quota allocation without giving any subsidy to fisheries sector. Despite no subsidisation, Namibia chose to create certain incentive for Namibians to enter the fisheries sector. The incentive was provided through quota fee rebate. Hake quota fees, to illustrate, were differentiated in the year of 2000 as follows:

- N\$880²⁶² per tonnes of hake allocated to foreign vessels;
- N\$680 per tonnes of hake allocated to Namibia based vessels;
- N\$480 per tonnes of hake allocated to the fully Namibian owned vessels.²⁶³

It is clear that, as an incentive, N\$200 per tonnes was decreased from the total amount of payment when the quotas were given to Namibian fishermen. On these fees, a rebate of N\$200 per tonnes of fish is granted if the fish is processed in Namibia without taking into account of the owner of the vessel (foreign or Namibian).²⁶⁴

²⁶⁰ Ibid, p. 4.

²⁶¹ This idea is supported by Goodison, op. cit., p. 19 and by B. W. Oelofsen, "Fisheries Management: the Namibian Approach", *ICES Journal of Marine Science*, 56: 1999, p. 1000.

²⁶² US\$ 1: N\$ 6.10 in June 1999.

²⁶³ Claire W. Armstrong, Ussif Rashid Sumaila, Anna Erastus and Orion Msiska, "Benefits and Costs of the Namibianisation Policy", in U. R. Sumaila, D. Boyer, M. D. Skogen and S. I. Steinshamn (eds.), *Namibia's Fisheries: Ecological, Economic and Social Aspects*, Delft, The Netherlands: Eburon, 2004, p. 206.

²⁶⁴ Ibid, 2004, p. 206.

Other than fees collected in exchange for vessel licence and quota, there have been other levies collected from right owners:

- Marine Research Levy Fund (a levy on all landed species, used to fund research and training);
- By-catch levy;
- Licence fees for processing facilities.²⁶⁵

It is explained in 2010/11 Annual Report that “Namibia’s fishing companies also provide finance and other forms of assistance for the construction of schools, clinics and other civic facilities. The contribution made over past 14 years runs in excess of N\$40 million.”²⁶⁶

All the measures reflected above can be seen as a demonstration for the noteworthy effort of Namibia as a young developing country to create its own fishing sector. The Sea Fisheries Act of 1992 was renewed with the Marine Resources Act of 2000.²⁶⁷ The essence and the scope of 1992 Act were preserved in the new Act. At the same time, new measures were brought into action. Years of fishing rights were modified as 7, 10, 15 or 20 years rather than being 4, 7 or 10 with the same conditions listed above. The conditions of fishing rights given to the foreign-owned ventures for 20 years are similar with the conditions of fishing rights given to the foreign-owned ventures for 15 years, apart from the employment condition, which was increased to 5.000 permanent employees rather than 500.²⁶⁸ Moreover, Fisheries Observer Agency was established in order to harvest, handle, and process fish products and to collect the data on the marine resources.

²⁶⁵ “National Plan of Action (NPOA) for the Management of Fishing Capacity”, *Report prepared by the Ministry of Fisheries and Marine Resources*, Republic of Namibia, August 2007, p .6.

²⁶⁶ *Ibid*, p. 6.

²⁶⁷ “Marine Resources Act (Act No. 27 of 2000)”, Republic of Namibia, Date of Publishing: 27 December 2000.

²⁶⁸ “Policy Statement (Guidelines) for the Granting of Rights to Harvest Marine Resources and the Allocation of Fishing Quotas”, *Ministry of Fisheries and Marine Resources*, Republic of Namibia, July 2009, pp. 6-7.

It is surprising that the measures and systems, like Fisheries Observer Agency, Quota and Vessel Monitoring System, which were mostly exist in the developed countries, have been adopted by one of the developing countries of Africa. It is the fact that Namibia has never preferred to sign fisheries agreement with the European Union or any other country or bloc. The only way for foreign vessels to target Namibia's fish stocks is through investing in joint ventures in Namibia. Namibia has achieved to manage its fish stocks on its own, controlled and monitored fishing vessels in its waters via Vessel Monitoring System and has got revenue from fisheries sector without giving any subsidy. Nevertheless, whether 'Namibianisation Policy' of the Namibia is a success story in terms of the sustainable fisheries and development of Namibia should also be scrutinised.

Firstly when the sustainable exploitation of the stocks is an issue, it should be kept in mind that sustainability can only be achieved through doing scientific research for the Maximum Sustainable Yield (MSY), determining total allowable catch for each stock on the basis of the scientific research and fishing in compliance with the Total Allowable Catches. Before its independence, fish stocks around the sea waters of Namibia (Namibia's today's territorial waters and Exclusive Economic Zone) were extensively exploited by distant water fishing vessels. However, it is known that from the independence till today, Namibia has managed its marine resources through quotas; and today, almost all of the commercial species caught in Namibia is under the quota system which has helped Namibia to limit total amount of catches in its waters to provide sustainability. When the annual Total Allowable Catches determined for each stock and total yearly catches are compared in the Table 5.6 (in the next page), it is realised that there has been a high compliance to the amount of Total Allowable Catches within the years.

Table 5.6: Annual TACs and total catches of Namibia (in tonnes) for each fish stock between 1998-2010 (Annual Reports between 2003-2010²⁶⁹)

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Year/Stock	Pilchard (TAC)	Pilchard (Total Catch)	Hake (TAC)	Hake (Total Catch)	Horse Mackerel (TAC)	Horse Mackerel (Total Catch)	Crap (TAC)	Crap (Total Catch)	Rock Lobster (TAC)	Rock Lobster (Total Catch)	Monk (TAC)	Monk (Total Catch)
1998	65.000	68.562	165.000	150.695	375.000	312.422	2.000	2.283	300	350	n.a.*	16.429
1999	45.000	44.653	275.000	164.250	375.000	320.394	2.000	2.074	350	304	n.a.	14.802
2000	25.000	25.388	194.000	171.397	410.000	344.314	2.000	2.700	350	365	n.a.	14.358
2001	10.000	10.763	200.000	173.277	410.000	315.245	2.100	2.343	400	365	13.000	12.390
2002	0	4.160	195.000	154.588	350.000	359.183	2.200	2.471	400	361	12.000	15.174
2003	20.000	22.255	180.000	189.305	350.000	360.447	2.000	2.092	400	269	12.500	13.135
2004	25.000	28.605	195.000	186.305	350.000	310.405	2.200	2.400	420	214	12.000	8.961
2005	25.000	25.128	180.000	173.902	350.000	327.700	2.300	2.408	420	248	11.500	10.466
2006	25.000	2.314	130.000	137.771	360.000	309.980	2.400	2.228	420	285	9.500	9.816
2007	15.000	23.522	130.000	125.534	360.000	201.660	2.500	3.245	350	1153	9.500	8.932
2008	15.000	18.755	130.000	117.286	230.000	186.996	2.500	2.100	350	195	9.500	7.270
2009	17.000	20.137	149.000	137.312	23.000	215.996	2.700	1.577	350	43	8.500	6.922
2010	25.000	20.229	140.000	127.196	247.000	185.673	2.700	766	275	82	9.000	7.904

²⁶⁹ Annual Reports of Ministry of Fisheries and Marine Resources, Namibia, Date of Access: 17/11/2014.
<http://www.mfmr.gov.na/media1;jsessionid=1d33c97b5173c7c405ad645028c9>

* n. a.: not available.

Moreover, it is realised that the amount of TACs were not hold the same for each year. Namibia modified the amount of the TACs on the basis of scientific assessments about the situation of fish stocks. This shows that Namibia really gave importance to protecting its valuable fish resources and providing sustainability in fisheries sector. In addition to the TAC system, for the conservation and protection of fish stocks, Namibia has brought other measures such as conservation areas, limitations on the mesh size and fishing vessels.

In terms of control and monitoring of fishing activities in its waters, Namibia can be assumed as doing well as a developing country with limited finance. It established its own Vessel Monitoring System. Moreover, Namibia has two patrol vessels and two fisheries patrol aircrafts. These two vessels undertook, for example, patrol mission in 231 days of the year 2010. It has assigned fisheries inspectors and observers working onboard the patrol vessels and aircrafts. At the end, in terms of the management of the fisheries, both quota system and control/monitoring of fishing activities worked well in Namibia; and general belief among scholars is that commercial stocks are in the process of recovery (Sumaila, 2000; Oelofsen, 1999; Lange, 2003; Nichols, 2005; Huggins, 2011; Binet, 2012²⁷⁰).

It needs to be acknowledged that, still, the contribution of ‘Namibianisation Policy’ to the development of Namibia is much more noteworthy and higher than its contribution to sustainability of fish stocks. ‘Namibianisation Policy’ resulted in fishing rights to be held by the Namibians. The percentage of Namibian-owned licenced fishing vessels has increased from 60% in 1993 to 85% in 1998 as it is reflected in Figure 5.6. It helped fish stocks to be landed and processed in Namibia which provided value added and employment for Namibian nation. The final value of the products in 1991 was 644 million Namibian Dollar whereas in 2010 it raised to

²⁷⁰ See: Ussif Rashid Sumaila, “Fish as Vehicle for Economic Development in Namibia”, *Forum for Development Studies*, No.2-2000, pp. 295-316; B. W. Oelofsen, “Fisheries Management: the Namibian Approach”, *ICES Journal of Marine Science*, 56: 1999, pp. 999-1004; Glenn-Marie Lange, “The Value of Namibia’s Commercial Fisheries”, Research Discussion Paper, Number 55, Directorate of Environmental Affairs, Ministry of Environment and Tourism, Namibia, February 2003, pp. 1-22; Paul Nichols, “Marine Fisheries Management in Namibia: Has It Worked?”, in U. R. Sumaila, D. Boyer, M. D. Skogen and S. I. Steinshamn (eds.), *Namibia’s Fisheries: Ecological, Economic and Social Aspects*, Delft, The Netherlands: Eburon, 2004; Laura E. Huggins, “Fencing Fisheries in Namibia and Beyond: Lessons from the Developing World”, *Perc Policy Series*, no.49, 2011, pp. 1-36; Thomas Binet, “Two Decades of Rebuilding Fisheries in Namibia”, in OECD, *The Economics of Rebuilding Fisheries: Case Studies of Fisheries Rebuilding Plans*, 2012.

