



Regional Trade Facilitation Programme

Rules of Origin for Fish and Fish Products for the Eastern and Southern Africa Region Economic Partnership Agreement with the European Union

FINAL REPORT

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Abbreviations

ACP	African-Caribbean-Pacific countries signatories to the CPA
ASCM	Agreement on Subsidies and Countervailing Measures
CPA	Cotonou Partnership Agreement
CTH	Change of Tariff Heading
CTSH	Change of Tariff Sub-Heading
DDA	Doha Development Agenda
DfID	Department for International Development (UK)
DG	Directorate General (of the European Commission)
DWF	EU's distant water fishing fleet
EBA	Everything but Arms
EC	European Commission
EEZ	Exclusive Economic Zone
EPA	Economic Partnership Agreement
ESA	Eastern and Southern Africa EPA negotiating group
EU	European Union
FA	Fisheries Agreement
FAO	Food and Agricultural Organisation
FFA	Fisheries Framework Agreement
FPA	Fisheries Partnership Agreement
GSP	Generalised System of Preferences
IUU	Illegal, Unreported and Unrecorded
LDC	Least Developed Country
MFN	Most Favoured Nation
OCT	Overseas countries and territories of the European Communities
RoO	Rules of Origin
SDT	Special and Differential Treatment
UNCLOS	United Nations Convention and Law of the Sea
WTO	World Trade Organisation

Executive Summary

The discussion within the Eastern and Southern Africa (ESA) EPA negotiating group on Rules of Origin as they apply to marine fisheries are taking place within the context of a general trend to liberalise trade, including a trend to reduce tariffs (leading to an erosion of preferences) and harmonise Rules of Origin. This may result in a situation in which the cost of compliance increases while the preference margins (and so the benefits) decrease.

It can be reasonably assumed that fish and fish product exports from the ESA region into the EU will continue to face market access challenges in the next few years. The challenges will be as a result of a combination of possible changes in rules of origin, reductions in subsidies, erosion of ACP tariff preferences, higher fuel prices, more stringent sanitary and phyto-sanitary conditions and higher prices of inputs used in production, especially of canned tuna.

In the ESA region it is the case that different countries have different constraints to face as regards the development of the fishing sector so, if there is to be a common approach to the marine fisheries sector in the EPA negotiations then the approach will need to be a compromise position in which the interests of each ESA country with marine fisheries interests are not necessarily best served by the adopted position but, at the same time, are definitely not damaged through the adoption of the common position.

If Rules of Origin (as they apply to fisheries or any other good which will receive preferences into the EU) are to be negotiated before the end of the year (2007) it may be practical to take a phased approach to the negotiations. In the first phase (2007) Rules of Origin could be negotiated on the basis of the existing Cotonou Rules of Origin. There could then be a review clause in the EPA which would allow for a more comprehensive revision of the rules at a later date.

It is recommended that other steps (such as reducing costs of production, examining other markets and other products with a higher value addition) are explored in parallel with changing the existing Rules of Origin to ensure the future sustainability of the tuna processing industry. Changing the Rules of Origin to those recommended by the Pacific Forum, for example, would be a high risk action for ESA countries which rely on revenue generated from extraction of the fish stock from their EEZs as well as canning of fish sourced from their EEZs (such as Seychelles) and lower risk for ESA countries which rely more on revenue from processing fish obtained from outside of their EEZs (such as Mauritius).

In addition to adopting a cautious approach to liberalising existing Cotonou Rules of Origin, the ESA region may wish to take a holistic approach and request the EC to broaden the negotiations taking place in the fisheries sector so that a broader partnership can be entered into which would cover aspects of mutual interest, including:-

- exploring the possibility of developing a common, mutually advantageous, position with the EC on fish subsidies negotiations*

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- taking place at the WTO although bearing in mind that there may also not be a mutually advantageous across-the-board position;*
- *developing a common position on tariffs which apply to Chapters 3 and 16 of the HS classification in the NAMA negotiations taking place at the WTO;*
 - *agreeing a fisheries development component which will encourage investment and technology transfer from the EU into the fisheries sectors (both fishing and canning sub-sectors) of the ESA countries concerned; and*
 - *agreeing a fisheries development component aimed specifically at ensuring sustainable off-take levels and improving management of the fish stock.*

Although the process of erosion of ACP margins of preference is inevitable, it is vital that ACP fish-exporting countries adapt to the new global context, and improve their competitiveness. In the context of EPA negotiations, ACP countries should use the EPA negotiations as an opportunity to secure EU development support to improve, where necessary, their fish-landing, transport, and processing infrastructure, and improve the capacity of their fish-processing-and-export sector to comply with international standards of sanitation, etc.

There is also a need to both reduce costs of production and explore alternative markets for ACP fish products, locally, regionally and internationally. For example the COMESA Free Trade Area offers a relatively large market for canned tuna which can be supplied by existing canneries in Seychelles and Mauritius and new canneries in other ESA countries free of duties as long as COMESA Rules of Origin are complied with.

**Rules of Origin for Fish and Fish Products for
the Eastern and Southern Africa Region
Economic Partnership Agreement
with the European Union**

March 2007

1. Introduction

2. The African-Caribbean-Pacific (ACP) Group of countries and the regions negotiating Economic Partnership Agreements (EPAs) have been debating internally on how to address Rules of Origin in the framework of EPA negotiations for a number of years. Initially the decision of the ACP was to develop Rules of Origin (RoO) which would be common to all EPAs, as opposed to each of the six EPAs that are being negotiated having their own Rules of Origin. However, at the ACP Council of Ministers meeting held in Fiji in 2006, it was agreed that time was getting short so each regional negotiating group should start to negotiate its own Rules of Origin. In order not to arrive at a situation whereby each negotiating region would have fundamentally different Rules of Origin, it was also agreed that the ACP Secretariat should prepare a template for use by the regional negotiators in negotiating Rules of Origin with the European Commission.

3. The proposed ACP template was discussed at an ACP experts meeting in Brussels on 19-20 October 2006. At that meeting it was agreed that the ACP Secretariat would prepare a draft model protocol on Rules of Origin, which would include Rules of Origin for fisheries, which could be used by the regions when they negotiated Rules of Origin with the EC.

4. The draft model protocol, which was based on an across-the-board value-addition method to confer origin, was discussed at the ACP group of experts meeting on 25-26 January 2007 and, at that meeting, the group of experts proposed that substantial transformation should not be determined by the value addition method alone but that a change of tariff classification method should also be used. The draft is being adjusted accordingly for consideration by the group of experts.

5. The Eastern and Southern Africa (ESA) Economic Partnership Agreement (EPA) negotiating group has also developed its own draft Protocol on Rules of Origin (October 2006). This draft protocol, which was considered by the ESA Group on 30-31 January 2007, proposes a system of product-specific rules of origin, using a change of tariff heading as the main way to confer origin.

6. The draft protocol on ESA Rules of Origin suggests that, as regards fish and fish products, origin should be conferred either through the wholly produced criteria (Chapter 3) or through substantial transformation using a change of tariff heading (Chapter 16 – manufacture from materials classified in a heading other than that of the product).

7. Prior to the ESA draft Protocol Rules of Origin, the ESA negotiating group, in 2004, prepared a draft Fisheries Framework Agreement (FFA) which includes the following on Rules of Origin:

All marine products taken from the waters of the ESA coastal and island states should receive originating status.

The change in Tariff Heading Criteria (CTH criteria) with respect to substantial transformation should be applied to ESA states on the same basis as is the case in EU tuna processing plants using raw material from non-EU sources with an MFN rate of zero duty. Therefore, the zero duty access granted in favour of ACP states under the Cotonou Agreement would still prevail. The CTH criteria has several production and administrative cost advantages and requires no further clarification as the change of tariff heading at the Chapter level from 03 to 16 represents a sufficient level of substantial transformation.

Rules of Origin will be reviewed to ensure that:

- they do not penalise an exporter when that exporter seeks to add value by processing, such as tuna canning;*
- they take full account of Protocol 1, Title V, Article 38(8) of the Cotonou Agreement (right to request suspension of all origin rules for canned tuna and tuna loins within an annual quota derogation) including clarification of the quota derogation;*
- they contribute to the attraction of foreign investment by offering an appropriate safe and market-driven environment and allow investing firms to qualify for preferential treatment on the EU market; and*
- they are not inconsistent with the principles underlying the plurilateral Agreement on Government Procurement (to which the EU is a signatory) and vessel ownership rules, meaning that not only should there be no discrimination against foreign products, but also no discrimination against foreign suppliers and, in particular, no discrimination against locally established suppliers on the basis of their degree of foreign affiliation or ownership.*

8. However, when the ESA Group presented the draft FFA for discussion with the EC, the EC rejected the FFA as a basis for discussion. The ambition of having a stand-alone FFA has, subsequently, been reduced to including fisheries as a chapter in an EPA agreement. Rules of Origin for fish and fish products will, therefore, need to be negotiated as part of a full set of Rules of Origin which will apply to the ESA EPA.

9. The purpose of this paper is to define a negotiating position and strategy on Rules of Origin as they refer to marine fish and fish products so as to add to

the ESA's draft Protocol on Rules of Origin¹. Rules of Origin need to be studied within the wider context, the widest context being how the ESA countries with marine fisheries industries can use these industries as a tool for their economic development.

Background

10. Seven ESA countries (Comoros, Djibouti, Eritrea, Kenya, Madagascar, Mauritius and Seychelles) have marine fishing industries, or potential industries. Of these seven, four (Seychelles, Mauritius, Madagascar and Comoros) have benefited² from access agreements, and now Fisheries Partnership Agreements, negotiated with the EC and with other fishing fleet/vessel owners³. Under FPAs, the EC pays the ACP states concerned for the right for the EU's distant water fishing fleet (DWF) to fish in their EEZs. The EC also provides the ACP states concerned with targeted financial assistance aimed at developing the concerned states' fishing industries in a sustainable manner.

11. If an ESA country considers that it has benefited significantly from the access agreements signed with the EU and considers that it does not have the resources to fully exploit its fisheries natural resource and would like to maintain the existing partnership agreements with the EC then it will want to maintain the existing arrangements.

12. If, however, the ESA country does not feel that it is significantly benefiting from existing access agreements and its fish and fish processing industries are constrained by existing market access criteria (including Rules of Origin) then that country will not want to maintain existing Cotonou market access arrangements.

13. In the ESA region it is the case that different countries have different constraints to face as regards the development of the fishing sector so, if there is to be a common approach to the marine fisheries sector in the EPA negotiations then the approach will need to be a compromise position in which the interests of each ESA country with marine fisheries interests are not necessarily best served by the adopted position but, at the same time, are definitely not damaged through the adoption of the common position.

14. Therefore, if the ESA region is to have a common set of fisheries Rules of Origin then these Rules will need to reflect a compromise position which takes into account:

¹ It should be noted that, although inland fisheries and aquiculture (both freshwater aquiculture and marine aquiculture (or mariculture)) are becoming increasingly important in terms of production and export of fish and fish products in ESA countries, these products are not considered in this paper. This is because Rules of Origin for these products come under the wholly produced category and are neither expected to change nor considered problematic. The emphasis in this paper is on tuna and tuna-like products (Chapters 03 and 16) because the Rules of Origin for these products do not refer to geographical origin but to nationality of the owners of the boat which has caught the fish and nationality of the crew, rules which have been disputed by many ACP States for many years.

