



Country Update

WTO Fisheries Negotiations: Main Issues and Interests of the East African Community (EAC)

Provided by



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Introduction

This note presents the views of stakeholders concerning the impact of fisheries subsidies in Kenya. The note was prepared based on data collected from stakeholders through key informant interviews, phone calls, electronic communications, and field visits. The stakeholders were sampled from the following institutions:

- *Ministry of Industry, Trade and Cooperatives (State Department for Trade)* - The Ministry in charge of developing and implementing trade policy in Kenya.
- *Kenya National Chamber of Commerce and Industry* – A membership based trade

support organization working to protect commercial and industrial interests of Kenyan business community.

- *Kenya Water and Sanitation Civil Society Network* – A Civil Society Organization promoting good governance in the water and sanitation sector.
- *Sower Consulting Limited* – A research organization on food security issues.

The fisheries and aquaculture industry in Kenya consists of marine fisheries, fish farms, and inland fresh-water fisheries, which is predominant, accounting for 83 percent of fish harvests. The sector earns the country approximately 6.5 billion Kenya shillings annually and accounts for 0.8 percent of the Gross Domestic Product (GDP). It is a source



of livelihood for over 500,000 people directly and another 2 million indirectly. The Nile Perch is the mainstay of exports in fish and products from fisheries, fetching about 4.5 billion Kenya Shillings annually. This is approximately 80 percent in quantity and value of exports in the industry (Kenya Coastal Development Project Interagency Team, 2013).

The Fisheries Act (378), anchored on international instruments such as the United Nations Convention Law of the Sea (UNCLOS-1982), UN stock agreement (1995), and FAO compliance agreement of 1993, is a major tool to support the fisheries sector. The fisheries sector is managed by the State Department of Fisheries and Blue Economy in the Ministry of Agriculture, Livestock, and Fisheries. The Department is responsible for the development of policies and enforcement of regulations to promote proper management of fisheries. This includes enforcing regulations such as imposition of access limitations, declaring closed seasons and areas, and restrictions on fishing methods and gear. The activities of the Department of Fisheries are guided by the National Oceans and Fisheries Policy of 2008, whose focus is on the promotion, implementation and monitoring of sustainable management and responsible fishing practices. Further potential for the fisheries industry lies in a new proposed legal regime, expected to arise from an ongoing review of the Fisheries Act. The review was proposed to regulate practices related to the Illegal Unreported and Unregulated (IUU) fishing. It is expected to make use of the tools for combating IUU that

are detailed within the 2001 FAO International Plan of Action to deter and eliminate IUU fishing (IPOA-IUU).

One of the biggest challenges plaguing Kenya's aquaculture and fisheries sector is the pressure on fish stocks due to fishing overcapacity, rapid population growth, and the spread of illegal fishing activities. Pressure also emanates from subsidies in the fishing industries of developed economies, which negatively affect the growth of the local fishing industry. Inadequate and ineffective governance of marine and inland water fisheries is another challenge. This manifests in inadequate technical and financial capacity to manage fishery resources, overlapping and uncoordinated jurisdictions, and limited participation of the Kenyan fisheries at international level (Agrotec Consortium, 2011).

Stakeholders' Perspectives

a. Consequences of Unregulated and Unregistered Fishing Practices

IUU is associated with negative economic implications, given the reliance of developing and least developed countries on fisheries for job creation and ensuring food security. First, through illegal fishing, the national government forgoes revenue from fish harvests in the form of licensing fees, taxes and other charges. This is because illegal vessels do not pay applicable fees/ taxes to county or national government authorities, even though they fish for commercial purposes. Part of the problem lies

in the fact that in the event that public funds are directed towards improving fishing conditions, illegal or unlicensed vessels will be reaping benefits from interventions to which they have not contributed. Illegal fishing practices also usurp incomes and employment prospects along the fish supply and value chains to the detriment of local communities in fishing areas. The livelihoods of suppliers of fishing gear, boats, equipment, and other implements are also susceptible to IUU, which reduce the demand for their commodities.