4.059 million Namibian Dollar.²⁷¹ The employment of Namibian people in the fishing industry increased from 55% in 1991 to more than 75% in 1998.²⁷² According to 2012 OECD report, it is recently estimated that total employment in fisheries sector (onboard and on land facilities) increased to 13.700 people.²⁷³ Moreover, the export earning of Namibia from the fisheries sector increased from 631 million Namibian Dollar in 1991 to 3.926 million Namibian Dollar in 2010.²⁷⁴

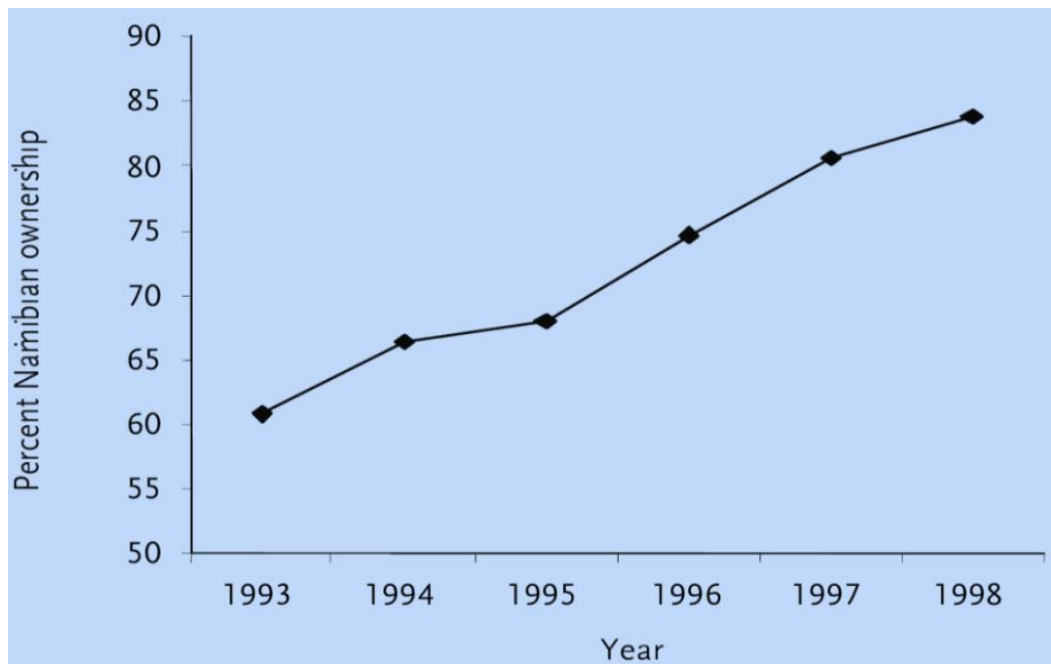


Figure 5.6: The percentage of Namibian ownership of licenced fishing vessels, 1993-1998 (Armstrong et al., 2004²⁷⁵)

²⁷¹ “National Plan of Action (NPOA) for the Management of Fishing Capacity”, op. cit., p. 6 and Annual Report of 2010/11, op. cit., p. 22, Date of Access: 17/11/2014.
<<http://www.mfmr.gov.na/media1.jsessionid=1d33c97b5173c7c405ad645028c9>>

²⁷² Armstrong et al., op. cit., p. 206.

²⁷³ Thomas Binet, “Two Decades of Rebuilding Fisheries in Namibia”, in OECD, *The Economics of Rebuilding Fisheries: Case Studies of Fisheries Rebuilding Plans*, 2012, p. 22.

²⁷⁴ “National Plan of Action (NPOA) for the Management of Fishing Capacity”, op. cit., p. 6 and Annual Report of 2010/11, op. cit., p. 22.

²⁷⁵ A. N. Erastus, *The Development of the Namibianisation Policy in the Hake Subsector, 1994-1999*, NEPRU, Working Paper, No. 82, Windhoek, Namibia, cited in Claire W. Armstrong, Ussif Rashid Sumaila, Anna Erastus and Orion Msiska, “Benefits and Costs of the Namibianisation Policy”, in U. R. Sumaila, D. Boyer, M. D. Skogen and S. I. Steinshamn (eds.), *Namibia’s Fisheries: Ecological, Economic and Social Aspects*, Delft, The Netherlands: Eburon, 2004, p. 208.

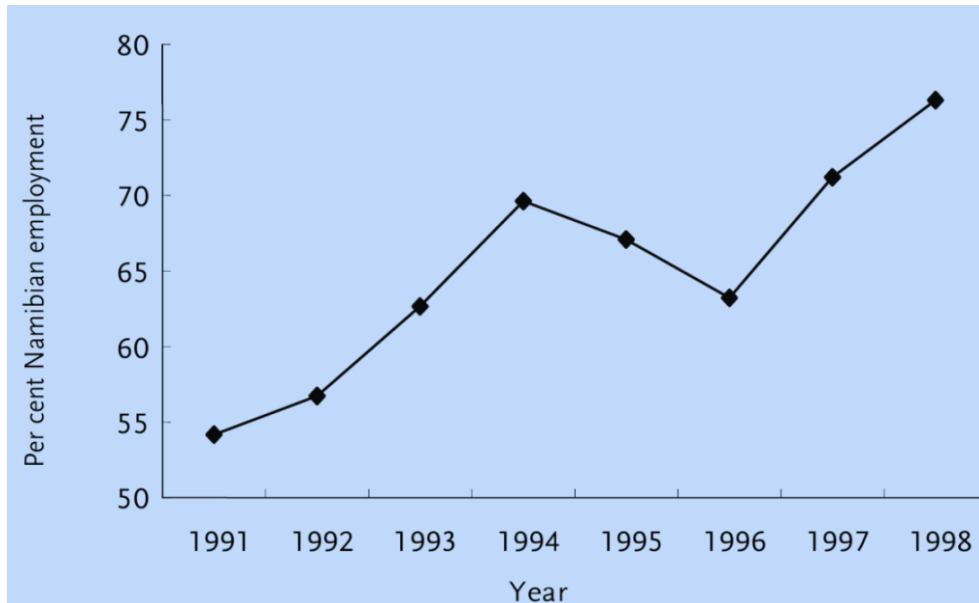


Figure 5.7: The percentage of Namibian employment on land and sea in the Namibian fishing industry, 1993-1998 (Armstrong et al., 2004²⁷⁶)

There is another social aspect of fisheries policy of Namibia which contributed to the development of Namibian nation's institutional capacity. Through 'Namibianisation Policy', the government has provided various training programmes for fishermen, vessel skippers, research scientists, senior managers, inspectors and observers. According to 2007 National Plan of Action for the Management of Fishing Capacity, four courses have been developed by Ministry of Fisheries and Marine Resources (MFMR):

- Fisheries Inspector and Observers Course (9 months duration);
- Commercial Sampling Programme for Fisheries Observers (3 x 2 weeks);
- Cadet Programme for patrol boat officers (4 years); and
- Scientific Technical Assistance course (6 months).²⁷⁷

National scientists have undertaken various short and long courses leading to diploma, degree and post-graduate qualifications, and MFMR has organised regular ad hoc workshops and seminars about the various aspects of fisheries research,

²⁷⁶ Ibid, p. 208.

²⁷⁷ "National Plan of Action (NPOA) for the Management of Fishing Capacity", op. cit., p. 10.

development and management. The training programmes have helped Namibia to become self-sufficient in terms of scientific research, control and monitoring of fishing activities and; eventually, contributed to the overall development of fisheries sector.

There are, of course, some criticisms about Namibia's fisheries policy after 1990. For example, Glenn-Marie Lange (et al.), claimed in their study that Namibia could not get enough rent from its fisheries resources. The failure in gaining rent from fisheries is based upon the failure to increase quota levies.²⁷⁸ This claim is also supported by Claire Armstrong (et al.). It is argued that the sum of the fee rebates from the quota fees led to the decrease in state revenue of Namibia.²⁷⁹ Other argument about Namibia's fisheries policy is also on the issue of non-transferable fishing rights. It is believed that non-transferable quotas have prevented free market to be established in Namibia which led the industry to consolidate around a small quantity of key companies.²⁸⁰

Despite these criticisms, there are various points that make Namibia's efforts successful enough in terms of creating its own fisheries sector. Namibia achieved to be visionary about the significance of fish as a natural resource for its economy as of its independence. While increasing its revenue and export earnings through 'Namibianisation Policy', it did not refuse to take action about the sustainable exploitation of fish stocks. To illustrate, the hake quota for 1991 was determined as 60.00 tonnes decreased from nearly 350.000 tonnes caught in the 1989.²⁸¹ This reflects that Namibia did not sacrifice its natural resources for the short term gains as Mauritania did. Moreover, 'Namibianisation Policy' helped Namibia to increase the number of employment via forcing fishing vessels to hire Namibian seamen and to invest in land facilities. Summary of the pros and cons of the 'Namibianisation Policy' for Namibia are listed in the Table 5.7 below.

²⁷⁸ G.-M. Lange, R. Hassan and A. Alfredi, "Using Environmental Accounts to Promote Sustainable Development: Experience in Southern Africa", *Natural Resources Forum: A United Nations Sustainable Development Journal*, Vol. 27, Issue 1, February 2003, p. 25.

²⁷⁹ Armstrong et al., op. cit., p. 210.

²⁸⁰ Peter Manning, "The Hake Fishery in Namibia", in S. Cunningham. and T. Bostock (eds.), *Successful Fisheries Management, Issues, Case Studies and Perspectives*, Eburon Publishers, Delft. ISBN 905972061X, 2005, p. 187.

²⁸¹ Ibid, p. 173.

Table 5.7: Advantages and Disadvantages of ‘Namibianisation Policy’ (this table is prepared by me through assessing the results of the ‘Namibianisation Policy’)

Advantages of ‘Namibianisation Policy’	Disadvantages of ‘Namibianisation Policy’
Increase in revenue and export earnings	Failure to increase quota levies
Establishment of national fisheries sector	Prevention of free market by non-transferable fishing rights
Landing of the all of the catches in Namibia	Creation of monopoly in fisheries sector by non-transferable fishing rights
Increase in employment and training of Namibian seamen	
Sustainable exploitation of fish stocks	
Long-term planning and investment in fisheries	
Establishment of quota system	
Indirect contribution to overall development	

It is true that fisheries agreements also helped Mauritania to increase its employment ratio. Moreover, these agreements were advantageous for Mauritania in terms of direct income generation through financial compensation. Nevertheless, the biggest difference between Namibia and Mauritania is that Namibia got all of these benefits with its own efforts without accepting any costs and conditions coming from foreigners. Therefore, the result of the ‘Namibianisation Policy’ can easily be called success story that should be taken as an example for the African countries which have continued to make their fisheries sector and the important part of their economy dependent on external decisions and actions.