² Some would argue that the marine fishing sector in ESA countries have been constrained from growing into sustainable industries because of the existence of EC fisheries agreements and related issues such as rules of origin.

³ For a description of the marine fishing sector in each ESA country refer to Annex 1

- the different interests of each of the ESA countries with exploitable marine fisheries resources;
- the position of the European Commission as regards Rules of Origin;
- developments in other fora which affect the future criteria under which the global marine fishing industry will operate;
- the position of the owners of the EU's distant water fishing fleet as regards the future profitability of exploiting the ESA EEZs within the framework of Fisheries Partnership Agreements;
- the economics of fish processing in the ESA region; and
- global demand for fish and fish products.

15. The recommendations of this paper reflect this compromise position and do not necessarily reflect the best interests of either a particular country or a particular sector of the ESA marine fishing industry.

3. Existing Tariff Preferences for Fish and Fish Products

16. Table 1 below gives a summary of preferences currently offered by the EU. As can be seen from Table 1, although all ACP countries face no tariffs into the EU market for fish and fish products (providing that Rules of Origin are conformed to), nor do countries eligible for GSP+ (otherwise known as the special incentive arrangement for sustainable development and good governance) and EBA. Even for countries which are not provided GSP+ or EBA market access, preferences are given. For GSP, customs duties on all products listed as non-sensitive have been suspended and duties on sensitive products, which include all fish and fishery products, are reduced by 3.5 percent. A special provision has been introduced for fisheries under Title III, 'Temporary Withdrawal and Safeguard Provisions'. Article 16, (1e) provides for the preferential arrangements to be withdrawn if there are 'serious and systematic infringements of the objectives of regional fishery organisations or arrangements to which the Community is a member, concerning the conservation and management of fishery resources'.

17. As of 1st January 2006, tuna loins from Bolivia, Colombia, Costa Rica, Ecuador, Georgia, Guatemala, Honduras, Sri Lanka, Moldova, Mongolia, Nicaragua, Panama, Peru, El Salvador, and Venezuela (which are the South and Central American countries establishing programmes to combat drug production) can enter the EU at zero tariffs and without any quota. In the past, this product was subject to a certain tariff quota but now unlimited quantities of tuna loins can enter the EU duty-free from the above mentioned countries⁴. This also reflects investments by the EU canneries' owners in some of these countries.

⁴ It is not uncommon for tariff rate quotas and preferential access to be used as a political as well as an economic tool. For example, in September 2001, the USA granted Indonesia duty free access for all its frozen and chilled tuna in a move to assure Islamic Indonesia's support in the fight against terrorism.

Table 1 – Simplified EU Tariff Structure for Tuna and Tuna Products

TARIC/ Description	ACP	GSP +	EBA	GSP	Tariff Quota (SE Asia)	MFN
Chapter 3						
03023110/ 210/ 310/ 410/ 510/ 610/ 910 03034212/ 4311/ 411/ 511/ 611/ 911 Fresh or frozen⁵ chilled tuna for production under 1604 (all species whether whole, gutted, gilled and/ or beheaded)	0%	0%	0%	0%	N/A	0%
03023190/ 290/ 390/ 490/ 590/ 690/ 990 03034190/ 290/ 390/ 490/ 590/ 690/ 980 Fresh or Frozen chilled tuna for uses other than production (all species, including ALB and SKJ)	0%	0%	0%	18.5%	N/A	22%
0304109850/ 865/ 890 Fresh chilled fillets (all species of fish, including tuna)	0%	0%	0%	11.5%	None	15%
0304204510/ 520/ 590 Frozen fillets (all species of fish, including tuna)	0%	0%	0%	14.5%	None	18%
Chapter 16						
1604141620/ 630/ 695 Tuna loins to be processed (all species including ALB and SKJ)	0%	0%	0%	20.5% (Since Jan 2006)	6% (4,000mt yearly)	24%
1604141625/ 635/ 699 Tuna loins other uses (all species including ALB and SKJ)	0%	0%	0%	20.5% (Since Jan 2006)	None	24%
1604141120/ 125/ 130/ 135/ 195/ 199/ 820/ 830/895 1604207030/ 035/ 040/ 095 Canned tuna products, with oil or others (all species)	0%	0%	0%	20.5% (Since Jan 2006)	12% (27,750mt yearly)	24%
1604141899 1604207045/ 099 Other preparations of tuna (all species)	0%	0%	0%	20.5% (Since Jan 2006)	None	24%

Source: EC TARIC. Simulation date: 19 July 2006. – quoted from Campling L.

18. A reduced tariff quota for canned tuna was awarded to Thailand and Philippines in July 2003 following WTO mediation between the Community and these two countries. The mediation, which examined the extent to which these countries' legitimate expectations had been impaired by the duty-free access accorded by the Community to imports of canned tuna from ACP countries, resulted in the EC opening a quota of 25,000 tonnes at 12% duty, i.e. a 50% reduction compared to the MFN rate. The volume of the quota was subsequently increased on 1st July 2004 to 25,750 tonnes in accordance with the conclusion of the mediation. The quota may be further revised in order to adapt its volume to the needs of the Community market.

19. It is clear that the EC is gradually eroding preferences offered to ACP countries for fish and fish products. It is expected that, during the negotiations

⁵ Note that there are weight restrictions on some of the species - e.g. SKJ (skipjack) and Bonito (03034212) must weigh over 10kg per piece.

which are taking place at the WTO under the Doha Development Agenda, the pressure will be for the EU to reduce MFN tariffs even further.

20. Initiatives have been taken at the all-ACP level to try to maintain a margin of preference for canned tuna from the ACP to the EU. For example, a resolution⁶ adopted by Ministers and delegates at the ACP and EU Joint Parliamentary Assembly on 22nd June 2006 in Vienna, Austria calls on the European Commission to consider carving out canned tuna products from WTO tariff reduction obligations to protect ACP exports to EU markets. The resolution reflects the concern of many that multilateral reductions on non-agricultural market access (NAMA) will reduce EU tariffs on imports of canned tuna from non-ACP countries. The resolution suggests that reduction in tariffs on imports from non-ACP third countries could reduce ACP exports to the EU with the possibility that their "entire tuna canning industry may be devastated with serious socioeconomic consequences". To avoid this eventuality, they suggest taking canned tuna out of coverage of the tariff reduction formula to ensure an "effective level of preference".

21. The resolution also sets out key principles and guidelines for the EU-ACP relationship on fisheries, including that ACP countries should be allowed to opt-out of fisheries partnership agreements with the EU if they consider that the agreements are harmful to their social, political, environmental or economic interests; that all EU vessels fishing in ACP waters should be equipped with Vessel Monitoring Systems to monitor position and catches; and notes that ACP-EU co-operation in fisheries has to work towards enhancing ACP capacity to "develop their fishery resources sustainably and to enhance local added value". On social issues, the resolution calls for the preservation of coastal communities' traditional fishing practices and demands that "all agreements should contain measures to protect small-scale indigenous fisheries", including through financial mechanisms.

4. Existing Rules of Origin for Fish and Fish Products

22. Rules of Origin as they apply to ACP fish and fish products exported into the EU are, essentially, affected by three conditions:

- Fish and fish products caught or produced within the customs territory of an ACP country (i.e. within the 12-mile limit) are deemed as originating no matter who catches the fish, who owns the boat the fish is caught by, what the nationality of the fisherman is, who owns the factory, etc.
- Fish caught outside of the 12-mile limit is considered to be wholly produced, and so deemed to be originating depending on registration and flag of origin; ownership; and crewing arrangements on fishing vessels and factory ships, which must be either European or ACP, therefore discriminating against third

⁶ The resolution is available online at http://www.europarl.europa.eu/intcoop/acp/60_11/pdf/resolutions/app3847en.pdf

countries. This rule is described in Protocol I Article 3 of the Cotonou Agreement, which is reproduced below in Box 1. This rule means that fish caught in an ACP country's EEZ by a vessel flying an ACP or EC flag with a crew of predominately ACP or EU nationality is deemed as originating but fish caught in the same place by a boat owned by a third country or with a crew of predominantly third country nationality does not.

Box 1 – Cotonou Rules of Origin for Fish (Extracted from Protocol 1, Article 3 of the Cotonou Partnership Agreement)

1. The following shall be considered as wholly obtained, in the ACP States or in the Community, or in the overseas countries and territories defined in Annex III, hereafter referred to as the OCT:
 - (a) mineral products extracted from their soil or from their seabed;
 - (b) vegetable products harvested there;
 - (c) live animals born and raised there;
 - (d) products from live animals raised there;
 - (e) products obtained by hunting or fishing conducted there;
 - (f) products of sea fishing and other products taken from the sea outside the territorial waters by their vessels;
 - (g) products made abroad their factory ships exclusively from products referred to in subparagraph (f)
 - (h) used articles collected there fit only for the recovery of raw materials, including used tyres fit only for retreading or for use as waste;
 - (i) waste and scrap resulting from manufacturing operations conducted there;
 - (j) products extracted from marine soil or subsoil outside their territorial waters provided that the have sole rights to work that soil or subsoil;
 - (k) goods produced there exclusively from the products specified in subparagraphs (a) to (j).
2. The terms “their vessels” and “their factory ships” in paragraph 1(f) and (g) shall apply only to vessels and factory ships:
 - (a) which are registered or recorded in an EC Member State, in an ACP State or in an OCT;
 - (b) which sail under the flag of an EC Member State, of an ACP State or of an OCT;
 - (c) which are owned to an extent of at least 50 per cent by nationals of States party to the Agreement, or of an OCT, or by a company with its head office in one of these States or OCT, of which the Chairman of the Board of Directors or the Supervisory Board, and the majority of the members of such boards are nationals of States party to the Agreement, or an OCT, and of which, in addition, in the case of partnerships or limited companies, at least half the capital belongs to those States party to the Agreement or to public bodies or nationals of the said States, or of an OCT;
 - (d) of which at least 50% of the crew, master and officers included, are nationals of States party to the Agreement, or of an OCT.
3. Notwithstanding the provisions of paragraph 2, the Community shall recognise, upon request of an ACP State, that vessels chartered or leased by the ACP State be treated as “their vessels” to undertake fisheries activities in its exclusive economic zone under the following conditions:
 - that the ACP State offered the Community the opportunity to negotiate a fisheries agreement and the Community did not accept this offer;
 - that at least 50% of the crew, master and officers included are nationals of States party to the Agreement, or of an OCT;
 - that the charter or lease contract has been accepted by the ACP-EC Customs Cooperation Committee as providing adequate opportunities for developing the capacity of the ACP State to fish on its own account and in particular as conferring on the ACP State the responsibility for the nautical and commercial management of the vessel placed as its disposal for a significant period of time.