Illegal fishing in Kenya's Exclusive Economic Zones (EEZ) is also a threat to food security to the extent that it leads to overexploitation of fishery resources. This has led to shortages of various types of fish products for the local market. In addition, illegal fishing promotes the growth of the black market for fish that offers cheaper products and hence distorting market prices. In these markets, there is reduced efficiency in inspection, resulting in increased health and safety risks to consumers of the products. Finally, the threat of damage to fish stocks and the subsequent depletion of fish resources become more pronounced, especially from the use of sophisticated equipment that harvests fingerlings along with mature fish.

b. Efforts to Combat IUU in Kenya

The government has focused on regulating fishing activities in its EEZ to reduce IUU and its negative effects on the economy. Licensing is one of the major interventions currently being

used to combat IUU. The fishing licenses are issued to vessels that meet the conditions set by the government. Licensing is expected to restrict entry into EEZ in order to prevent illegal fishing. The government has also established Beach Management Units (BMUs) to allow communities in the coastal region to participate in management of fisheries including reporting illegal fishing activities. The government is also improving surveillance to deter illegal fishing in its EEZ. This includes regular monitoring of fishing activities through patrol ships to impound unlicensed vessels in the EEZ. The government is expected to enact and enforce more stringent regulations to curb illegal fishing.

c. Membership in Regional Fisheries Management Organizations

Kenya is a member of the Indian Ocean Tuna Commission (IOTC). The mandate of IOTC is to promote cooperation among its members in sustainable development of fishery resources in the Indian Ocean. Additionally, Kenya is a signatory of the Southern Indian Ocean Fisheries Agreement (SIOFA). However, it is yet to ratify the agreement. The main objective of SIOFA is to promote sustainable use of fishery resources in the region covered by the agreement through cooperation among the contracting parties.

d. Laws and Regulations Governing Fishery Resource Utilization

There are national level regulations at different ministries tasked with addressing different fishery related issues. The first of these is the Fisheries Management and Development Act, 2016 that provides for conservation,

management, and development of fisheries and other aquatic resources. The Act provides for the establishment of Kenya Fisheries Service, which is responsible for the conservation, management, and development of fisheries resources. The Act also provides for the establishment of the Kenya Fisheries Advisory Council. The Council advises the national government on fisheries policy related issues such as management and access to fisheries resources, as well as, international agreements related to fisheries and research.

The National Oceans and Fisheries Policy is also applicable in the regulation of fishery resources. At regional level, the East Africa Community is developing the East Africa Export Strategy, which recognizes fish as an export product. The strategy is meant to increase export and value addition of agricultural products including fish. Kenya is also developing a National Export Development Strategy, which will be implemented and applied to the export of all Kenyan commodities, including fish. The aim of this strategy is to enhance production and value addition for exports. It will also be useful in developing markets for exports.

Implementation of these policies and legislations has had mixed results. On the one hand, production of fish through fish farming has increased, thereby boosting food security. Fish farming and conservation of fishery resources in coastal and inland water bodies has helped to sustain livelihoods. On the other hand, the fisheries sector is still plagued with challenges such as overexploitation of fishery

resources, use of inappropriate fishing equipment, difficulties in meeting international safety standards, and low value addition. As a result, the full potential of the fishing industry with respect to job creation and poverty reduction is yet to be achieved.

e. Laws and Regulations Governing Fishery Resource Utilization

Institutions relevant to the regulation and development of the fishing industry should be better structured and supported with effective regulatory frameworks to protect the region from the negative effects of fisheries subsidies. The regulations should be articulate in outlining the threshold levels up to which the subsidies of other countries are fair to Kenya. This will facilitate development of anti-dumping policies to protect Kenya from the oversupply of cheap fish. The government should also put in place measures to ensure that all those involved in fishing are registered legally and that fish and fish products are purchased only from licensed traders to discourage IUU.

Where possible, Kenya should provide appropriate incentives and technical support to promote production and value addition in the fishery industry. The support should focus on reducing the cost of production to facilitate competitive pricing of fish and fish products from Kenya in the global market. This measure is expected to counter market-distorting effects of developed country fisheries subsidies.

Public sensitization on the existence and implementation of policies in the fishing industry will be useful for actors to recognize the

presence of IUU in the local context. Sensitization and capacity building should also be conducted for stakeholders relevant to the fishing industry for the effective implementation of policies related to combating IUU. Finally, funding and encouraging cooperative activities between licensed vessels and artisanal fishermen will help in identifying and prosecuting those involved in IUU.

Recommendations to EAC's Delegates to the WTO

Appropriate treatment of artisanal fisheries is a crucial issue for the livelihood of some of the poorest people in the world. Thus, WTO should commit to supporting and addressing the legitimate development needs of artisanal fisheries in developing countries through fair trade policies/ agreements. To this end, EAC delegates ought to negotiate for strengthened disciplines on fisheries subsidies, including the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and overfishing, along with special and differential treatment provisions for developing and least developed countries.

Developed countries should be encouraged to commit to prohibiting market distorting fisheries subsidies by 2020. This should include prohibition of subsidies to vessels engaged in IUU to protect fishing industries in least developed and developing countries such as Kenya. Additionally, the delegates should promote cooperation among relevant WTO members to ensure long-term viability of fishing and fish stocks in high seas and Exclusive Economic Zones (EEZs) through joint implementation of measures to combat IUU.

References

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