There are two questions that may come to mind at the end of the chapter: 1) How did Namibia decide to establish national fisheries sector instead of following previous examples of fisheries agreements? 2) Why did other African countries not follow Namibian example after Namibia’s success in fisheries? It is known that among all of former-colonised African countries, Namibia is one of the latest countries that gained independence from European powers.²⁸² Therefore, Namibia

²⁸² List of Independence Dates of African Countries: Liberia-26 July 1847, South Africa-31 May 1910, Egypt-28 February 1922, Ethiopia-5 May 1941, Libya -24 December 1951, Sudan-1 January

had the good fortune to monitor the previous experiences of other African countries. When Namibia gained independence in 1990 the positive and negative results of the fisheries agreements that had been signed for 10 years already became evident for Namibia. It is believed that Namibia realising that fisheries agreements had much more negative consequences than positive ones in the fisheries of the coastal states, decided to establish its own fisheries sector. It is known that the European Union informed Namibia after its independence about the EU's enthusiasm to sign fisheries agreement, but, Namibia did not prefer to do this.²⁸³

It was pointed out that fisheries agreements have continued to be signed between the European Union and certain African countries despite the Namibian example. The first reason for other African countries to continue signing agreements can be the fact that it is not possible immediately to see the results of government policies in any policy area. Therefore, Namibia as a latecomer could not become an example for other African countries till 2000s when the long term outcomes of its 'Namibianisation Policy' have started to be observed. Nevertheless, the most important reason for other African countries not to initiate nationalisation policy of fisheries after Namibian example can be the already dependent positions of these countries towards the European Union.

It is known that European policies on fisheries in African countries have interlinked especially after 1990s with other policy areas of the EU in this region. For example, the condition of willingness to sign fisheries agreements was included into

1956, Morocco-2 March 1956, Tunisia-20 March 1956, Ghana-6 March 1957, Guinea-2 October 1958, Cameroon-1 January 1960, Senegal-4 April 1960, Togo-27 April 1960, Mali- 22 September 1960, Madagascar-26 June 1960, Congo(Kinshasa)-30 June 1960, Somalia-1 July 1960, Benin-1 August 1960, Niger-3 August 1960, Burkina Faso-5 August 1960, Côte d'Ivoire (Ivory Coast)-7 August 1960, Chad-11 August 1960, Central African Republic-13 August 1960, Congo (Brazzaville)-15 August 1960, Gabon-17 August 1960, Nigeria-1 October 1960, Mauritania-28 November 1960, Sierra Leone-27 April 1961, Tanzania-9 December 1961, Burundi-1 July 1962, Rwanda-1 July 1962, Algeria-3 July 1962, Uganda-9 October 1962, Kenya-12 December 1963, Malawi-6 July 1964, Zambia-24 October 1964, Gambia-18 February 1965, Botswana-30 September 1966, Lesotho-4 October 1966, Mauritius-12 March 1968, Swaziland-6 September 1968, Equatorial Guinea-12 October 1968, Guinea-Bissau-24 September 1973, Mozambique-25 June 1975, Cape Verde-5 July 1975, Comoros-6 July 1975, São Tomé and Príncipe-12 July 1975, Angola-11 November 1975, Western Sahara-28 February 1976, Seychelles-29 June 1976, Djibouti-27 June 1977, Zimbabwe-18 April 1980, Namibia-21 March 1990, Eritrea-24 May 1993. See: "The World Factbook", Central Intelligence Agency, Date of Access: 26/12/2014. < <https://www.cia.gov/library/publications/the-world-factbook/fields/2088.html>>

²⁸³ European Commission, Press Release Database, Date of Access: 29/12/2014.
< http://europa.eu/rapid/press-release_IP-91-906_en.htm>

the Agreements on Development (Lomé, Cotonou etc.). Therefore, it was not an easy job for African countries, which had already signed first agreement, to give up signing following agreements while pursuing cooperation in other policy areas. The obligation to sign following agreements originates not from any legal provision but from the negotiating power of the EU. Possibly, most of the time, the EU conditioned financial supports and cooperation in other policy areas to get fishing rights in African coastal states' waters. Moreover, since the African countries chose to give fishing rights to the European fishermen instead of investing in fisheries sector after their independence, it might not be feasible for them to stop signing agreements and invest in fisheries sector from scratch.

From all of these assumptions, it can be deduced that it is not possible to change the way the fisheries relations between the European Union and African countries have been going on. The truth is that it is not easy to increase all of a sudden the number of cases similar to Namibia. Nevertheless, there can be some steps that will contribute to reducing ongoing dependency of the Africa to the Europe in terms of fisheries sector. In order to prevent post-colonial exploitation of fish stocks of African countries such as Mauritania by the powerful developed states, certain actions should be taken by African nations. Recommendations for the actions that can be taken by the African countries are going to be made in the last chapter.

CHAPTER 6

CONCLUSION

When the European Community started out to initiate negotiations on fisheries agreements in 1979, its core incentives were providing fishing places to its fishermen outside of the Exclusive Economic Zone of the Member States and increasing the supply of fish to the Community internal market. The agreements signed with these incentives were known as 'first generation agreements'. These incentives were triggered by pressure coming from Member States already fishing in African, Caribbean and Pacific states' EEZs when these zones were assumed as the high seas. However, the prime triggering reason for the EC to start signing fisheries agreements was the adverse results of the Common Fisheries Policy inside of the European Community. Common Fisheries Policy became a must for a bloc (European Community) whose Members already decided to have common action in almost all of the policy areas. International tendency towards more liberalised, free market also forced them to create free and competitive sectors in all fields of the economy such as agriculture, textile, heavy industry and so on. The competition among the European producers in these economic activities to produce more qualified and/or cheaper products led to the development and improvement in these sectors.

However, free competition (of course, in compatible with competition rules set by the EC) in fish among the Member States did not work well since fish was not one of the nutritional sources that can be harvested from the farm (except for the aquaculture products) and intense competition can easily lead them to become extinct. When the European Union realised that fish was a limited natural resource which was subject to the extinction, it was too late. The EU's internal actions under the Common Fisheries Policy gave way to further competition between the Member

States' fishermen. With fishing policy based on subsidisation, European fishermen tended towards fishing more to dominate both European and international market which led to creation of excess number of fishing vessels and over-exploitation of internal European stocks.

Of course, Common Fisheries Policy of the EU had some noble results: it provided better income for European fishermen, modernised and organised fishing sector inside the EU and increased employment inside of the European coastal states. However, the devastating effects of the CFP on fish stocks outcompeted the positive results of it which forced the EU to look for fish stocks outside of the Community waters. The search for new fish resources gave cause for the initiation of fishing agreements with the ACP states in order to provide new fishing places to the Community fishing fleet.

When the Community searched for new fishing places, it claimed that while evidently pursuing the incentives of providing fishing places and increasing the supply of fish to the Community market, the agreements on fisheries were not only benefiting European fishermen and fisheries sector but also providing interests for the third states signing these agreements. According to this perspective, coastal third states, through renting fishing rights (to the European vessels) that they do not use in their EEZ, get financial compensation and licence fees given to them by the EC and European ship-owners for fishing rights. Moreover, these agreements provide cooperation between the two parties on fisheries sector, particularly on technology, know-how, employment of seamen, control and monitoring of fishing activities and institutional capacity building. Therefore, it was seen by the EU as, through these agreements, third states gain money and technical know-how without making (technical and institutional) investment/effort to catch. Therefore, it was believed that it is always logical for both sides to sign these agreements since the terms and results of the agreements constitute win-win situation in which both the EU and third state get profit from this deal.

The real outputs of the agreements were not same with what were expected or how they were pretended to be. When the agreements signed with the African

countries²⁸⁴ are taken into account as compatible with the research question, the results of the agreements signed since 1979 demonstrated that the situation of fish stocks in the African waters got worse due to the over-fishing. Since the African countries did not have enough technical capacity to control and monitor whether foreign fishing vessels obeyed the rules of the agreements, they could not prevent illegal and excess fishing. Furthermore, rather than creating win-win situation, these agreements hindered African countries to establish their own fisheries sector, to gain much more through value added in domestic facilities, to increase employment in fisheries and to provide further development in overall economies of them.

Through these agreements, the European Union ensured the continuation of fish supply to the land facilities of Member States (e.g. processing factories) and created additional added value inside of the Member States. Moreover, while preventing excess fishing in European waters via transferring big, industrial vessels to the African countries' waters, the Community led to the continuation and even increase in the employment ratios within the Member States. Whereas, African countries lost the chance to improve their internal sector, witnessed the collapse of national small-scale fisheries which was highly important for the food requirements of native people and faced with unfair competition between the national fishermen and European fishermen.

In time, the policies of the Community on the external fishing activities of its fishermen and the terms of the agreements signed between the EC and the ACP states came in for a lot of criticism. Since the outcomes of the agreements were nearly similar in all countries and the EU continued to sign follow-up agreements, criticisms to these agreements increased more as the days passed. As they were detailed in chapter 4, the critics generally condemned these agreements as they caused (neo-colonial) exploitation of the African countries by the already developed powerful states of the world. Due to the criticisms coming from different stakeholders of the fisheries sector including NGOs, inter-governmental organisations, governmental bodies of various states, private fishing companies and

²⁸⁴ As it was explained in the introduction of the thesis, although the fisheries agreements of the EU encompass African, Caribbean and Pacific Group of States, agreements with African countries constitute the research topic of the thesis.

fishermen's organisations, the European Union, in due course, revised several times its external policies on fisheries. The revisions brought with them the more 'comprehensive perspective' on the fisheries agreements. The terms of the agreements were improved through intensifying landing obligations of European fishermen to African states' ports, augmenting the number of employment of seamen from African countries' natives in the European vessels, increasing the financial payment to the third states and so on.

While improving the scope of fisheries agreement, the European Community came with the new type of deal called 'second generation agreements'. Through these agreements, the EU aimed to form a basis for the establishment of joint ventures between the European ship-owners and third states' fishermen which would help the permanent transfer of excess vessels in the EU to the third states' waters. The first example of this type of agreement was signed with Argentina in 1993. However, since the establishment of joint venture necessitated financial resources to be invested into the partnership by the both sides of the joint venture, third states' fishermen could not easily effort to establish this kind of enterprises. Moreover, the results of the agreement with Argentina validated that second generation agreements could not have additional positive results or benefits than first generation fisheries agreements provided to the third states. Therefore, agreement with the Argentina remained the only sample of the second generation agreements and the EU continued to sign the updated versions of the first generation agreements with the African countries till 2002 reform.

During the 23 years (1979-2002) of the agreements, the most important gain of African countries was the direct income coming from financial compensation and fees of the EU and European fishermen. With the help of this income, African countries more easily paid their national debts. Moreover, fisheries agreements provided certain benefits in terms of employment, technological and institutional cooperation with the EU and training of national seamen. However, transfer of the excess vessels of the EU to the African waters caused the over-exploitation of African fish stocks, destroyed artisanal fisheries and gave harm to the fish supply to internal African market. While the European Union was succeeding in providing new

fishing places to its fishermen and supplying fish to internal European market, it could not contribute to the development of coastal African nations.

After all of these negative outcomes of first generation agreements, 2002 reform in the entire Common Fisheries Policy of the EU carried with it the reform of the external policies of the CFP, too. New policy was grounded on ‘partnership approach’ stressing the partnership on the sustainability and on the development of third states fisheries sector. Part of the financial payments conditioned in the agreements was devoted to the development goals in the third states. General claim was that the third generation agreements named ‘Fisheries Partnership Agreements’ would be the rehabilitated version of the agreements signed before and would give much benefit to third states than before. The conditions of landing, employment of national seamen in the European vessels, financial contribution devoted to the development purposes, control and monitoring for the purpose of preventing illegal fishing, provision of sustainability and the contribution of the agreements to the overall development of the third states were all claimed to be improved. However, since the main triggering events²⁸⁵ to sign an agreement have been continuing, these amendments have not worked properly.