- For processed fish (i.e. fish classified under HS Chapter 16, including canned tuna and tuna loins to be canned) Rules of Origin

are described in Annex II Protocol I. To be deemed to be originating (and so receive preferential access into EU markets) the fish to be processed must be wholly obtained, meaning that a canning factory in an ACP or EU country must only can tuna caught by EU/ACP vessels crewed by EU/ACP nationals. If it does can fish caught by third country vessels this fish and the end product – canned tuna – will not be deemed to be originating⁷ from an ACP country so will not receive preferential market access under Cotonou into the EU⁸.

23. Table 2 provides a comparative summary the EU Rules of Origin for fish and fish products under GSP and Cotonou market access conditions. As can be seen from Table 2, fisheries Rules of Origin are virtually identical in all EC preferential trading arrangements. It has been argued, by Lindsey and Grynberg (2004) that the rule of origin for fish and fish products, viewed within the context of the significant margin of preference for canned tuna has been a key part of EU fisheries policy. They argue that these Rules of Origin have been instrumental in not only providing tariff protection for EU canneries but also providing a significant subvention to ACP states to provide access to their EEZ for the EU's distant water fishing fleet.

5. Subsidies

24. Until recently, subsidies pervaded almost every aspect of EU fisheries - grants for vessel construction, grants for training, tax breaks (e.g. on fuel), infrastructure development, subsidised loans, market support, third-country fishing-access fees, etc. According to a report in *Africa Recovery*⁹, the EU has been spending about \$1 billion annually subsidising fisheries. Of this, about \$280 million directly supports 850 vessels to fish outside EU waters. The amount spent on global fishing subsidies by all countries annually is estimated at between US\$6.3 billion (OECD estimation) and US\$20b (World Bank estimation)) with the value of the subsidies representing as much as 25% of total revenues

25. Up to end-2004, when they became unavailable, EU fishing subsidies had important implications for EU-ACP fishery relations in two main areas:

- Grants to vessel owners to establish joint ventures in ACP countries and to transfer their vessels; and
- Access fees paid to third countries through EU-ACP fisheries agreements¹⁰.

⁷ Cotonou provides for a margin of value tolerance which allows for 15% of a consignment of canned tuna to contain non-originating fish.

⁸ It should be noted that there is a zero MFN duty into the EU on tuna which is to be canned so EU canneries are able to source from the most competitive suppliers whereas ACP canneries have to use fish caught by EU/ACP boats if they are to benefit from preferential access into the EU.

⁹ April 2002, page 12

¹⁰ The new Fisheries Partnership Agreements being negotiated to replace access agreements are meant to be WTO compatible and so take account of proposed new WTO rulings on subsidies.

Table 2 - Summary EU Rules of Origin for Fish and Fisheries Products for EU GSP and Cotonou

Rule or Procedure	GSP (including 'standard' GSP, GSP+ and EBA)	Cotonou
Origination	The fish must be 'wholly obtained'. This applies if is caught <i>anywhere</i> by 'qualifying vessels'. If caught in 'territorial waters' (12 mile zone) origin is automatic, regardless of which vessel caught it.	Same as GSP
Qualifying Vessels	Vessel must be registered (or recorded) in and flagged by beneficiary or EC country. At least 50% ownership of vessel by nationals of beneficiary or EC country, or by a company having head office in a beneficiary or EC country, whose manager(s), Chairman of the board and majority of board members are nationals of beneficiary or EC countries and at least 50% of company capital is held within those countries. Fulfil crew requirements.	Vessel must be registered (or recorded) in and flagged by an EC, ACP or OCT ¹¹ country. At least 50% ownership of vessel by nationals of EC, ACP and/or OCT countries, or by a company having head office in an EC, ACP and/or OCT country, whose manager(s), Chairman of the board and majority of board members are nationals of EC, ACP and/or OCT countries and at least 50% of company capital is held within those countries. Fulfil crew requirements.
Crew Requirements	At least 75% of crew (including Master and officers) are nationals of beneficiary or EC country.	At least 50% of crew (including Master and officers) are nationals of EC, ACP and/or OCT countries.
Leased or Chartered Vessels	Not specified. Not permitted.	EC fleets must have been offered opportunity to fish there but did not accept. Also, must be accepted by ACP-EC Customs Co-operation Committee, including proof that the applicant State has full nautical and commercial management capacity. Same crew requirements.
Transformation into canned tuna	Fish must be 'wholly obtained'.	Fish must be 'wholly obtained'.
Derogation	LDCs may apply for temporary derogation from ROO. Subject to quantity limits.	1) Automatic annual derogation set at 8,000mt for canned tuna and 2,000mt for tuna loins. 2) Specific derogations can be applied for.
Cumulation	1) Bilateral cumulation permitted with the EC, Norway and Switzerland. 2) Regional cumulation permitted between members of 3 regional groups: either Central American Common Market+Andean Community or ASEAN or SAARC.	1) Full cumulation permitted with the EC, ACP and/or OCT. 2) Full cumulation permitted between South Africa and ACP States that are members of SACU 3) Diagonal cumulation between ACP States and South Africa, subject to identical RoO and conclusion of an appropriate agreement (not yet applied) 4) Full cumulation between ACP States and South Africa, subject to a regional integration agreement and a decision of the ACP-EC Customs Co-operation Committee (not yet applied) 5) Diagonal cumulation between ACP States and non-ACP neighbouring developing countries forming 'a coherent geographical entity', subject to product-specific conditions/exclusions and conclusion of an appropriate agreement (not yet applied).
Value Tolerance	Total value of non-originating fish cannot exceed 10% of the ex-works price of the product.	Total value of non-originating fish cannot exceed 15% of the ex-works price of the product (on a per shipment basis).

Sources: Cotonou Agreement, Annex 5 and 17; EC July 2005; interviews with ACP and EC officials, 2006. – From Campling 2006.

26. The fourth WTO Ministerial Conference in Doha in 2001 agreed that the global fishing sector should be subject to WTO rules concerning subsidies and countervailing measures under the Agreement on Subsidies and Countervailing Measures (ASCM). The Doha Declaration commits WTO members to undertake negotiations "to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries" (paragraph 28). Reference is also made to fisheries subsidies with the objective of enhancing the

¹¹ OCT = Overseas countries and territories of the European Communities.

mutual supportiveness of trade and environment (paragraph 31). This linkage implies that both the trade-distorting nature of subsidies and their environmental impact are to be the subject of WTO disciplines.

27. The existing ASCM puts subsidies into three broad categories: prohibited, actionable and non-actionable subsidies. Prohibited subsidies are categorised as 'export subsidies' and 'local-content subsidies'. According to the ASCM, *'these two categories of subsidies are prohibited because they are designed to directly affect trade and thus are most likely to have adverse effects on the interests of other members'*. It is, however, recognised that subsidies are prohibited *'except as provided in the Agreement on Agriculture'*. Actionable subsidies *'are subject to challenge, either through multilateral dispute settlement or through countervailing action, in the event that they cause adverse effects to the interests of another member'*.

28. There are four distinct negotiating positions regarding fish subsidies in the WTO:

- i) "Friends of Fish" (Australia, Chile, Ecuador, Iceland, New Zealand, Peru, Philippines and the United States) whose main concerns are that subsidies contribute to over-capacity, leading to over-fishing and the depletion of resources and the displacement of fishers' access to shared resources. This group contends that the existing ASCM rules are not adequate to address these issues so improved disciplines are needed. This position is based on the fact that fish is a heavily traded commodity, with about 50% of the value of the world catch traded internationally, and is heavily subsidised.
- ii) Japan/Korea argue that there is nothing unique about the fisheries sector and there is no need for special disciplines so no need to adjust the ASCM to deal with fish subsidies. This group believe that the real issue to address is not subsidies by management of the sector.
- iii) The European Union is of the opinion that the major factor contributing to over-exploitation of the fish resource is over capacity. It argues that only certain subsidies are problematic, particularly those that encourage investment in fishing fleets.
- iv) Small and Vulnerable Coastal States (SVCS) in general oppose any new disciplines that would undermine their development efforts in the fisheries sector. They also make the point that many governments have specific programmes to assist artisans which often include forms of direct assistance to raise income levels of artisanal fishers. Any disciplines that may be developed on fisheries subsidies must be crafted so that they exempt these government programmes. The submission from the SVCS to the Negotiating Group on Rules (TN/RL/W/136 of 14th July 2003) states that SCM Article I should be clarified to explicitly exclude the following from the definition of a subsidy – Access Fees and

Development Assistance; Fiscal Incentives to Fisheries Development; and Artisanal Fisheries.

29. The ASCM also highlights the importance of special and differential treatment (SDT) of developing-country members. However, as is the case throughout the WTO negotiations, the definition of a developing country, which is a self-definition, is very broad and includes such diverse countries as China, Brazil, Indonesia, Thailand, Kenya, Mauritius and Seychelles. As it is not acceptable to differentiate market access between developing countries in the WTO, if it is acceptable for Seychelles and Mauritius to apply SDT provisions, in subsidies or in other disciplines, it is acceptable for all other developing countries to do the same. Developed countries may not have any particular concerns for the smaller economies that are developing countries to apply SDT provisions but they have more difficulty in endorsing these same SDT provisions for the bigger developing country economies.

30. Given the broad listing of prohibited export subsidies in the ASCM and the broad interpretation applied to such support, many of the support provisions currently applied by the EU to its fishing fleets could fall into the prohibited category. At least three kinds of prohibited subsidies may be in operation:

- direct payments from government budgets (i.e. financed by taxpayers) to fishing enterprises;
- cost-reducing transfers, such as those that reduce the costs of fixed capital and variable inputs; and
- general services (costs of financing fisheries research, vessel monitoring, control and enforcement etc.).

31. In ACP countries, subsidies are often provided for:

- *Fuel.* Several ACP countries provide tax-free fuel to the fishing sector. Under current WTO ASCM rules such subsidies would be prohibited.
- *Artisanal fishing.* Some ACP countries implement fishery development programmes that provide direct support to the artisanal sector (for fleet modernisation, infrastructure development, etc.). If artisanal fisheries are to be accorded SDT, and so ensure that these subsidies are not actionable, they need to be defined in the context of their national level policies.
- *Access fees for fishing rights.* The EC's new Fisheries Partnership Agreements (such as those recently signed with Madagascar and Seychelles) are an attempt by the EC to replace access agreements with WTO-compatible agreements by recognising the need to differentiate between the payment of access fees and payments made to support developing country fisheries to establish sustainable fisheries policies. The EC has argued that FPAs are WTO-compatible as the private sector is supposed to progressively assume greater responsibility for paying access fees, while payments aimed at developing sustainable fishing policies are not trade-distorting.

32. The current debate on SDT for developing countries has progressed to the level where discussions are taking place on possible exemptions of:

- access fees paid to developing countries;
- artisanal fisheries, where this would require arriving at an acceptable definition of artisanal fisheries; and
- development-cooperation programmes;

5. Fisheries Partnership Agreements

33. Fisheries Partnership Agreements (FPAs) are negotiated by DG Fish on behalf of the EC with non-EU countries to settle fishing rights for EU vessels in the Exclusive Economic Zones of non-EU countries. Initially, fisheries agreements were designed to compensate for the loss of access to non-European fishing areas when the zones of jurisdiction of coastal states were extended to 200 nautical miles (creating the Exclusive Economic Zones) in the mid-1970s. They also intend to address the problem of overcapacity of the European fleet while maintaining employment and economic activity in the sector. This has become more necessary for the EC as fish stocks in EU's own waters continue to be depleted, despite the implementation of the Common Fisheries Policy.