After the reform of 2002 on Common Fisheries Policy, it was found out that the aim of the Fisheries Partnership Agreements were officially stated as promoting responsible and sustainable fisheries along with allowing EU vessels to fish for surplus stocks in third states’ Exclusive Economic Zones. However, the purposes of sustainable fisheries and development have been designed to legalize and facilitate these agreements and they are subordinated to the fishing interests of the Member States. The last reform could not make the fisheries agreements to become equally beneficial for both sides and to create win-win situation. In contrast to what was stated after the reform process, due to the high pressure coming from the Member States (like Spain, Portugal and France) whose fishing sector representatives and stakeholders have always become powerful enough to influence the positions of their states in the decision-making mechanisms of the European Institutions, these agreements could not be converted to the profitable deal for African countries.

²⁸⁵ For the main triggering events, see the incentives reflected in the first paragraph of the chapter.

It is understood that European funds conditioned to the fisheries agreements forced leaders of the African countries, due to their countries' poor economic conditions and debts, to welcome the funds coming from European Union's budget to balance their deficit without questioning the conditions of the agreements. However, it is also deduced from the agreements signed in recent years that African countries slowed the process down and enhanced the conditions to sign an agreement with the European Commission; and the EU have introduced many new elements to these agreements compared to their predecessors in order to make them legally appropriate, equally profitable for both sides and sustainable enough for the fish stocks.

Still, the reality that cannot be changed easily is current EU Fisheries Partnership Agreements still favour the interests of the European fisheries lobby and powerful coastal states of the Union, rather than the long-term principles of sustainable development and equitable treatment of developing states since most African countries do not have the enforcement capability to halt unequal fishing in their waters. The newly signed fisheries agreements after 2012 reform also reflect that in the near future the inequality between the two sides of the agreements in terms of their acquisition from these agreements is going to continue. There is limited information right now on the agreements signed after 2012 reform. The real results of them and whether there is any change in the outcomes of these agreements for the both sides can be the research topic of another study carried on only after the *ex-post* evaluation reports and statistical data are presented to the public. Nevertheless, the letters of agreements give the first impression that there is not much change in the terms of the agreements which helps us to easily anticipate that future fisheries agreements are most probably going to continue to have adverse results for the African countries.

All of the findings about the influence of Common Fisheries Policy and its external dimension on certain African nations led to believe that not signing agreement with the European Union and benefiting the natural resources inside of their waters themselves can be the best way for African countries to be the winner of world's competition on fish. Therefore, the case of Namibia is studied in this study to analyse what are the results of creating national fisheries sector instead of signing

agreements with the EU. Studying the cases of both Mauritania which signed fisheries agreements and Namibia which never signed any fisheries agreement provided the chance to compare the results of these two cases and to foresee the future of fisheries in African countries and the place of the EU in this future.

The hypothesis that fisheries agreement have always served for the interests of powerful Member States of the EU despite the ongoing reforms was verified with the evidences of two case studies examined in the chapter 5. Mauritania have got lower benefit from fisheries agreements than it could have gotten if it had achieved to create its own national fisheries policy and sector instead of depending on the EU. On the other hand, Namibia, after its independence in 1990 has never preferred to have deal on its fish stocks with any other state or states' bloc in order to nationalise the utilisation of natural resources of fish and to get the whole profit itself. Mauritania got under the way of signing agreements since it thought that is the best way to get profit. It can be assumed that Mauritania, initially, tried hard to establish its national fisheries sector. SOMAP example of the 1960s²⁸⁶ and New Fisheries Policy of 1978²⁸⁷ based on 'nationalisation aims' could be the proof of the effort of Mauritania. Nevertheless, since the Mauritanian fish stocks were traditionally exploited by foreigners and Mauritania was not in a good economic situation to easily get rid of the foreigners and build its own fisheries, it failed in its initial efforts to create new, rising sector in its economy. As a poor country, rather than further struggling and investing on fisheries to catch the stocks, it preferred the EU's vessels to come, catch and pay for fishing since the European Union, due to its negotiating power as a bloc of powerful countries, convinced Mauritania that this would be a win-win deal. However, if one part of the deal wins more than the other, the less gainer part of the agreement can automatically be counted as the loser. Moreover if someone gain less than s/he actually deserves, s/he cannot be assumed as really gaining. For example, during the period of 2008-2010, when Mauritania got 87 million Euro/per year financial compensation from the EU, it gave fishing rights to the European vessels which led to the catch of fish by European fishermen creating

²⁸⁶ See chapter 5 for SOMAP example of Mauritania.

²⁸⁷ See chapter 5 for New Fisheries Policy of Mauritania.

the income of 186 million Euro/per year.²⁸⁸ It is seen that at the end of deal, Mauritania gained less than the EU although it deserved gaining more since the real owner of fish stocks was Mauritania. Therefore, in the wake of fisheries agreements between the Mauritania and the EU, Mauritania became the losing party while the EU became the winner.

In the case of Namibia, it became the genuine winner of the international competition for the fish stocks. It succeeded in creating and developing national fisheries sector through ‘nationalisation policy’: according to the 2007 report of the FAO, rather than becoming ‘raw material’ supplier to the EU, Namibia processed 80 per cent of the fish landed in its ports itself and exported these fish products to the world which contributed to value added and economic development in the country.²⁸⁹ ‘Namibianisation Policy’ has been criticised as causing low taxes (fees) to be collected from vessel-owners which eventually led to the loss of state revenue. Nevertheless, it is the fact that Namibia has the power on its fishermen to increase the taxes in the future. Whereas, Mauritania does not have competence to unilaterally declare that it increases the amount of financial compensation and licence fees without negotiating with the EU. Therefore, it can be claimed that Namibia has shaped its destiny through making the right choice between continuing (neo-colonial) dependency on European powers and exercising its sovereign rights on its natural resources and fisheries as one of the important economic sectors in the most of the developing coastal states.

The cases of Mauritania and Namibia lead to think about the future of fisheries agreements. There are two different future assumptions that can be made for the fisheries in Africa: either most of the African coastal nations are going to continue signing fisheries agreements and the cases like Namibia are going to remain as an exception; or other African coastal states are going to follow the Namibian example and establish their own fisheries sector through ending fisheries agreements. Actually, despite the fact that ‘Namibianisation Policy’ has been pursued since 1990, other African countries have continued to sign fisheries agreements till now instead

²⁸⁸ Brunel, *op. cit.*, p. 6.

²⁸⁹ FAO Fishery Country Profile: Namibia, March 2007, Date of Access: 27/11/2014.
< <http://www.fao.org/fi/oldsite/FCP/en/nam/profile.htm>>

of following the example of Namibia. The answers to the question of why other African countries did not follow Namibian example after Namibia's success in fisheries were given at the end of chapter 5. It was stated that it has never become easy for African countries to end these agreements while they have already been highly dependent to the European Union in terms of both financial return coming from these agreements to pay their national debts and connectedness of fisheries agreements to the cooperation on other policy areas between the EU and African nations. Due to the high negotiating power of the EU, African countries have found no way out of signing agreements. Therefore, it seems that most of the African countries are going to continue to sign unequal fisheries agreements.

However, it is also known that today's negotiations on fisheries agreements have started to become much more uphill struggle for the EU because of the increasing awareness of African nations and the world about the results of these agreements. Still, limited enforcement capabilities remain an important limitation for most of the developing nations in Africa to convert these agreements to win-win game for them. It is clear that without sitting around the table as a regional bloc of the African countries and having similar level of negotiating power with the EU, it is not possible for any African country to be the winner of this game. Creating regional bloc of African coastal states in terms of both having better negotiating power and serving altogether for the sustainability of fish stocks in their region was also the idea of the ACP-EU Joint Parliamentary Assembly. It was stated in the Declaration of the 23rd ACP-EU Joint Parliamentary Assembly that in the previous years, negotiation of fisheries agreements on regional basis was already recommended by some states from West Africa, Pacific or Indian Ocean. However, the European Union always remained eager to bilaterally negotiate these agreements.²⁹⁰ Therefore, it is clear that if African countries could not achieve to come together as a 'negotiating power', the only solution for the end of this exploitation can be the European Union itself through showing mercy and acting in compatible with its friendly approach and the development goals towards African countries.

Although termination of the fisheries agreements by the European Union does not seem feasible in the near future, it can be additional third assumption for the

²⁹⁰ The 23rd Session of the ACP-EU Joint Parliamentary Assembly, op. cit.

distant future. It does not seem possible in the near future because, first of all, the EU still could not achieve to recover its own fish stocks in the European waters. Therefore, it is in need of fish products coming from other regions of the world. Secondly, although the European Union pays some money for fishing rights in African waters, European fishermen still catch a lot of fish in Africa which have more economic value than the compensation payment. Therefore, these agreements still bring more benefit than loss to the European Union. Last but not least, although fisheries accounts only for 0.03% of the total GDP of the Union according to 2013 report of the European Parliament²⁹¹, it has political importance for some powerful coastal states of the EU. In some Member States such as Spain, Portugal and to some extent France, producer organisations of fisheries have important political power to create pressure on their governments to support the continuance of fisheries agreement since these agreements are perceived as important resource of income and employment for the coastal regions of these Member States. Therefore, there has been ongoing power struggle between powerful coastal states which demand the continuance of fisheries agreements and other Member States which pay to the EU's budget for these agreements but do not benefit from them. However, the coastal Member States constitutes the most powerful Members of the Union and the biggest contributors to the whole budget of the EU in terms of fisheries. Therefore, since the last decisions about the fisheries agreements have been generally taken in the European Council where intergovernmental negotiations have been going on between the representatives of each Member State, powerful coastal states are going to continue to become the winner of this power struggle.

In the distant future, the border of the European Union can be expanded towards new members. Moreover, the European Parliament, as a supranational body of the EU, has had the right to affect decisions taken by the Council after Lisbon Treaty with the co-decision mechanism. Co-decision mechanism gives the European Parliament, representing the Union's citizens through political parties, the

²⁹¹ Alessandra Borrello, Arina Motova and Natacha Carvalho, "Profitability of the EU Fishing Fleet", European Parliament Committee on Fisheries, 28 November 2013, Date of Access: 28/12/2014, p. 10. <<http://www.europarl.europa.eu/document/activities/cont/201312/20131204ATT75456/20131204ATT75456EN.pdf>>

competence to adopt rules together with the Council of the European Union.²⁹² In the future, if any coastal state such as Turkey becomes the new Member of the EU, it will have the right to demand fishing rights in ACP states' waters, too, which is going to lead further power struggle between powerful Member States and new Members. Powerful Member States can claim that they have a privileged positions in terms of allocation of fishing rights because of their historical fishing activities in ACP states' waters. However, the Commission still is going to negotiate for more fishing rights than before and allocate these fishing rights according to the past utilisations and then requests expressed by the Member States. This situation is going to necessitate the increase in total payment from the EU budget for fishing rights. Moreover, demand for further fishing rights is going to raise criticisms coming from both Africa and the world about the over-exploitation of fish stocks. Both financial pressure and increasing criticisms in the future may lead the European Parliament to refuse signing these agreements.

Indeed, the first similar example of this assumption came into existence when the EU was negotiating fisheries agreement with Morocco at the end of 2011. After the end of fisheries agreement of 2007-2011, European Parliament rejected to sign new agreement through claiming that the agreement which led European fishermen to fish in Western Sahara's waters have caused large damage to marine resources and demanded from the Commission to negotiate more environmentally and economically beneficial deal.²⁹³ Although the EU signed new fisheries agreement with Morocco on 18 November 2013, it is believed that after the rejection of European Parliament, the terms of the agreement were improved in favour of Morocco. The results of the agreement can be observed only after the end of the application process of the agreement. Nevertheless, it is expected that in the future due to ongoing fisheries agreements the pressure on both EU's budget and European Parliament is going to increase to either improve the conditions of these agreements

²⁹² Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, OJ C 306, 17.12.2007.

²⁹³ "MEPs reject extension of the EU-Morocco fisheries agreement and call for a better deal", European Parliament/News, Date of Press Release: 14/12/2011, Date of Access: 27.12.2014.
< <http://www.europarl.europa.eu/news/en/news-room/content/20111213IPR34070/html/Extension-of-EU-Morocco-fisheries-agreement-rejected-call-for-a-better-deal>>

or totally stop signing them. Though, that time in the future can be too late to protect both African fish stocks and the future of African nations.

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APPENDIX A. TURKISH SUMMARY

1. Tezin Amacı

Bu tez, Avrupa Birliđi'nin Ortak Balıkçılık Politikası'nın uluslararası ilişkiler unsuru altında yer alan Afrika ülkeleri ile imzaladığı balıkçılık anlaşmalarının etkilerini analiz etmeyi amaçlamaktadır.

1957 yılında kurulan Avrupa Topluluđu, dış güvenlik, enerji, ulaştırma ve tarım gibi belirli politika alanlarında Üye Ülkeler arasında ortak politikalar geliştirmeyi amaçlamıştır. Tarım alanında da ortak bir politika benimsemek Fransa ve Almanya gibi kurucu ülkeler tarafından, uluslararası tarım piyasasına hakim olmak, uluslararası tarım sektörüne yön vermek ve aynı zamanda üye ülkeler arasında tarım sektöründeki rekabeti eşitlemek açısından gerekli görülmüştür. Söz konusu sebepler Avrupa Topluluđu tarafından 1962 yılında Ortak Tarım Politikasının hayata geçirilmesini sağlamıştır. Ortak Tarım Politikasının oluşturulduđu ilk yıllarda Üye Ülkelerin balıkçılık sektörleri de bu politika başlığı altında ele alınmıştır. Fakat balık stoklarının tüm insanlığın ortak mirası olan tükenebilir doğal kaynaklar arasında olması, kontrol ve yönetiminin tarım ürünlerine nazaran hayli güç olması ve 1960'lı yılların sonuna doğru özellikle Kuzey Atlantik suları olmak üzere uluslararası sularda görülen ve aşırı avlanma sonucu ortaya çıkan balık stoklarındaki azalma balıkçılık sektörünün tarım sektöründen ayrı bir politika başlığı altında ele alınmasını zaruri hale getirmiştir.

1970 yılında oluşturulmaya başlanan Ortak Balıkçılık Politikası (OBP) ile Avrupa Topluluđu gerek Topluluk sularında gerekse Topluluk suları dışındaki sularda yürüteceđi balıkçılık yönetiminin çerçevesini oluşturmayı amaçlamıştır. OBP ile amaçlanan, balıkçılık kaynaklarının yönetimi ile ilgili olarak, balık stoklarının sürdürülebilir kullanımını ve gelecek kuşaklar için balıkçılığın geleceđini koruma altına alan rasyonel bir sistem geliştirmek olmuştur. Bu amaçlara yönelik olarak kapsadığı hususlar açısından 1983 yılında nihai şeklini alan OBP dört ana unsurdan oluşmaktadır:

- Ortak Piyasa Düzeni
- Yapısal Politika
- Koruma Politikası
- Uluslararası Balıkçılık Politikası

Bu tez, yukarıda da bahsedildiği üzere Avrupa Birliği'nin Afrika ülkeleri ile yapılan anlaşmalar kapsamında uluslararası balıkçılık politikalarını incelemeyi hedeflemektedir. Bu sebeple tez içerisinde OBP'nin yukarıda bahsedilen unsurlarından Avrupa Topluluğu'nun uluslararası balıkçılık politikaları üzerinde durulmaktadır. Bahsi geçen ilk üç unsur, balıkçılık ürünlerinin pazarlanması hakkında standartların belirlenmesini, balık ürünleri üreticilerinin örgütlenmesi hakkında kurallar geliştirmesini, balıkçılık sektörünün finansal olarak desteklenmesini, balıkçılık teknelerinin avcılıktan çekilmesini veya yapım/modernizasyonunu ve belirli tedbirler yoluyla balık stoklarının korunmasına odaklanmaktadır. Bu üç unsur Ortak Balıkçılık Politikası'nın dördüncü ayağı olan dış balıkçılık ilişkileri konusundaki politikaların oluşturulması ve geliştirilmesi için önemlidir.

Avrupa Topluluğu'nun uzak sulardaki²⁹⁴ balıkçılık üzerine dış ilişkilerinin aslında her Üye Devletin 1960-70'lerden önceki sömürgecilik ilişkilerine dayandığına inanılmaktadır. Uzak sularda balıkçılık 1970'li yıllarda ortaya çıkan bir faaliyet değildir. Sömürgecilik döneminde, uzak sulardaki uluslar üzerinde siyasal ve ekonomik egemenliğe sahip bazı Avrupa Devletlerinin balıkçıları arasında bu sularda avcılık ekonomik bir faaliyet alanı olarak çoktan yayılmaya başlamıştır. Aynı zamanda, 1970'li yıllardan önce uzak sularda gerçekleştirilen balıkçılık faaliyetleri o yıllarda henüz karasuları ve Münhasır Ekonomik Bölge tanımları yapılmadığı için başka ulusların sularında gerçekleştirilmiş olarak kabul edilmemekte olup tam tersine açık denizlerde gerçekleştirilen ve bu sebeple tüm ülkeler için gerçekleştirilmesi serbest olan avcılık faaliyetleri olarak algılanmaktadır.

Sömürge ilişkilerine ve sömürgecilik döneminde açık deniz olarak kabul edilen kıyı devletlerin sularında balıkçılığın serbest olmasına rağmen, uzak sularda

²⁹⁴ Tez içerisinde uzak sular ile kastedilen Avrupa Topluluğu kıyı devletlerini çevreleyen suların dışında kalan ve balıkçılık anlaşmalarının imzalandığı Afrika, Karayip ve Pasifik ülke grubunu çevreleyen sulardır.

Avrupalı balıkçılar tarafından gerçekleştirilen balıkçılık faaliyetlerinin 1960'lı yıllara kadar çok da yoğun olmadığı görülmektedir. Uzak sularda Avrupalı balıkçılar tarafından gerçekleştirilen balıkçılık faaliyetlerinin 1960'lı yıllara kadar çok yoğun olmaması, öncelikle, uzak denizlerde balıkçılığın maliyetinin (örneğin, yakıt maliyetleri, açık denizlerde seyredebilecek endüstriyel gemilere sahip olmanın maliyeti) yüksek olması ve ikincisi olarak da Topluluk sularındaki balık stoklarının tüm balıkçıların geçimini sağlayacak kadar bol olması sebebiyle uzak sularda balıkçılığa gerek duyulmaması ile açıklanabilir.

Diğer taraftan, 1960 sonrası, Avrupa sularında balık stokları (özellikle Kuzey Atlantik sularında) giderek azalmıştır. 1970 yılında oluşturulan, Ortak Balıkçılık Politikasının piyasa düzeni ve yapısal politikalar üzerine iki unsuru, özellikle balıkçılık sektörüne sağlanan sübvansiyonlar yoluyla, Avrupa sularındaki balık stokları üzerindeki aşırı baskıya katkıda bulunmuştur. Aşırı avlanma sonucu ortaya çıkan bazı balık stoklarındaki tükenmeler Avrupa Topluluğu içerisindeki su ürünlerine ilişkin tüm paydaşları uzak sulardan avlanacak balık stoklarına daha fazla bağımlı hale getirmiştir. Bu sebeple, Avrupa sularında karşı karşıya gelinen aşırı avcılık, hem bu sulardaki avcılık faaliyetlerini azaltmak hem de Avrupa pazarına balık arzını garanti altına almak için, 1976 yılında Ortak Balıkçılık Politikasının unsurlarından biri olan uluslararası balıkçılık politikasının oluşturulmasına yol açmıştır. Bu amaca yönelik olarak, Üye Ülkeler Münhasır Ekonomik Bölgelerini ilan etmiştir. Böylece, diğer ülkelerin Üye Ülke sularında avlanmasını önleyerek aşırı avcılığın bir nebze de olsa azaltılması hedeflenmiştir.

1976 yılında yukarıda bahsi geçen sebeplerle oluşturulan Avrupa Topluluğu'nun Uluslararası Balıkçılık Politikası, Avrupa Topluluğu'nun taraf olduğu balıkçılık hakkındaki uluslararası anlaşmaları ve üçüncü ülkelerle müzakere ettiği balıkçılık anlaşmalarını kapsamaktadır. Avrupa Topluluğu bu politika kapsamında hem Birleşmiş Milletler Deniz Hukuku Sözleşmesi gibi Uluslararası Çevre Hukukunu oluşturan önemli anlaşmalara imza atmaya hem de Kuzey Avrupa ülkeleri (Norveç, İzlanda, Faroe Adaları) ve Afrika, Karayip ve Pasifik ülkeleri ile ikili balıkçılık anlaşmaları imzalamaya başlamıştır. Kuzey Avrupa ülkeleri ile müzakere edilen balıkçılık anlaşmaları Üye Devletlerin balıkçılık teknelerine Kuzey Avrupa ülkelerinin Münhasır Ekonomik Bölgelerinde avlanma hakkı tanırken, aynı şekilde,

Kuzey Avrupa ülkelerinin balıkçılara da Üye Ülkelerin Münhasır Ekonomik Bölgelerinde avlanma hakkı vermektedir. Oysaki Afrika, Karayip ve Pasifik ülkeleri ile imzalanan balıkçılık anlaşmaları Üye Ülke balıkçılık teknelerinin Topluluk bütçesinden sağlanan belirli bir ödeme karşılığında (telafi ödemesi) Afrika, Karayip ve Pasifik ülkelerinin Münhasır Ekonomik Bölgelerinde avlanma hakkı elde etmesini sağlamaktadır.