34. There are currently 14 bilateral fisheries agreements in force, of which 4 are with ESA countries as summarised in Table 3.

Table 3 – Summary of FPAs with ESA countries

Country	Period	Fishing Opportunities	Total EC Financial Contribution	%age for targeted actions ¹²
Comoros	2005-2010	40 seiners 17 surface longliners	€390,000	60%
Madagascar	2007-2011	44 seiners 44 surface longliners	€5,940,000 (€990,000/year)	80%
Mauritius	2003-2007	41 seiners 49 surface longliners. Line fishing is set at 25 grt/month, averaged yearly	€ 1,950,000 (€ 487,500/year)	40%
Seychelles	2005-2011	40 seiners 12 surface longliners	€ 24,750,000 (€ 4,125,000/year)	36%

Source: http://ec.europa.eu/fisheries/cfp/external_relations/bilateral_agreements_en.htm and updated from other sources for Madagascar.

35. The underlying assumption of Fisheries Partnership Agreements between the EU and ACP countries is that the ACP country concerned is not able to exploit their fisheries resources fully so there is a surplus stock. FPAs involve the EU paying a financial contribution for access to the fishing zones of the country concerned and establishing targeted actions with the partners with a view to supporting their fisheries sector and contributing to sustainable fisheries in their waters. A financial contribution is also required of vessel owners wishing to operate within the framework of these agreements.

¹² This is the percentage of the EC financial contribution intended to be spent on actions to promote conservation of resources and sustainable development

36. Fisheries Partnership Agreements lay down the rules governing fishing activities of EU vessels in the EEZs of third countries. They must comply with the UNCLOS, which states specifically that FPAs can only be signed to exchange “surplus stocks”, that is, the stocks corresponding to the difference between a coastal country’s targeted management objective and domestic fishing capacity. A reliable assessment of this surplus is therefore a critical element of the compatibility of an FPA with UNCLOS. When reliable assessments are not available, the precautionary principle should be applied.

37. In return for access to stocks, the EC provides financial compensation. These may be untargeted, that is, directly paid to the state and normally appearing as a receipt in the national budget. They can also be targeted; that is, they finance natural resource management operations or development activities related to the fisheries sector. In contrast to the current trend in development aid, where budget aid is preferred to individual project aid, as agreed by both donors and aid recipients who are signatories to the Paris Declaration, the proportion of targeted compensations has increased significantly in most recent FPAs.

38. The 17 southern bilateral fisheries agreements between the EC and the ACP coastal states signed in the last 25 years have generated direct value added of about €412 million a year, 71% in the EC, and indirect value added of about €808 million a year, €650 million in the EC¹³. Total value added of the external aspects of fisheries management for the period 1993-97 is estimated at an average of €907 million a year, €694 million of which is generated by the southern agreements alone. Consequently, every €1 of public expenditure (Community compensation) generates about €3 in turnover.

39. From conversations with people in the fishing industry and the work done by Colin Barnes¹⁴ it would seem that the fishing industries in the ESA Indian Ocean island countries generate about Euro 500,000,000 worth of business per annum. This is about one third of the value of the total catch. Of this, only about Euro 8 million per annum is paid in license fees. Therefore, compared to the value of the catch and the overall contribution of the fishing industry to the IOC economies, the amounts paid in license fees are tiny – less than half of one percent of the value of the total catch.

40. The impact of fishing agreements on EU Member States varies from one state to another. Analysis shows that the effects of the southern agreements are concentrated in Spain, which obtains over 80% of the value addition and jobs. The cost of “non-agreement” is estimated at between €1.23 billion and €1.6 billion over 10 years.

41. A study commissioned in 2005 by the UK Department for International Development (DfID)¹⁵, highlights the main interests of the EU in signing fisheries agreements. They include:

¹³ Source: European Distant Water Fishing Fleet: Some principles and some data

¹⁴ Review of the Economic Contribution of Tuna and Tuna Like Fish to the Economies of IOC Member Countries.

¹⁵ Study quoted in *ACP-EU Fisheries Relations: Executive Brief* September 2006

- Supplying fish as raw material to the EU processing industry; given increasing demands on the EU market and decreasing supplies from its own waters due to over-fishing, the EU has to import about 60% of its fish requirements. Since 2000 an additional 9 million tonnes of fish annually has been needed to meet the demands of the fish-processing industry and domestic consumers.
- Maintaining fishing capacity outside EU waters. In the 1990s, ACP-EU fisheries agreements allowed an average of 800 EU vessels to operate in developing-country waters. The actual EU fishing effort deployed through ACP-EU fisheries agreements has since increased, owing to technological factors.
- Maintaining EU employment.

42. Other commentators suggest that a key objective of EU FPAs is the support of EU capital/business interests.

43. It can be seen from the above that the returns of the fishing industry, especially the part of the industry that operates outside the EU's waters, is of significant economic importance. It, therefore, follows that if the EC is to act in the best interests of its Member States, it will do all that it can to protect the interests of the EU's distant water fishing fleets. These interests should include ensuring that the fish resource being exploited by its industry is done in a sustainable manner, if the EU fishing industry sees access agreements as being long-term relationships. The ACP should, therefore, expect the EC to do what it can to negotiate fisheries agreements with ACP coastal and island states which are of benefit to the EU's distant water fishing fleets. These interests may not be the same as the interests of the ACP States.

7. Markets for Tuna and Tuna Products

44. According to the Tuna Market Report for the EU of September 2006¹⁶ the prices of canned tuna have been increasing over the years in all major markets. In September 2006 a carton of canned tuna sold at US\$24.00, which compares to US\$21.00 a year previously, which means a 14% price increase. This is significant in a market, where prices are maintained throughout the value chain, with especially the final distributor, the supermarkets and discounts, pressing for low prices.

45. The UK is the main importing country for canned tuna in Europe, with about 130,000 tonnes imported each year. The Seychelles is the UK's main supplier of canned tuna (28,800 tonnes in 2005, down from 29,500 tonnes in 2004) with Mauritius the second main supplier (24,900 tonnes in 2005 compared to 29,500 tonnes in 2004). In the first half of 2006, UK imports experienced a 7% decline, mainly due to substantial declines of Thai and Maldives exports. Mauritius

¹⁶ (<http://www.globefish.org/index.php?id=3134>)

is increasing its presence, and it is expected to continue to increase supplies after the opening of a new factory there.

46. The French market for canned tuna (107,900 tonnes in 2005) is slightly smaller than the UK market and French imports have declined, mainly owing to lower shipments from Côte d'Ivoire. Madagascar was the third largest supplier in 2005 (with 14,700 tonnes) and Seychelles the fourth largest supplier (with 11,300 tonnes). No other ESA country is a significant supplier of canned tuna to France.

47. In the first half of 2006, imports of whole tuna into Spain (fresh and frozen) declined sharply over the corresponding period of 2005 (35,700 tonnes in the first half of 2006 compared to 46,200 tonnes in the first half of 2005). Seychelles is one of the main supplying countries (16,700 tonnes in the first half of 2005 and 8,800 tonnes in the first half of 2006). A good share of these imports includes transshipment from Spanish vessels although, as transshipments, these are not classified as exports from Seychelles.

48. Tables 4 and 5 show imports of canned tuna and tuna loins into the EU.

Table 4 – EU Imports of Canned Tuna (2002 – 2004)

EU25 Imports of Canned Tuna (Major Suppliers)						
	Value in Euro ('000)			Volume (tonnes)		
	2002	2003	2004	2002	2003	2004
Total Imports	873,813	817,165	782,567	348,685	370,025	374,008
Total ACP	537,742	504,810	479,958	193,427	198,868	211,701
- Seychelles	177,590	163,540	141,376	57,627	52,342	54,297
- Ivory Coast	148,277	115,691	124,130	53,501	42,714	49,745
- Mauritius	70,853	59,910	67,924	27,097	28,513	35,066
Total GSP+	94,890	103,186	126,507	37,035	47,202	60,439
- Ecuador	74,411	79,405	92,955	29,265	37,306	46,123
- Colombia	18,138	18,426	25,000	7,011	7,811	10,499
Turkey	839	3,302	1,800	319	1,575	1,057
Morocco	3,155	5,154	2,810	535	967	448
Maldives	12,033	9,563	10,878	5,431	5,420	6,475
Thailand	118,455	107,708	93,153	55,629	61,014	49,528
Vietnam	3,987	3,300	2,120	2,378	2,379	1,554
Indonesia	19,715	13,237	11,260	11,590	9,575	8,240
Philippines	80,654	64,599	52,837	41,553	42,181	33,983

Source: EuroStat COMEXT

Table 5 – EU Imports of Tuna Loins (2002 – 2004)

EU25 Imports of Tuna Loins (Major Suppliers)						
	Value in Euro ('000)			Volume (tonnes)		
	2002	2003	2004	2002	2003	2004
Total Imports	191,940	216,463	184,519	56,239	78,270	66,440
Total ACP	28,595	21,619	32,601	8,623	7,080	10,695
- Kenya	8,767	9,353	23,218	2,484	3,042	7,510
- Ghana	1,529	2,309	3,366	504	847	1,413
- Ivory Coast	8,228	5,075	719	2,408	1,603	246
Total GSP+	149,503	176,250	141,048	43,060	63,276	50,891
- Ecuador	75,690	91,608	56,016	22,994	22,994	21,599
- Colombia	49,296	49,456	38,784	12,769	12,769	12,431
- El Salvador	--	38,784	1,461	--	527	8,654
Thailand	9,156	14,599	7,999	2,743	6,148	3,421
Indonesia	109	1,163	376	55	513	252
Philippines	48	182	78	23	113	55

Source: EuroStat COMEXT

49. It is expected that the price of canned tuna will continue to rise as a result of higher fuel and canning material costs and higher transportation costs. However, Globefish reports that studies have shown that the market could in the long run support a doubling of canned tuna prices. Canned tuna prices have been stable over 20 years, which is far below inflation rates.

8. Competitiveness of the EU Fishing Industry

50. At the conference on tuna¹⁷ held at the headquarters of the Spanish National Association of Producers and Manufactures of Seafood Products (ANFACO) in Vigo, Spain, on 11th September 2006, participants from the EU tuna sector said that full liberalisation of the EU tuna market would open it up to massive imports from Asian countries. They described it as 'economic suicide' for the EU, as it will lead to major job losses and closures. The president of the French tuna sector explained that the EU tuna industry was reaching its profitability limits, given the rising costs of raw material, due to decreasing catches, and the high price of fuel for the fishing fleets.