OBP'nin unsurlarından biri olan ve 1983 yılında ortaya konan koruma politikası, av çabasını azaltarak Üye Ülkelerin Münhasır Ekonomik Bölgelerindeki balık stoklarının korunmasını ve iyileşmesini sağlamak için, Üye Ülkelerin sahip olduğu aşırı sayıdaki balıkçılık teknelerinin Afrika, Karayip ve Pasifik ülkelerinin sularına yönlendirilmesini gerekli hale getirmiştir. Bu durum, Avrupa Topluluğu'nun Afrika, Karayip ve Pasifik ülkelere yönelik uluslararası balıkçılık politikasının daha fazla gelişmesine yol açmıştır. Ayrıca, koruma politikası içerisinde geliştirilen kota sistemi ve Topluluk sularında kota sistemi içerisinde belirlenen toplam müsaade edilebilir av miktarının azaltılması Avrupa Topluluğu'nu Üye Ülkelerin balıkçılara ek kota sağlayacak yeni yerler aramaya itmiştir.

1970'lerin sonundan itibaren süregelen uluslararası balıkçılık politikası sonucunda, Avrupa Birliği, Avrupa sularındaki balık stoklarının korunmasının yanı sıra Avrupa pazarına balık arzının devamlılığını sağlamak için uluslararası balıkçılık ilişkilerin geliştirilmesi hedefini takip ederken, Avrupa Birliği ve Afrika, Karayip ve Pasifik ülkeleri arasındaki anlaşmalara dayalı balıkçılık ilişkilerinin iki taraf için de her zaman kazan-kazan durumu oluşturduğunu iddia etmektedir. Bu iddiadan hareketle tez içerisinde Avrupa Birliği ile Afrika ülkeleri arasında imzalanan balıkçılık anlaşmaları ele alınmaktadır. Tez içerisinde, Afrika, Karayip ve Pasifik ülkeleri arasından Afrika ülkeleri ile yapılan anlaşmaların incelenmesinin ana sebebi Afrika ülkeleri ile yapılan anlaşmaların toplam anlaşma sayısı ve balıkçılık hakları için yapılan toplam ödeme miktarı bakımından tüm anlaşmalar içerisinde önemli bir paya sahip olmasıdır. Ayrıca, Afrika kıtasının Avrupa'ya yakın mesafede olması Afrika ülkeleri ile Avrupa ülkeleri arasındaki yoğun balıkçılık ilişkilerinin incelenmesini daha önemli hale getirmektedir.

Avrupa Birliği, balıkçılık anlaşmalarının hem Avrupa Birliği hem de Afrika ülkeleri için bazı kazanımlar sağladığını savunmaktadır. Afrika ülkeleri ile imzalanan

anlaşmalar aracılığıyla, Avrupa Birliği, bir yandan Birlik balıkçıları için yeni avlanma alanları sağlarken diğer yandan hem üçüncü ülke sularında Birlik teknelerine verilen balıkçılık haklarına karşılık Afrika ülkelerine ilave gelir sağlamakta hem de bu ülkelerde teknolojinin, balıkçılık üzerine bilimsel bilginin ve balıkçılık sektörlerinin etkinliğinin artmasına katkı sağlamaktadır. Bu durum Afrika ülkelerindeki ekonomik kalkınmaya yardımcı olmaktadır.

Avrupa Birliği'nin bu iddialarına karşılık, Avrupa Birliği ile Afrika ülkeleri arasında süregelen balıkçılık anlaşmalarının kazan-kazan durumu oluşturup oluşturmadığı sorusu, bu tezin araştırma sorusunu oluşturmaktadır. Avrupa Birliği tarafından iddia edilenin aksine, bu anlaşmaların Avrupa Birliği Üye Devletlerinin balıkçılık sektörünün çıkarlarını güvenceye alırken aslında Afrika ülkelerine ciddi zararlar verdiği düşünülmektedir. Bu argümanın doğru olup olmadığını anlamak için tez içerisinde, aşağıda yer alan ve tezin ana sorusunu tamamlayacak çeşitli sorular sorulmaktadır:

- Afrika ülkeleri ile AB'nin balıkçılık anlaşmaları Üye Devletler ve Afrika ülkeleri arasındaki eski sömürge ilişkilerinin bir devamı mıdır?
- Balıkçılık anlaşmaları kimin çıkarlarına hizmet etmektedir?
- Bu anlaşmaların altında yatan nedenler nelerdir?

Bu çalışmanın hipotezi, Avrupa Birliği'nin balıkçılık anlaşmalarının, aynı zamanda hem AB'nin hem de Afrika ülkelerinin uzun vadeli çıkarlarına hizmet etmek yerine balıkçılık sektöründeki Avrupalı paydaşların ve Birliğin güçlü Kıyı Devletlerinin çıkarlarını koruduğu yönündedir.

Tez konusunun seçilmesinde birden fazla amaç gözetilmiştir. Öncelikle, Afrika ülkelerinde az gelişmişlik, gıda kıtlığı, beslenme eksikliği ve balık stoklarının tükenmesi sorunları devam etmektedir. Bu analiz sayesinde, balıkçılık anlaşmaları ve Afrika'da bu sorunlar arasında herhangi bir bağlantının olup olmadığının anlaşılması hedeflenmektedir. Bu konunun seçilmesinin diğer bir nedeni ise Avrupa Birliği'nin Afrika ülkeleri ile gerçekleştirdiği balıkçılık anlaşmalarına yönelik mevcut birçok akademik çalışma olmasına rağmen bu çalışmalarda tarihsel balıkçılık ilişkileri araştırılmadan incelemeler 1990 yılı sonrasına yönelik yapılmıştır. Bu nedenle, bu anlaşmaların tarihsel sürecini netleştirmek amacıyla Avrupalı güçler ve Afrika ülkeleri arasındaki 1990 öncesi ilişkileri yansıtan balıkçılık verilerinin incelenmesi

faydalı görülmüştür. Dahası, bu çalışmalar, balıkçılık anlaşmalarının analizine ilişkin literatür açısından son derece önemli olmasına rağmen, genel bir fikre ulaşmak için anlaşmaları Birlik çerçevesinde incelemeyi tercih etmişlerdir. Bu tez içerisinde, her Üye Devletin bu anlaşmalardan spesifik çıkarlarının neler olduğunu anlamak amacıyla Üye Ülkelerin anlaşmalar hakkındaki bireysel görüşlerine yer verilmiştir.

Bu konuyu önemli kılan bir diğer husus ise; Avrupa Birliği'nin Afrika'ya yönelik eylemlerinin birçoğu Avrupa Birliği'nin Kalkınma Politikası çerçevesinde yürütülmektedir. Tarım, ticaret, enerji v.b. gibi tüm politika alanlarındaki eylemler Kalkınma Politikası ile uyumlu olmak zorundadır. Fakat Avrupa Birliği'nin Afrika'ya yönelik balıkçılık politikası ile kalkınma politikası arasında tez içerisinde ayrıntılı olarak açıklanan bazı uyumsuzluklar olduğu gözlemlenmektedir. Söz konusu tez ile bu uyumsuzlukların sebepleri bulunmaya çalışılmaktadır. Sonuç olarak, belirli sorunların açıkça gözlemlenebilmesinden yola çıkarak Avrupa Birliği'nin Ortak Balıkçılık Politikasının başarılı bir politika olduğu konusundaki fikirlerin yeniden gözden geçirilmesinin sağlanması amaçlanmaktadır.

Bu çalışma AB Üye Devletleri ve Moritanya ve Namibya olmak üzere iki Afrika ülkesi arasındaki ilişkilerin ayrıntılı bir analizi ile desteklenmektedir. Moritanya Avrupa Birliği ile balıkçılık anlaşması imzalayan ve balıkçılık hakları karşılığında en fazla ödemenin yapıldığı Afrika ülkesidir. Namibya ise Avrupa Birliği ile hiçbir zaman balıkçılık anlaşması imzalamamış ve ulusal balıkçılık sektörünün geliştirilmesindeki başarısı sebebiyle emsal gösterilen bir Afrika ülkesidir. Bu iki ülke, öncelikle, anlaşma imzalayan herhangi bir Afrika ülkesi için bu anlaşmaların siyasi ve ekonomik sonuçlarını görmek, ikinci olarak, hiçbir zaman Avrupa Birliği ile bir balıkçılık anlaşması imzalamamış bir Afrika ülkesinin ulusal balıkçılık politikasının sonuçlarını görmek, ve son olarak, balıkçılık anlaşması imzalamış ve imzalamamış iki Afrika ülkesinin balıkçılık sektörlerini ve genel ekonomik durumlarını karşılaştırmak için seçilmiştir.

2. Tezin Bölümleri

Tez içerisinde öncelikle Üye Ülkelerin Afrika ülkeleri ile sömürge dönemindeki balıkçılık ilişkileri incelenmektedir. Daha sonra, Üye Ülkelerin Ortak Balıkçılık Politikası hakkındaki ortak ve birbirinden farklı görüşleri yansıtılmaktadır. Avrupa Birliği'nin Ortak Balıkçılık Politikasının Üye Ülkelerde uygulanan

unsurlarının uluslararası balıkçılık politikasına etkisi analiz edilmektedir. Ayrıca, bu anlaşmaları destekleyen Üye Ülkelerin, Afrika ülkelerine yeterince fayda sağlamazken kendileri için çok fazla çıkar elde ettikleri varsayımı Moritanya ve Namibya olmak üzere iki Afrika ülkesi örnekleri ile de desteklenmektedir. Tez, giriş ve sonuç bölümlerinin dışında dört ana bölümden oluşmaktadır.

İkinci bölüm mevcut balıkçılık anlaşmaları ile Avrupalı güçler ve Afrika ülkeleri arasındaki sömürge dönemi balıkçılık ilişkilerinin bağlantısının araştırılmasına ayrılmıştır. Amaç, mevcut balıkçılık anlaşmalarının Avrupalı balıkçıların Afrika sularındaki sömürge dönemi balıkçılık faaliyetlerinin Üye Ülkeler tarafından devam ettirilmesinin talep edilmesinden kaynaklanıp kaynaklanmadığını anlamaktır.

Üçüncü bölüm, Ortak Balıkçılık Politikasının oluşturulması, unsurları ve gelişimine ilişkin bilgi vermektedir. Bu bölüm, Avrupa Birliği'nin Üye Ülkelerin sınırları içerisinde izlediği balıkçılık politikalarını analiz etmektedir. Bu politikaların analizi ile içerideki kararların ve eylemlerin balıkçılık hakkındaki dış politikaların oluşmasında nasıl etki ettikleri hakkında görüş sahibi olmak amaçlanmaktadır.

Dördüncü bölüm, Ortak Balıkçılık Politikasının uluslararası boyutunu analiz etmektedir. Anlaşmalara yönelik olarak Üye Ülkelerin tutumları, zaman içerisinde anlaşmalara yönelik gerçekleştirilen reformlar ve bu anlaşmaların hem Avrupa Birliği Üye Ülkeleri hem de Afrika ülkeleri için sonuçları bu bölümün alt başlıklarını oluşturmaktadır.

Beşinci bölüm, Moritanya ve Namibya örneklerine ayrılmıştır. Balıkçılık anlaşmaları imzalayan Moritanya ile hiç balıkçılık anlaşması imzalamayan Namibya'nın balıkçılık sektörlerinin karşılaştırması neticesinde elde edilen sonuçlar ile tezin varsayımının desteklenmesi amaçlanmaktadır.

Sonuç bölümünde ise tezin esas sorusu olan balıkçılık anlaşmalarının kazan-kazan durumu yaratıp yaratmadığına ilişkin varılan sonuçlar ile ileriye yönelik görüş ve öneriler yer almaktadır.

3. Bulgular

Avrupa Topluluğu 1970'lerin sonundan itibaren balıkçılık anlaşmalarına yönelik ilk müzakereleri gerçekleştirmeye başlamıştır. Tez içerisinde, öncelikle, balıkçılık anlaşmalarının Avrupalı güçler ile Afrika ulusları arasında sömürge

dönemindeki balıkçılık ilişkilerinin devamı niteliğinde olup olmadığı anlaşılmaya çalışılmıştır. Avrupa Komisyonu'nda görev yapan su ürünleri uzmanları ile yapılan görüşmeler ve aynı zamanda FAOstat ve Eurostat'tan alınan 1950-1970 arası istatistiki veriler göstermektedir ki Avrupalı balıkçıların Afrika sularında sömürge dönemi balıkçılık faaliyetleri bugünkü balıkçılık anlaşmalarının temellerini oluşturacak kadar yoğun değildir. Buna rağmen, geçmiş dönemlerde var olan balıkçılık ilişkilerinin devam ettirilmesi, Üye Ülkelerin sömürgeciliğin sona ermesinden sonra da Afrika ülkeleri üzerindeki politik ve ekonomik nüfuzlarını devam ettirebilmeleri açısından önemli görülmüştür. Bu sebeple, sömürge dönemi balıkçılık ilişkileri 1970 sonrası ilişkilerin gelişmesine katkıda bulunmuştur. Bununla birlikte, 1970'lerin sonları itibariyle balıkçılık anlaşmalarının müzakere edilmeye başlanmasının esas sebebinin Avrupa sularındaki balık stoklarının aşırı avlanması ve tükenmesi olduğu görülmektedir. Avrupa sularındaki aşırı avcılığın stoklara verdiği zarara engel olmak, piyasadaki istikrarsızlığı azaltmak, istihdamın düşmesini engellemek ve Topluluk pazarına balık arzını garanti altına almak için Avrupa Topluluğu yeni balık kaynakları aramaya başlamış; bu durum Topluluğu balıkçılık anlaşmaları imzalamaya yöneltmiştir. Aynı zamanda Topluluk içerisinde benimsenen balıkçılık politikaları, balıkçılık anlaşmalarının artmasına yol açmıştır. Yapısal politika altında verilen destekler, Topluluk içerisinde tekne kapasitesinin artmasına ve daha fazla avcılık yapılmasına sebep olmuştur. Aşırı avcılığı engellemek için ortaya konan koruma politikası, aşırı tekne kapasitesini balıkçılık anlaşmaları yoluyla Afrika sularına yönlendirmiş; stokları korumak amacıyla Topluluk sularında toplam müsaade edilebilir av miktarlarının azaltılması Topluluğu, avlayabilecekleri balık miktarları azalan Topluluk balıkçıları için, yeni kaynaklar bulmaya yöneltmiştir. Aynı zamanda, daha fazla yapısal desteğe karşı çıkan ve stokların korunmasına yönelik tedbirlerin arttırılmasını isteyen Üye Ülkeler Grubu (İngiltere, Danimarka, İsveç, Almanya ve Hollanda) ile yapısal desteklerin arttırılmasını isteyen ve stok koruma tedbirlerine karşı çıkan Üye Ülkeler Grubu (İspanya, Fransa, İtalya, Yunanistan ve İrlanda) arasındaki çatışma balıkçılık anlaşmalarının devam etmesine sebep olmuştur. Stokların korunması ve yapısal fonların azaltılması karşılığında bu politikaları destekleyen Üye Ülkeler desteklemeyen Üye Ülkelere balıkçılık

anlaşmalarının devamlılığının garanti edilmesi hususunda tavizler vermek zorunda kalmışlardır.

Görüldüğü üzere, 1970 sonrasında, Avrupa Topluluğu ile Afrika ülkeleri arasındaki balıkçılık ilişkilerinin artarak devam etmesinin esas sebebi Avrupa sularındaki balık stoklarında görülen azalmadır. Bu ilişkilerin anlaşmalara dayanmasının esas sebebi ise 1982 yılında kabul edilen ve Avrupa Topluluğu'nun da taraf olduğu Birleşmiş Milletler Deniz Hukuku Sözleşmesi'nin üçüncü ülke sularında elde edilecek avlanma haklarının balıkçılık anlaşmalarına dayanması hususundaki maddesidir. BM Deniz Hukuku Sözleşmesi, devletin denize olan kıyı kenarından denize doğru 200 deniz mili dışına kadar olan ve Sözleşme öncesi açık deniz olarak kabul edilen bölgenin kıyı devletler tarafından Münhasır Ekonomik Bölge olarak ilan edilebilmesine ve kıyı devletlerin bu bölgedeki deniz kaynaklarının araştırılması ve kullanılmasında özel hak, yetki ve yükümlülükler sahip olmasına ilişkin hükümler içermektedir. 62. Madde kıyı devletlerin, Münhasır Ekonomik Bölgelerindeki canlı kaynakları avlamak için toplam av gücünü tespit etmeleri ve av güçleri Münhasır Ekonomik Bölgelerindeki toplam müsaade edilebilir av miktarından az ise, anlaşmalar veya diğer düzenlemeler aracılığıyla toplam müsaade edilebilir av miktarından kalanını diğer devletlerin kullanımına tahsis etmeleri hükmünü ortaya koymaktadır. Bu sebeple, 1973 yılından 1982 yılına kadar süren BM Üçüncü Deniz Hukuku Konferansı ve 1982 yılında kabul edilen Deniz Hukuku Sözleşmesi, Avrupa Topluluğunun uluslararası balıkçılık politikasına yön vermiş, Afrika ülkeleri ile yürütülen balıkçılık ilişkilerinin anlaşmalara dayalı olmasını sağlamıştır.

1980-2014 yılları arasında balıkçılık anlaşmaları çeşitli reformlardan geçmiştir. Anlaşmaların iki taraf için adil sonuçlar oluşturmadığına yönelik eleştiriler sonucunda, 1980 yılından beri devam eden ve balıkçılık hakları için sadece ödeme yapmaya dayanan, Afrika sularındaki balık stoklarının durumunun ve bu anlaşmaların Afrika ülkeleri üzerindeki etkilerinin yeterince önemsenmediği birinci nesil anlaşmalardan 2002 yılında Afrika ülkelerinin balıkçılık sektörlerinin ve ekonomilerinin kalkındırılmasını amaçlayan üçüncü nesil anlaşmalara (balıkçılık ortaklık anlaşmaları) geçilmiştir. Yaklaşık 30 yıllık bu süreç boyunca, Avrupa Birliği'nin bu anlaşmaları devam ettirenken öncelikli olarak gözettiği yeni kaynaklar bulma ve Birlik pazarına balık arzını garanti etme amaçları hep korunmuştur.

30 yıllık bu süreç içerisinde imzalanan anlaşmalar incelendiğinde, bu anlaşmaların ne 2002 öncesinde ne de 2002 sonrasında, Avrupa Birliği tarafından iddia edildiği gibi, iki taraf için de eşit fayda getirmediği görülmektedir. Anlaşmaların gerçek çıktıları beklenenle veya yansıtılanla aynı değildir. Afrika ülkeleri ile imzalanan anlaşmalar araştırma sorusu ile uyumlu olarak dikkate alındığında, 1979 yılından bu yana imzalanan anlaşmalar Afrika sularındaki balık stoklarının durumunun kötüye gitmesine yol açmıştır. Afrika ülkeleri yabancı balıkçı gemilerinin anlaşmaların kurallarına uyup uymadıklarını izlemek ve kontrol etmek için yeterli teknik kapasiteye sahip olmadıklarından, yasadışı ve aşırı balıkçılığa engel olamamaktadırlar. Ayrıca, bu anlaşmalar kazan-kazan durumu oluşturmak yerine, Afrika ülkelerinin kendi balıkçılık sektörlerini kurmalarına, yerli tesisler aracılığıyla daha fazla katma değer elde etmelerine, balıkçılık sektöründe istihdamı yeterince arttırmalarına ve sonuç olarak ekonomik kalkınmalarına engel olmaktadır. Bu anlaşmalar sadece Afrika sularındaki balık stoklarının aşırı avlanması ve tükenmesine yol açmamış aynı zamanda Afrika ülkelerinin Avrupa Birliği Üye Ülkeleri ile karşılaştırıldığında söz konusu anlaşmalardan düşük seviyede finansal gelir ve istihdam elde etmelerine neden olmuştur. Nihayetinde balıkçılık anlaşmaları beklenenin aksine “kazan-kaybet” oyununun bir örneği olmuştur.

Avrupa Birliği, balıkçılık anlaşmaları sayesinde, Üye Ülkelere balık arzının devamlılığını sağlamış ve Üye Ülkeler içerisinde ek katma değer yaratmıştır. Ayrıca, endüstriyel balıkçılık teknelerini Afrika sularına yönlendirerek Birlik suları içerisinde aşırı avcılığa engel olurken diğer taraftan da istihdamın devamlılığını ve hatta artmasını sağlamıştır. Buna karşılık, Afrika ülkeleri ulusal balıkçılık sektörünün geliştirilmesi şansını kaybetmiş, küçük-ölçekli balıkçılığın çöküşüyle karşı karşıya kalmış ve kendi balıkçıları ile Avrupalı balıkçılar arasındaki haksız rekabete şahit olmuşlardır.