51. Both the EC and the EU fishing industry agree that the EU's distant water fishing fleet should remain operational in the ACP EEZs. For the fishing industry the reasons are purely economic. For the EC, the reasons are more complex. The EC (and the European Parliament) are of the opinion that Fisheries Partnership Agreements must remain in place if the EC is to be able to honour its commitments to implement the Code of Conduct for Responsible Fisheries (FAO-1995) and the Compliance Agreement with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO-1993). This position is included in the Council Resolution of 8th November 2001, which acknowledges the potential role of fisheries agreements in contributing to the reduction of poverty when they are designed and implemented in respect of the sustainability principles.

52. Although both the private and public sectors of the EU want to remain operational in the ACP EEZs, both also recognise that the EU's fishing industry is uncompetitive. The distant water fishing fleet is not able to compete against third countries' ships from, for example, Taiwan and the Philippines. These countries are not obliged to meet EU technical, social, labour and sanitary standards, which are the main reasons given by the EU's distant water fishing fleet owners to explain the reduction of the EU long distance fleet by 70% over the last two decades.

53. Rather than taking steps to make the industry itself more competitive, the EC has, in the past, concentrated on using administrative measures to both reduce the overall costs to the EU consumer of fish and fish products sourced from the EU/ACP's fishing industry and to increase the cost of fish and fish products sourced from non-EU/ACP suppliers. This has been done using a combination of restrictive Rules of Origin, subsidies, SPS measures and preferential market access arrangements.

¹⁷ See Agritrade Fish News October 2006

54. However, the EU fisheries sector is now taking steps to try to improve its competitiveness. In January 2007, during a public hearing to discuss a framework to strengthen the competitiveness of EU fishing fleets operating outside Community waters, EU Fisheries Commissioner, Joe Borg, promised that the Commission will study the proposals presented by the EU's fisheries sector (mainly aimed at reducing fiscal taxes and labour and social charges) to verify whether they are compatible with EU competition rules and, if so, to present a legislative proposal to EU Fisheries ministers next year.

55. The EU tuna sector continues to warn of the socio-economic consequences of tuna-trade liberalisation, and so put pressure on the Commission and Parliament, but it has also started to take steps to adapt, including expanding their markets in new EU Member States, and relocating some of their operations to third, non-ACP countries, that benefit from, or will soon benefit from, trade liberalisation measures.

56. If the EU fishing sector is not able to become more competitive one consequence could be that the size of the EU's distant water fishing fleet may be reduced. This does not necessarily mean that the EU's boats will be decommissioned – rather that they could be re-flagged to avoid having to comply with the expensive regulations imposed on EU vessels. At the moment owners of the EU's distant water fishing fleet are able to absorb higher operation costs because of the preferential market access conditions they have access to and because of the subsidies they benefit from.

9. Conclusions

57. Restrictions imposed by Lomé and Cotonou Rules of Origin have been a source of contention in EU-ACP fisheries relations for many years. As the ACP has virtually no industrial fishing capacity, ACP canneries need to purchase fish caught outside their territorial waters from the EU's distant water fishing fleet if this processed fish is to benefit from preferential access into the EU. This is not the same for canneries based in the EU (which are sometimes owned by the same companies which own the canneries in the ACP countries), which are able to buy tuna and tuna-like fish caught by boats owned by third parties and to import this into their processing plants in the EU free of duty.

58. In effect, the Lomé/Cotonou Rules of Origin as they apply to fish have limited the growth of the ACP processing activities by restricting their possible sources of raw material (although this is probably more true for the Pacific region rather than the Indian Ocean). These Rules of Origin have also created an incentive for ACP countries to grant EU vessels preferential access to their EEZs so as to ensure that their tuna canneries are supplied with 'originating tuna'.

59. Tuna (canned tuna and tuna loins) is considered to be a very sensitive commodity for the EU by the EC itself¹⁸, in particular canned tuna and tuna for use in the processing industry. If changes in market access conditions (including changes in preference margins and Rules of Origin) result in a reduction in the

¹⁸ (see http://ec.europa.eu/trade/issues/sectoral/agri_fish/fish/pq_en.htm)

size of the EU's distant water fishing fleet this would have severe consequences on employment in the EU and the fishing industry, particularly in Spain and, to a lesser extent, France. EU vessels operating under the so-called "southern agreements" have about 13,000 fishermen of EU nationality on board. Indirect employment resulting from the "southern agreements" is almost 19,000 persons per year, of which 18% are in the canning industry¹⁹.

60. Changes in market access for fish and fish products, in particular the industry dependent on tuna and tuna-like species, could also have a number of economic impacts on the ACP countries concerned, including on:

- revenue from fishing agreements (multilateral, bilateral and private);
- revenue from license fees;
- expenditure by fishing vessels at transshipment to reefer vessels at port (port and harbour dues, taxes, services, repairs, etc);
- tuna processing (employment in canning factories and from fish processing);
- ship building and repair;
- net making and repair; and
- production of inputs for fish processing (e.g. production of salt in Madagascar for fish processing);

61. It is assumed that fish and fish product exports into the EU will continue to face challenges in the next few years which will be a result of a combination of possible changes in rules of origin, reductions in subsidies, erosion of ACP tariff preferences, higher fuel prices, costs of labour, costs of services (water, electricity, transport, etc) more stringent sanitary and phyto-sanitary conditions and higher prices of inputs used in production, especially of canned tuna.

62. In order to remain competitive in the EU markets for marine fish and fish products the ESA suppliers will need to address these challenges in a holistic manner, meaning that it will not be enough to simply address Rules of Origin. Even if the Rules of Origin which are adopted are the optimum rules for the country concerned (and there can be no single set of rules of origin which can be optimal for all ESA countries exporting fish and fish products to the EU in that Rules of Origin cannot be, by definition, optimal) this alone will not ensure the future success of the export industry.

63. As has been said previously, different ESA countries see their marine fishing industries developing in different ways. There are those that view the existing arrangements as beneficial and do not see that there is a need for change. For example, Seychelles has a large stock of tuna and tuna-like fish in its EEZ, although not sufficient to meet the needs of the cannery. They have a FPA with the EC that, in all probability, provides the country with more money from the access component than they would get from selling licenses to private fleets or boats. They also get additional money from the FPA to support a sustainable

¹⁹ IFREMER - *Study on the Evolution of the Fisheries Agreements concluded by the EU*. 1999. Also quoted in Durazzo (2004)

fishing policy. Seychelles does not have its own purse seine fleet²⁰. The canning factory in Seychelles is able to source sufficient amounts of fish from the EU's distant water fishing fleet. Seychelles has also built up a long-term relationship with the EC which most would regard as mutually beneficial. Under these circumstances it is not difficult to understand that many in Seychelles favour the maintenance of the *status quo* and are wary of change that may upset the balance.

64. Conversely, a country such as Mauritius faces a different set of factors affecting the growth of its fishing industry. Mauritius does not have a large stock of tuna and tuna-like fish in its EEZ and sources its fish for its canning and processing industry from boats fishing in the EEZs of other countries, such as Seychelles, or from boats fishing in international waters. Mauritius has a policy to develop as a sea-food hub and has recently expanded its capacity to process fish. It would like to take advantage of the preferential market access it has into the EU but has difficulty in accessing sufficient fish to process which is deemed to be originating. Under these circumstances it is not difficult to understand why Mauritius would like to see a relaxation of the originating-conferring parts of the rules of origin.

65. Other ESA countries do not have as much at stake as Mauritius and Seychelles regarding changes to the marine fisheries Rules of Origin but would still be affected by change.

66. In a paper prepared for a meeting on fisheries in January 2007, organised by the Commonwealth Secretariat, Block and Grynberg (2007) argue that the EU is planning on at least another decade of continued access to ACP waters and will thus not agree to a radical revision of the Rules of Origin in this period. Based on this assumption, Block and Grynberg recommend a phased approach to changing the Rules of Origin, starting with a liberalisation of Cotonou Rules of Origin (such as increasing the level of the value tolerance, removing the crew nationality restrictions, easing conditions under which an ACP State can lease or charter a vessel, improved cumulation provisions and escalating automatic derogation provisions) and then addressing a more fundamental and long term reform of the Rules of Origin.

67. This phased approach to changing the Rules of Origin would appear to be a practical one, as long as the EC is convinced of the need for a revision clause in an EPA, mainly because, if an EPA (including a fisheries component) is to be signed by the end of 2007, there is not enough time to start negotiations on Rules of Origin from scratch. A compromise approach would be to start with the Cotonou Rules of Origin, identify the main constraints to the further development of the sector in these Rules of Origin (if appropriate), and propose changes to remove these specific constraints.

²⁰ There is a difference in the requirements of a purse seiner and a longliner. A purse seine boat is a significant investment (around US\$25 million) and it is more likely that ACP countries can develop and maintain a fleet of their own longliners than it is that they could develop and maintain their own fleet of purse seiners. However, this ignores the difficulty an ACP country will have in finding locally the specialised skills needed to operate a purse seiner or a local crew prepared to man a freezer longliner, given the long cruises of these longliners.

68. The main changes to the fisheries rules of origin which are being discussed in various circles include a change to the ownership criteria, a change to the crew nationality criteria, a change to the criteria governing use of charter boats and a change to the value tolerance rules. These proposed changes, which refer to changes to Article 3 of Protocol 1 of the Cotonou Agreement, and their implications, are discussed below.

Change in Ownership Criteria

69. Chapter 3 of Protocol 1 of the Cotonou Agreement specifies that fish are only considered to be originating if (among other things), they are caught by a fishing vessel that is registered and recorded in, and sails under the flag of, an EC Member State or an ACP State or an OCT and which is at least 50% owned by EC or ACP or OCT nationals. A number of stakeholders would like to see a relaxation of these ownership criteria so that fish which is caught in an ACP EEZ and which is to be processed would be considered to be originating (and so would receive preferences) if the fishing vessel was owned by, and flying the flag of, a third country national. The implications of such a change to the ownership Rules of Origin would be that canning factories in the ACP would be able to source fish from third-country boats and for the processed fish (i.e. fish transformed from Chapter 3 to Chapter 16) to benefit from preferential access into the EU market. This is a recommendation emanating from the Pacific region, although other commentators remain sceptical about the effects of such a change in Rules of Origin in that the main constraint is regarded as a supply-side constraint - the physical stock - rather than Rules of Origin. Such a change in Rules of Origin would mean that the fishing effort of 3rd countries would need to be matched with a corresponding decrease in the fishing effort of the EU's DWF.

70. There are, in fact, some economic operators in the EEZs of the ESA that fear that a change in ownership rules as described above would have a detrimental effect on fish stocks, would lead to an increase in IUU fishing and that it would be even more difficult than it currently is to monitor what was caught in the EEZ and what was caught outside of the EEZ. These are valid concerns although it could be argued that many of them apply to the existing situation and point more to the need for an improved fisheries management systems, including a monitoring, control and surveillance mechanism, and its implementation, rather than an argument not to consider changing the rules of origin.

Crew Nationality Requirements

71. The Cotonou Rules of Origin state that in order for fish to be considered originating, at least half of the crew of the fishing vessel which catches the fish must be EU or ACP or OCT nationals. Those that would like to see a change in this requirement are usually ACP nationals operating longliners and who have difficulty in getting sufficient numbers of ACP crew to man their boats.