Avrupa Birliği, 2002 yılından sonra geliştirdiği balıkçılık ortaklık anlaşmaları ile her ne kadar Afrikalı ülkelerin, öncelikle balıkçılık sektörleri olmak üzere, ekonomilerinin kalkınmasını hedeflese de bu hedefi başarmakta yetersiz kalmıştır. Avrupa Birliği tarafından Afrika ülkelerinde kalkınma ve balıkçılık sektörünün geliştirilmesi için yapılan ödemeler, balıkçılık hakları için yapılan ödemelere nazaran çok düşük kalmıştır. Ayrıca kalkınma ve balıkçılık sektörünün geliştirilmesi için

yapılan ödemeler doğrudan Afrika ülkelerinin hazinelerine gönderildiği ve daha sonra nereye harcandığının kontrolü yapılmadığı için kalkınma programları yerine devlet borçlarının kapatılması için kullanılmıştır. Ayrıca 2002 reformu ile birlikte gelen üçüncü nesil anlaşmalar, Avrupalı balıkçıların Afrika ülkelerine ödedikleri tekne lisans bedellerini arttırıp Avrupa Birliği fonundan balıkçılık hakları için ödenen parayı azaltmayı, böylece hem Birlik bütçesi üzerindeki baskıyı hem de sübvansiyon sebebiyle Avrupalı balıkçılar ile Afrikalı balıkçılar arasındaki adil olmayan rekabeti azaltmayı amaçlamıştır. Avrupa Birliği bu amacını gerçekleştirememiş, 2014 itibariyle balıkçılar tarafından yapılan ödeme toplam ödemenin %10'u ile %20'si arasında seyretmeye devam etmiştir.

Balıkçılık anlaşmalarına ilişkin tüm bu bulgular, Moritanya ve Namibya örnekleri ile de desteklenmektedir. Moritanya, balıkçılık anlaşmalarını imzalamaya devam ederek, eğer ulusal balıkçılık sektörünü oluştursaydı muhtemelen elde edeceği kazançtan daha az bir kazanç elde etmektedir. Diğer taraftan, Namibya, 1990 yılında bağımsız olduktan sonra ulusal balıkçılık sektörü oluşturmayı tercih etmiş ve hiçbir zaman balıkçılık anlaşması imzalamamıştır. Böylece, kendi sularındaki balık stoklarının tüm kazancını kendi elde etmektedir. Mevcut durumda, Namibya, Moritanya gibi ham madde tedarikçisi olmak yerine, limanlarında karaya çıkarılan balıkların çoğunluğunu ulusal tesislerde işleyip katma değer katarak ihraç etmektedir. Moritanya'nın kendi yeterli alt yapısı olmadığı, su ürünleri sektörünü geliştiremediği ve Avrupa Birliği'ne finansal olarak süregelen bir bağımlılığı olduğu için su ürünleri sektörünün gelecekteki akıbeti kontrolü altında değildir. Buna karşın, Namibya güçlü bir ekonomik sektör yaratmış ve hem kaynakların yönetimi ve korunması açısından hem de kaynaklardan elde edilen kazanç açısından gelişmekte olan bir Afrika ülkesi olarak önemli bir başarıya imza atmıştır.

4. Sonuç ve Öneriler

Afrika ülkeleri ile 1970'li yılların sonlarına doğru müzakere edilmeye başlanan ve 2014 yılı itibariyle devam etmekte olan balıkçılık anlaşmalarının sonuçları göstermektedir ki bu anlaşmalar aynı zamanda hem Avrupa Birliği'nin hem de Afrika ülkelerinin uzun vadeli çıkarlarına hizmet etmek yerine balıkçılık sektöründeki Avrupalı paydaşların ve Birliğin güçlü Kıyı Devletlerinin çıkarlarını korumaktadır. Ancak, aynı zamanda, balıkçılık anlaşmalarına ilişkin son

zamanlardaki müzakerelerin, bu anlaşmaların sonuçları hakkında Afrika ülkelerinin, diğer ülkelerin, sivil toplum örgütlerinin ve diğer kuruluşların artan farkındalığı nedeniyle, AB için çok daha zorlu bir mücadele olmaya başladığı bilinmektedir. Buna rağmen, Afrikalı ülkeler balıkçılık anlaşmalarını imzalamaya devam etmektedirler. Namibya örneği hem geç bağımsız olan bir ülke olduğu için sonuçlarının geç gözlemlenebilmesi hem de anlaşmaları imzalayan Afrika ülkelerinin 1980'lerden itibaren süregelen finansal bağımlılıkları nedenleriyle diğer ülkeler tarafından takip edilememiştir.

İleriye yönelik iki varsayım ya Afrika ülkelerinin balıkçılık anlaşmalarını imzalamayı bırakmaları ya da anlaşmalarının devam etmesi şeklindedir. Belirtildiği üzere, Afrika ülkeleri finansal olarak Avrupa Birliği'nden gelecek paraya dış borçları ödeyebilmek için bağımlı durumdadırlar. Bunun yanında, anlaşma imzalayan ülkeler ulusal balıkçılık sektörü için yeterli altyapı ve kurumsal kapasiteye sahip olmadıkları için anlaşmaları imzalamaktan vazgeçip kısa vadede ulusal bir balıkçılık sektörü oluşturmaları mümkün görünmemektedir. Son olarak, Avrupa Birliği balıkçılık hakları için Afrika ülkeleri ile yürüttüğü müzakerelerde Kalkınma Politikası altında yapacağı finansal destekleri Birlik teknelerine balıkçılık haklarının verilmesi koşuluna bağlamaktadır. Avrupa Birliği'nin Afrika ülkeleri üzerindeki mevcut müzakere gücü bu anlaşmaların Afrika ülkeleri tarafından tamamen sonlandırılmasını kısa vadede zorlaştırmaktadır.

Bu durumda balıkçılık anlaşmalarının devam edeceği varsayımı daha olası görülmektedir. Bununla birlikte, Afrika ülkelerinin balıkçılık anlaşmalarını sonlandıramasalar da bu anlaşmaların sonuçlarını iki taraf için de kazan-kazan durumuna çevirebilmeleri için tek çözüm bölgesel blok güç oluşturmalarıdır. Avrupa Birliği ile ikili anlaşmalar yerine bölgesel düzeyde bir anlaşma imzalanması hem ayrık stokların yönetimi ve korunması hem de eşit şartlar altında müzakere edilmesi açısından önemlidir. Fakat Avrupa Birliği'nin ikili anlaşmaları sürdürme taraftarı olduğu bilinmektedir. Bölgesel bir güç oluşturmamaları durumunda gelecekte Afrika ülkelerinin balıkçılık anlaşmalarından Avrupa Birliği Ülkeleri ile aynı derecede kazanç sağlamalarının tek yolu Avrupa Birliği'nin iyi niyet göstermesi, öncelikli olarak az gelişmiş Afrika ülkelerine katkıda bulunmayı hedeflemesi ve

balıkçılık anlaşmalarını uluslararası sürdürülebilir balıkçılık politikaları ve Avrupa Birliği'nin Kalkınma Politikası ile uyumlu anlaşmalar haline getirmeye başlamasıdır.

Yakın gelecekte, balıkçılık anlaşmalarına Avrupa Birliği tarafından son verilmesi muhtemel gözükmesine de, bu durum uzak gelecek için üçüncü bir varsayım olarak ifade edilebilir. Yakın gelecekte mümkün görünmemesinin öncelikli sebebi Avrupa Birliği'nin kendi sularındaki balık stoklarının durumunu hala iyileştirememiş olmasıdır. Bu sebeple, hala Afrika ülkelerinin sularından elde edeceği su ürünleri kaynaklarına ihtiyaç duymaktadır. İkincisi, Avrupa Birliği'nin Afrika sularında elde ettiği balıkçılık hakları için para ödemesine rağmen, Avrupalı balıkçılar Afrika sularında hala Birlik tarafından ödenen miktardan daha fazla ekonomik değere sahip balık yakalamaktadırlar. Bu nedenle, bu anlaşmalar hala Avrupa Birliği'ne kayıptan daha fazla kazanç getirmektedir. Aynı zamanda, balıkçılık sektörü bazı kıyı Üye Devletler için politik öneme sahiptir. İspanya, Portekiz ve bir ölçüde Fransa gibi bazı Üye Ülkelerdeki balıkçılık üretici örgütlerinin bu Üye Ülkelerin kıyı bölgeleri için önemli gelir ve istihdam kaynağı olarak algılanan balıkçılık anlaşmalarının devamlılığını Birlik düzeyinde desteklemeleri için hükümetleri üzerinde baskı oluşturabilecek kadar önemli bir siyasi güce sahip oldukları bilinmektedir.

Uzak gelecekte, Avrupa Birliği'nin sınırlarının yeni ülkelere doğru genişleyebileceği bilinmektedir. Ayrıca, Avrupa Parlamentosu, Avrupa Birliği'nin uluslar-üstü organı olarak, ortak karar alma mekanizması ile Lizbon Antlaşması sonrası Konsey tarafından alınan kararları etkileme hakkına sahip olmuştur. Gelecekte, Türkiye gibi herhangi bir kıyı devleti AB'nin yeni üyesi haline gelirse, Afrika sularında balıkçılık faaliyeti için hak talep edebilecektir. Bu durum güçlü Üye Devletler ile yeni Üye Devletler arasında daha fazla güç mücadelesini yol açabilecektir. Sonuç olarak, hem Birlik bütçesi üzerinde hem de Afrika sularındaki stoklar üzerinde daha fazla baskının oluşacağı varsayılmaktadır. Bu durumda, Birlik bütçesi ve Afrika sularındaki stoklar üzerindeki artan baskıya karşı Birlik içinde ve dışında oluşabilecek olan eleştirilerin Avrupa Parlamentosu'nun ortak karar alma mekanizması yoluyla balıkçılık anlaşmalarını imzalamayı durdurmasına veya anlaşma şartlarının Afrika ülkeleri lehine iyileştirilmesine yol açabileceği düşünülmektedir. Fakat uzak gelecekte gerçekleşmesi muhtemel olan bu durumun

hem Afrika sularındaki balık stoklarını hem de Afrika ülkelerinin geleceklerini korumak için geç kalınmış bir adım olacağına inanılmaktadır.

APPENDIX B. TEZ FOTOKOPİSİ İZİN FORMU

ENSTİTÜ

Fen Bilimleri Enstitüsü	<input type="checkbox"/>
Sosyal Bilimler Enstitüsü	<input checked="" type="checkbox"/>
Uygulamalı Matematik Enstitüsü	<input type="checkbox"/>
Enformatik Enstitüsü	<input type="checkbox"/>
Deniz Bilimleri Enstitüsü	<input type="checkbox"/>

YAZARIN

Soyadı : Bozkuş
Adı : Özge
Bölümü : Uluslararası İlişkiler

TEZİN ADI (İngilizce) : Fisheries Policy of the European Union towards African Countries: The Cases of Mauritania and Namibia

TEZİN TÜRÜ : Yüksek Lisans Doktora

1. Tezimin tamamından kaynak gösterilmek şartıyla fotokopi alınabilir.
2. Tezimin içindekiler sayfası, özet, indeks sayfalarından ve/veya bir bölümünden kaynak gösterilmek şartıyla fotokopi alınabilir.
3. Tezimden bir (1) yıl süreyle fotokopi alınamaz.

TEZİN KÜTÜPHANEYE TESLİM TARİHİ