72. However the EU's distant water fishing fleet, which is predominantly a purse seine fleet, employs over 2,000 ACP nationals. These ACP nationals benefit from EC laws governing labour and social conditions. There is an argument that says that if the crew nationality requirements were not in place

these ACP nationals will be replaced by third-country nationals who will work more days per month, longer hours and for less pay. However, this argument seems to ignore the fact that, whoever is employed by the EU distant water fishing fleet, they will still benefit from the EU's labour and social conditions of employment. It also ignores the fact that the EU DWF seems happy with the work-rate and skill levels of the ACP nationals they already employ as crew. The cost of the non-specialised crew (often Senegalese) is marginal in terms of overall operating costs and skippers and senior crew are well paid, whatever nationality they are.

73. It is difficult to see how a relaxation in crew nationality requirements would be an overall benefit to the ESA's fishing industry. It may be easier for some ACP-owned longliners to operate but the downside would be that the jobs of the ACP crews on the EU's purse seiners could be at risk.

Relaxation of rules governing use of chartered boats

74. The rules governing the use of leased or chartered boats are complicated and difficult to comply with. First of all, the ACP state wishing to charter or lease the boat must prove that it has offered the EC the opportunity to negotiate a fisheries agreement and that it has refused. In addition, the crew nationality criteria apply. Finally, the charter or lease contract has to be accepted by the ACP-EC Customs Cooperation Committee as providing adequate opportunities for developing the capacity of the ACP State to fish on its own account and in particular as conferring on the ACP State the responsibility for the nautical and commercial management of the vessel placed at its disposal for a significant period of time.

75. Although these rules are difficult to comply with, they will be difficult to change and there are easier way to achieve the end result, which is to ensure the sustainable development of the fishing industry.

Change to the value tolerance rules

76. The Cotonou value tolerance rule allows for a margin of value tolerance of up to 15% of a consignment of canned tuna to contain non-originating fish. However, for a number of reasons, exporters do not, or can not, take advantage of this value tolerance, nor, it seems, have they ever needed to.

77. ACP countries also have an automatic annual derogation to supply 8,000 tonnes of canned tuna and 2,000 tonnes of tuna loins that do not conform to the Cotonou Rules of Origin to the EU. Some stakeholders see the problems of complying with the Rules of Origin as being for the EC to increase the level of this automatic annual derogation.

10. Recommendations

78. In recognition of the fact that negotiations on fisheries Rules of Origin between the ESA region and EC cannot be done in isolation to other factors affecting either the market access of canned tuna and tuna loins or the need to enforce sustainable fishing practices, the ESA region was in favour of negotiating

a Fisheries Framework Agreement with the European Commission. However, the EC has consistently rejected the option of negotiating a FFA with the ESA region, partly because of their view that fisheries needs to be negotiated within an EPA and so should address market access aspects but not issues which are more traditionally addressed in a bilateral fisheries agreement, including assess to the fish stock, management issues and sustainability issues. The Commission has been consistent in its view that development aspects should be addressed as a programming aspect of the EDF and so part of the programming of the EDF10 Regional Indicative Programme.

79. If Rules of Origin (as they apply to fisheries or any other good which will receive preferences into the EU) are to be negotiated before the end of the year (2007) it may be practical to take a phased approach to the negotiations. In the first phase (2007) Rules of Origin could be negotiated on the basis of the existing Cotonou Rules of Origin. There could then be a review clause in the EPA which would allow for a more comprehensive revision of the rules at a later date.

80. Table 6 summarises the proposed changes and the opportunities and threats of changing the Rules of Origin as proposed by the Pacific Forum:

Table 6 Opportunities and Threats from a Change in the Cotonou Rules of Origin as proposed by the Pacific Forum

Changes to the Rules of Origin as proposed by Pacific Forum ²¹	Opportunities	Threats
<p>Originating fish is:</p> <ul style="list-style-type: none"> i) Fish caught anywhere by an ACP or EU flagged vessel. ii) Fish caught in the EEZ by any boat and landed in the ACP State. iii) Fish caught by any boat and which is processed in an ACP State such that substantial transformation, which is defined as a change of tariff sub-heading (6-digit), is deemed to have taken place. However, when a tariff sub-heading change only results in the product's transformation from fresh to frozen, such fish will not be treated as originating fish 	<p>These changes mean that canning factories and loining plants in ACP countries will be able to buy fish from any boat. Fish will be considered originating, so will benefit from preferential access into the EU, if it is processed in an ACP state, regardless of who catches it or where it is caught. This could increase the supply of fish to ACP canneries. However, this assumes that there is surplus fish stock in the Indian Ocean EEZs which can be exploited by non-EU and ACP flagged boats.</p>	<p>Non-ACP/EU flagged vessels landing catch in an ACP State could undercut the price of fish landed by EU boats. EU DWF may then not consider it economical to fish in the Indian Ocean EEZs so will reflag to a non-ACP/EU country to avoid having to comply with EU regulations which add costs to their fishing operations. Indian Ocean countries with FPAs will lose revenue which was previously obtained through the FPA. (although it should be noted that these sums are relatively small compared to the value of the fish landed). IUU fishing could increase as monitoring, control and surveillance of purse seiners operating in the EEZ will be more difficult, which could threaten the sustainability of the fishing industry.</p>

²¹ The wording, which was presented at the ACP Experts meeting in Brussels in January 2007, has been slightly changed so as not to refer exclusively to the Pacific ACP countries. The wording used by the Pacific Forum assumes that they will be able to agree a regional fisheries partnership agreement with the EC.

81. If not managed intelligently, a change in Rules of Origin for marine fisheries may have adverse economic and environmental effects for both ESA countries and the EU that could threaten the sustainability of the fishing industry in the Indian Ocean.

82. It should be appreciated that a change to Rules of Origin is not the main threat or the main opportunity for the tuna processing industry in the ACP Indian Ocean countries. Other threats and opportunities to this industry include:

- i) Costs of Production. Seychelles, with one of the largest tuna canning factories in the world, suffers from very high costs of production. The IMANI Report on the Seychelles (see references) quotes a recent estimate by the European processing industry of average daily standard labour costs of US\$22/day for Seychelles, US\$9.95/day for Mauritius and US\$ 4.3/day for Madagascar. In Asia the costs of labour are even lower than those of Madagascar. Add to this the high costs of services in most ESA countries. The cost of cans is also relatively expensive, cans being manufactured from imported coated tin sheeting in Seychelles and Mauritius. The costs of water (which in the Seychelles is desalinated water), electricity and transport are all higher in ESA countries than service costs in competitor countries.
- ii) Market Opportunities. Indian Ocean ESA fish producers rely heavily on the EU market to sell processed fish into, with the products being frozen fish, canned tuna and tuna loins. The rationale for this heavy dependence on the EU market appears to be because of the tariff preference offered for the processed fish (canned tuna and tuna loins – Chapter 16) and the zero rate applied to frozen fish (Chapter 3). However, there may be new market opportunities which can be explored in the region for canned tuna especially. The COMESA FTA and SADC Trade Protocol could offer preferential market access into relatively large markets such as Egypt, South Africa and Kenya. In addition, marketing in Asia of higher-value products such as frozen fish to be used for sashimi in Asia²² and Europe could be explored. A sashimi market is developing in Europe, while prices have been dropping in Japan as a result of changing consumer preferences amongst the younger generations of Japanese.
- iii) Preference Erosion. The negotiations taking place at the WTO regarding non-agricultural market access (NAMA) aim to reduce tariffs across the board, especially tariff peaks and tariff escalations. If the negotiations are successful in this area it is likely that the MFN tariff on processed tuna will be reduced from

²² It would appear that the Japanese freeze fish to -60° and transfer the fish at sea into reefers, where it is stored at -45° and transported to Japan with little or no damage to the quality of the fish so that it can be used as sashimi.

24% to perhaps as much as half of this. The potential implications for the canning industry in the Indian Ocean ACP States are great. Because of the high costs of production, and perhaps the higher costs of the originating tuna which is supplied by EU boats²³, if preference margins are reduced it will be difficult, if not impossible, for some of the canneries in the ESA region to compete against the Asian and Latin American producers in the EU market.

- iv) WTO subsidies. Although there may be new disciplines on fisheries subsidies introduced and existing disciplines tightened, it is unlikely that revenue from fishing agreements or license fees will be considered to be actionable subsidies. However, ESA countries should be active in the WTO to ensure that their interests are taken care of.

83. It is, thus, recommended that other steps (such as reducing costs of production, exploring other markets and other products with a higher value addition) are explored in parallel with looking at changes to the existing Rules of Origin to ensure the future sustainability of the tuna processing industry. Changing the Rules of Origin to those recommended by the Pacific Forum, for example, would be a high risk action for ESA countries which rely on revenue generated from extraction of the fish stock from their EEZs as well as canning of fish sourced from their EEZs (such as Seychelles) and perhaps lower risk for ESA countries which rely more on revenue from processing fish obtained from outside of their EEZs (such as Mauritius).

84. In addition to adopting a cautious approach to liberalising existing Cotonou Rules of Origin, the ESA region may wish to take a holistic approach and request the EC to broaden the negotiations taking place in the fisheries sector so that a broader partnership can be entered into which would cover aspects of mutual interest, including:-

- exploring the possibility of developing a common, mutually advantageous, position with the EC on fish subsidies negotiations taking place at the WTO, although bearing in mind that there may also not be a mutually advantageous across-the-board position;
- developing a common position on tariffs which apply to Chapters 3 and 16 of the HS classification in the NAMA negotiations taking place at the WTO;
- agreeing a fisheries development component which will encourage investment from the EU into the fisheries sectors (both fishing and canning sub-sectors) of the ACP and which will encourage technology transfer to this sector; and
- agreeing a fisheries development component aimed specifically at improving the sustainable management of the fish stock..

²³ It is not clear whether the tuna more expensive because of its originating status or because of its superior quality.

85. If the fisheries industry (canning and catching) is to be sustainable on a long-term basis, and whatever the outcome of the negotiations on Rules of Origin, subsidies and margins of preferences (MFN tariff levels), flanking measures will need to be put in place. These flanking measures include:

- measures put in place to accurately determine stocks and levels of sustainable off-take;²⁴
- improvements made to the ACP's Monitoring–Control–Surveillance (MCS) and enforcement systems to ensure that the fish stocks in the EEZs are not over-exploited or fished in an unsustainable way;
- measures to encourage significantly higher levels of investment in the ACP's own fishing industry; and
- measures put in place to ensure transfer of technology from the EU to the ACP States.

86. Although the process of erosion of ACP margins of preference is inevitable, it is vital that ACP fish-exporting countries adapt to the new global context, and improve their competitiveness. In the context of EPA negotiations, ACP countries should use the EPA negotiations as an opportunity to secure EU development support to improve their fish-landing, transport, and processing infrastructure, and improve the capacity of their fish-processing-and-export sector to comply with international standards of sanitation, etc.

87. There is also a need to both reduce costs of production as well as explore alternative markets for ACP fish products, locally, regionally and internationally. For example the COMESA Free Trade Area offers a relatively large market for canned tuna which can be supplied by existing canneries in Seychelles and Mauritius and new canneries in other ESA countries free of duties as long as COMESA Rules of Origin are complied with.

²⁴ Tuna migrate widely so the notion of a fish stock in an EEZ is meaningless. The capacity is managed by IOTC through flag State authorisations rather than the issuance of licenses for an EEZ.

Annex 1

Description of the Marine Fisheries Industrial Sector in ESA Coastal and Island States²⁵

Comoros

Fish catches rose gradually during the 1990s, but the sector remains underdeveloped. At present local inshore fishermen, using canoes, catch about 13,000 tonnes/year (production was estimated at 13,730 tonnes in 2000).

About 8,000 people fish full- or part-time, but most lack modern equipment that would allow them to venture far offshore. The catch could reach perhaps 20,000 tonnes/year if boats ventured up to 50 km offshore.

European boats catch fish under a fishing agreement between Comoros and the EU. The latest version of this runs from 2005 to 2010. Under the agreement, 57 EU vessels can operate in Comorian waters, with total compensation of €390,000.

Djibouti

There are no large-scale fisheries in Djibouti. Much of the fishing is carried out at the subsistence level, using hook and line and target demersal and reef species. To a lesser extent, gill and throwing nets are also used. Lobsters are of minor importance, and are collected by local divers. Fishing effort is generally low. Landed catches consist almost entirely of large fish that fetch higher prices in the market. Fish are marketed fresh and there is no processing that can be considered of much relevance.

At current levels of landings of 350 tons per year, Djibouti's fisheries are considered underutilised. The Direction d'Élevage et des Pêches (DEP) is currently implementing policies to recruit and train Djibouti citizens as fishermen to increase production, towards a projected Maximum Sustainable Yield of 5,000 tons annually.

Eritrea

Eritrea has an EEZ of 121,000 km². The waters of the southern part of the Red Sea are highly productive and support substantial populations of over 1,000 species of fish and 220 species of corals. Though systematic stock assessments of commercially important species are not carried out routinely by the Ministry of Fisheries, estimates of an aggregate maximum sustainable yield (MSY) for such species are between 70,000 and 80,000 tonnes (Research and Statistics, Ministry of Fisheries, Massawa, Eritrea).

²⁵ Most of this information comes from the FAO website - <http://www.fao.org/fi/fcp/fcp.asp>

All fishing is carried out under licenses issued by the Ministry of Fisheries. In 2002 there were 233 active artisanal fishing licences in addition to 30 industrial fleet licences issued to four foreign companies.

Exports comprise fresh whole fish, semi-processed (gutted) and salted/sun-dried products. Local private and parastatal companies export fresh, frozen whole and partially processed fish (groupers, emperors, snappers, grunts, lizardfish, threadfin breams and shrimp) to the markets in the Middle East and Europe. In 2001 Eritrea exported over 15,448 tonnes of fish to Egypt, Saudi Arabia, the UK, France and the Netherlands.

Kenya

Kenya's Indian Ocean coastline is about 640 km, and hosts a largely artisanal marine fishery. Current production averages 7,000 tonnes. The contribution of the marine sector to overall national fisheries production is very modest, accounting for only 3-4 percent annually. Most fishing activity is confined to the shelf area close inshore along the coral reef.

The DWF comprises purse seiners and longliners, fishing under access fee arrangements with the Government, with no obligations to land or trans-ship catches in the country. This arrangement limits the country's benefits from its EEZ fishery and denies Kenya development aspects associated with transshipment, landings for processing or even by-catch trade.

Marine fishing industry creates significant employment opportunities among the local communities. Although recent figures are not available, it is estimated that the total number of people employed in the commercial fisheries sector is around 27,000 distributed between sea and shore-based activities. In addition to these, it is estimated that another 60,000 people find employment in ancillary industries or sectors, such as market for supply of stores, equipment and services.

Not much information is available concerning the economic potential of the fish stocks of Kenya's EEZ including species composition, distribution and abundance, biology or their relationships with the environment. The Kenyan EEZ is believed to have vast fishery resources that are under-exploited by Kenyan nationals but are fished by DWF fleets either on access licences or as IUU fishing vessels.

Madagascar

The main economic impacts of tuna fisheries are centred in Antsiranana (Diego Suarez) in the north of Madagascar. European purse seine vessels land occasionally here during the seasonal movement of tuna purse seine fleets into the Mozambique Channel. There is a tuna processing plant in Antsiranana and other facilities including dry dock and repair facilities which are mainly used by Spanish purse seiners. Like Mauritius, additional supplies of tuna are obtained from Seychelles in order to maintain the continuity of supply to the fish processing plant. There are plans under way to improve the port facilities in Antsiranana. In addition to the port, ship repair and tuna processing activities linked to tuna

fisheries, salt produced near Antsiranana is exported to the Seychelles for use in brine tanks of tuna vessels.

However, the shrimp industry, with most production coming from farmed shrimps, is one of the most dynamic sectors of Madagascar economy. Exports of fishery products, valued at US\$126 million and US\$161 million for 2000 and 2001 respectively, account for 13% of total export earnings and represent the second source of foreign exchange earnings after tourism. These resources come primarily from shrimps (approximately 73% of the total). Almost the entire production of shrimps is for export.

Production from shrimp fishing and farming (metric tons)

Production / Year	1995	1996	1997	1998	1999	2000	2001
Industrial fishing	7 632	8 136	8 146	8 782	7 888	8 303	8 019
- coastal shrimps	7 632	8 136	8 146	8 782	7 888	8 303	7 889
- deep shrimps							130
Small-scale fishing	283	334	609	446	480	412	437
Traditional fishing	2 000	2 000	2 000	2 242	2 139	3 412	3 450
Total Fishing:	9 915	470	755	470	507	127	906
Total Farming:	1 500	2 425	2 477	2 492	3 486	4 800	5 399
Total production	11 415	12 895	13 232	13 962	13 993	16 927	17 305

Source: Service statistique de la Direction des Pêches (annual report 2001)

The EC and Madagascar concluded a new six-year fisheries partnership agreement in 2006 which came into force on 1st January 2007. This new agreement, which exclusively covers tuna, allows for an increase of the number of EU vessels from 80 to 88 vessels (44 seiners (previously 40) and 44 long-liners (40)).

The annual EU financial contribution of €990,000 is made up of €715,000 as compensation for a reference amount of 11,000 tonnes of tuna catches per year, and a specific allocation of €275,000 to support Madagascar's national fisheries policy. The contribution by vessel owners has been increased from €25 to €35 a tonne, and the EU contribution has been reduced in proportion from €75 to €65. The contribution from vessel owners will come to €385,000 if all licences are taken up, making a total contribution of €1,375,000. The Government of Madagascar has agreed to dedicate 80% of the total financial contribution to the promotion of sustainability through their national fisheries policy.

Mauritius

Mauritius has an EEZ of 1.9 million km² with a stock of pelagic and demersal species. Fisheries resources exploited include the island-based artisanal fisheries, the offshore demersal fishery and the tuna fishery in the Western Indian Ocean.

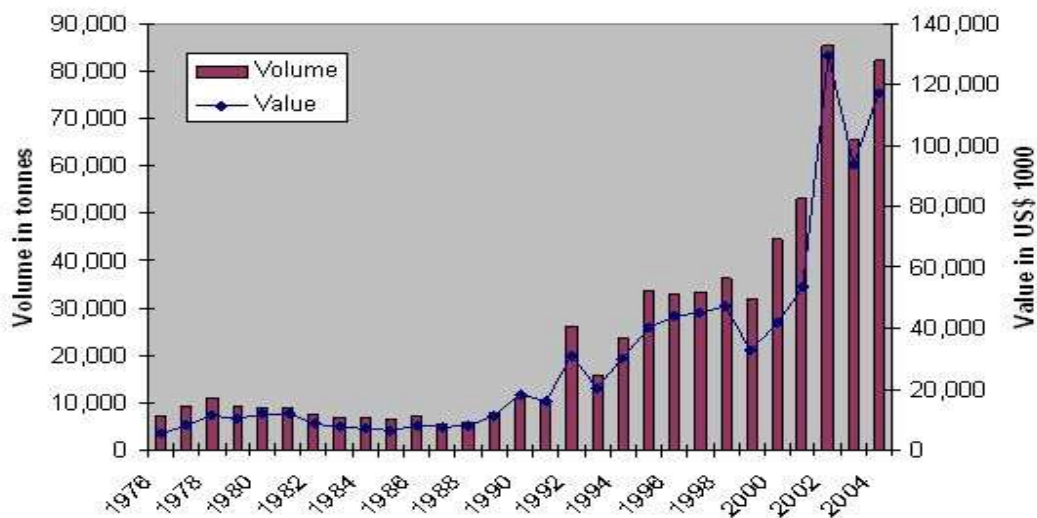
The tuna fishery is the major industrial fishery of Mauritius. Transshipment constitutes a very important related activity. In 2004, a total of 14,255 tonnes of tuna and tuna-like species were transhipped at Port Louis by licensed and non-licensed longliners. Most of the product transhipped consists of albacore tuna. Three Mauritian vessels were involved in the longlining fishery, and they landed a total of 1,117 tonnes. European purse seiners operating in the Western Indian

Ocean landed (mostly by reefer from Seychelles) 47,705 tonnes of tuna, which went to the local cannery.

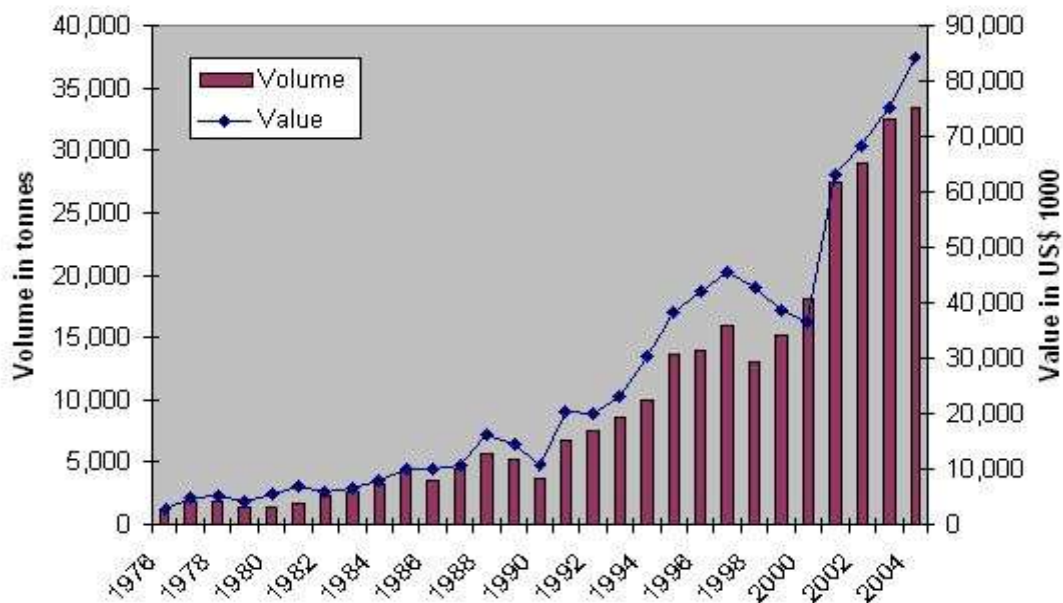
The fisheries sector accounts for one percent of GDP and employs about 11,000 people. Although local production does not suffice to cover market needs, it provides employment and returns for inhabitants of coastal regions.

The sector also generates revenue for the national budget in the form of foreign license fees, import permit license fees and sale of produce. In 2004, there were more than 250 tuna vessels that called into port for transshipment, bunkering, repairs, maintenance and dry docking, and this generated significant revenue for the country. Over 600 calls from foreign longliners were registered in 2005.

Volume and value of Mauritius seafood imports



Volume and value of Mauritius seafood exports



All the artisanal fisheries catch and 90 percent of the banks fisheries catch is consumed domestically. The fish from the artisanal fishery is consumed fresh, as delivery is rapid from the 61 landing sites to sales points inland. About 100 tonnes of chilled fish is landed by the semi-industrial chilled-fish fishery. The fish is retailed from chilling cabinets or iced. Princes Tuna Mauritius (PTM), a canning factory employing about 2,000 people, processes about 50,000 tonnes of canned tuna for export to the EU market. The Thon de Mascareignes, a joint Mauritian-Spanish venture, started operation in 2005 with a projected production of about 50,000 tonnes of loins annually.

Local fish processing plants import all the raw materials used in processing and value addition. A new tuna cannery started operations in 2005, with a capacity to process 185 tonnes of tuna per day or 45,000 tonnes per year. In 2005 the cannery produced canned tuna, pet food and fish meal. The export value amounted to 3.0 billion rupees (US\$ 94 million) and local sales fetched Rs.80.5 million (US\$ 2.5 million).

Fresh and chilled processed swordfish and tunas are produced by the Pelagic Processing Company Ltd, exporting mainly to France.

The island of St. Brandon produces salted fish from frozen barracuda imported from Namibia and New Zealand. Salted fish is well appreciated by the local population, although production does not follow international norms. Two companies are engaged in this production and they exported 152 tonnes to the UK, Reunion Island and France last year.

Fish balls, fish fingers and fish burgers are produced in three factories in Mauritius, maintaining high standards of hygiene. Hake and sea bream are imported from Malaysia and Singapore for this purpose and the total production is sold on the local market. Processed products are distributed using refrigerated trucks. Operators also produce fish patties, fillets and steaks, which are vacuum packed and sold at supermarkets in chilled or frozen form. One factory smokes tuna, marlin and swordfish for local consumption and export. Another operator is using reject tuna from processing plants and fish waste imported from South Africa to produce fishmeal for livestock and fish feed.

Fish exports have grown markedly over the past five years. Much of this is re-exports of processed fish. The bulk of the fish exports are canned tuna, tuna loins, a small quantity of fresh fish and pet food. The value of exports tends generally to balance with that of imports, and over the last five years the balance of payment has been positive. The year 2005 showed a positive trade balance of Rs 581 million (US\$18.2 million), including activities of small and industrial sectors. The main markets are the United Kingdom, France, Netherlands, Germany, Belgium, Finland, Greece, Spain, Japan, Kenya, Zambia, and Zimbabwe. Mauritius is also prospecting the US market for fresh fish.

The present policy of the Government of Mauritius is, jointly with the private sector, to develop the economy around the concept of a seafood hub. This will require increasing and diversifying local seafood production (which presently

does not satisfy local consumption), exports of fish products, huge investments in local infrastructure, quality assurance, training, management and the courage to replace traditional methods with modern technology.

Investments in the seafood hub idea totals Rs2 billion (US\$ 62.5 million) so far, and the money is used to encourage efficient small-scale business development, based on human resources, information technology and value-addition to seafood. Seafood related sectors to be developed include fishing, transshipment, storage and warehousing, light processing (sorting, grading, cleaning, filleting and loining), canning and ancillary services including ship chandlery, bunkering, ship agencies and ship building and repair.

Administrative procedures for loading, unloading and export of fish and fish products is now done as a one-stop shop service, and the open-at-all-hours concept was introduced to ensure that services can be provided on a 7 days a week basis. New operators are encouraged to set up fisheries businesses in Mauritius.

For tuna, fishing agreements are in place with the EU, Seychelles (on a reciprocity basis) and Japan for fishing within the Mauritian EEZ. All foreign vessels need to have a license to fish in Mauritian waters. Local investment and joint ventures are also encouraged in tuna fisheries.

3.7 Seychelles

88. Seychelles has a land mass of 455 km² and an EEZ of 1.37 million km². With such a large EEZ, the fisheries potential is correspondingly large but Seychelles faces challenges in its further sustainable development owing to shortages of human and financial capital. Seychelles is trying to address these challenges through the creation of regional and international partnerships and by also developing its own capacity to manage these resources in a sustainable manner.

89. The Seychelles fishery sector has three main components: artisanal fisheries, carried out by local fishers, with small, motorised boats targeting mainly demersal and semi-pelagic species; semi-industrial fishery, consisting of small (from 14 to 22 m LOA), locally-owned long-liners targeting pelagic species (mainly tuna and swordfish); and industrial fisheries, comprising foreign-owned purse seiners and large long-liners primarily targeting tuna species (yellowfin and skipjack). There is a fish processing industry, with two fish processing plants producing for both the local market and export, and a large canning factory processing an average of 350 tonne of tuna a day, mostly for the export market.

90. As of March 2005 there were 45 licensed foreign purse seiners, of which 34 were Spanish and French (under the EU Agreement) and the remaining 11 were registered in the Seychelles (foreign-owned vessels). The long-liners are Taiwanese- and Japanese-owned, generally operating on a 6-month licence.

Summary of Seychelles fishing fleets and landings

Vessel Type	Number of Licenses	Total Catch (Tonnes)
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	Issued	2002	2003
Purse Seiners	48	379,253	407,684
Longliners	415	6,792	6,273
Semi-Industrial Vessels	7	247	92
Artisinal	417	4,915	3,852

Source: FAO Country Profile - Seychelles

91. Seychelles is a regional hub for industrial tuna fisheries, supporting a large canning factory, a major transshipment port, and ancillary services for the substantial EU purse seine and Japanese and Taiwanese longline fleets licensed to fish in the EEZ. Industrial tuna fishing activities alone generated a gross amount of US\$57 million during 2002. In 2002, earnings from the fisheries sector and related activities contributed approximately 39% to the national gross current account receipts of US\$596.4 million, compared to the 26% generated through tourism. Around 14% of total formal employment in Seychelles is provided by the fishing sector. The artisanal and semi-industrial fisheries contribute to food security and generate foreign exchange earnings through the export of high value products.

92. The rapid development of fisheries in Seychelles has required a continual expansion of infrastructure and the enhancement of fisheries management expertise. The Seychelles Fishing Authority (SFA), established in 1984, is the executive arm of Government in the field of fisheries, with a mandate comprising management, planning, development, and scientific and training functions. Seychelles also hosts the headquarters of the Indian Ocean Tuna Commission (IOTC), a statutory body of the United Nations Food and Agriculture Organisation (FAO) with responsibility for regional cooperation, conservation and the optimal utilisation of tuna and tuna-like species. The Seychelles Bureau of Standards (SBS) has been designated as the official laboratory by the Seychelles Competent Authority (namely, the Fish Inspection Unit of the Veterinary Services, Ministry of Environment and Natural Resources) for the testing of all fish and fisheries products prior to export. A substantial quantity of the fish and fisheries products exported from Seychelles is directed to the European Union, and standard tests are required to ensure compliance of fish quality to the relevant European Union directives.

93. An annual average of about 200-300 tonnes of swordfish are landed in Seychelles. In the last few years, however, there has been a considerable decline in the catch (with landings of less than 100 tonne in 2003), due mostly to a ban on swordfish exports to the EU (in view of a high level of cadmium in swordfish). The catch is sold to two local exporting companies, exporting mostly on ice to the European Union (EU) (principally France, Italy and the United Kingdom).

94. The industrial fishery is operated by foreign-owned, licensed vessels, including some Seychelles-registered vessels, and has two main categories. The purse seine fishery (mainly French and Spanish vessels under the EU agreement) targets mostly surface-swimming tuna (skipjack and yellowfin), and the longline fishery (mainly Taiwanese and Japanese vessels) targets deep-swimming big-eye and yellowfin tuna.

95. The catch from purse seiners has remained stable over the last 10 years, with around 300,000 tonnes of tuna caught in waters in the South-West Indian Ocean (including 15% in the Seychelles EEZ). In the last two years, however, the catch has been exceptionally high, with landings of over 359,000 tonnes, the dominant species being yellowfin.

96. Approximately 85% of the tuna catch from purse seiners is transhipped in refrigerated vessels destined for Europe, Mauritius, Puerto Rico and Thailand. In 2003, 359,000 tonnes of tuna were transhipped at Port Victoria, including 90,000 tonnes delivered to the Indian Ocean Tuna canning factory for processing.

97. Seychelles also has a relatively small aquaculture (or mariculture) sector which farms prawns (In 2003, 835 tonnes of frozen prawns were exported, worth SR37.9 million) pearl oysters and giant clams.

98. In 2003, the export of fish and fish products accounted for 92% percent of Seychelles domestic exports, with the principal markets being France, Germany, Japan, Mauritius, Reunion and the United Kingdom.

99. With the emergence in the mid-1980s of Port Victoria as the principal tuna transhipment port in the region, and the development of the Indian Ocean Tuna canning factory, becoming the largest national employer in the late 1990s, the fisheries sector has established itself as one of the key sectors in the Seychelles economy. The estimated gross inflow from fisheries in 2003 was SR3,357 billion, or 12.5% more than earnings from tourism. Exports of fish and fish products in 2003 accounted for more than 92% of domestic export.

Quantity and value of export of fish and fish products

	2002		2003		Percentage Change	
	MT	'000 SR	MT	'000 SR	MT	'000 SR
Fresh and frozen fish	477	18,176	689	27,648	44.44	52.11
Canned Tuna	34,791	843,670	35,757	1,023,142	2.78	21.27
Frozen Prawns	218	8,724	835	37,976	283.03	334.81
Other processed fish	2,713	47,259	1,724	27,853	-36.45	-41.06
Dried shark fin and sea cucumber	39	2,134	249	1,919	533.33	-10.07
Others	--	--	9	108	--	--
Total	32,238	919,973	39,261	1,118,646		

Source: SFA Annual Report

100. Besides the canning factory and the prawn farm, which together employ around 4,000 workers, representing 10% of formal employment, other people directly employed in the local fishing industry as of March 2005 amounted to around 1,750 fulltime fishermen, representing 5% of formal employment.

101. The fisheries sector has a strong multiplier effect in that it provides employment to many people involved in the marketing, processing and sale of fish and fish products. The sector also generates a number of jobs in ancillary activities, including trap manufacture; net mending; boat building and repair; and marine engine repair. The fishing sector also has close links with other sectors of

Regional Trade Facilitation Programme

the economy, such as tourism, services, processing and manufacture, agricultural production, craft, etc.

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