

International fisheries access agreements: instruments of conservancy or exploitation?

The case of EU-Senegal

Emma Witbooi

PhD student

UCL, London

aim

- examine fisheries access agreements btwn EU-developing coastal states
- highlight: international fisheries regime tolerates agreements that contrary to overall tenet of fostering **sustainable use** of fisheries & SD in fisheries
- EU-Senegal arrangements serve as illustrative example

outline

- fisheries management difficulties
- response of international law
 - fisheries access arrangements
- colonial legacy
- case study:
 - EU's fisheries policy
 - Senegalese fisheries policy
 - analysis current agreement
- conclusion & way forward

Fisheries as common natural resource

- fisheries 'classic' example CNR
- exclusion & subtractibility problems
- management challenges: reg. access & control exploitation
- property regime needed (Hardin): state, private & common (?)
- aim effective management = sustainable use
- difficulty with fisheries: migratory
- domestic policies & internat cooperation required

Response of international law: UNCLOS

- Internat regime fisheries: reflects objective of sustainable use & SD of fisheries
- legal instruments primarily conservatory function
- UNCLOS
 - EEZ: conservation = prevent over-exploit & set TAC
 - optimal utilisation = stocks at MSY
 - art 62:
 - foreign vessels access to 'surplus' ito agreement
 - 'all relevant factors' to be taken into acc in negotiating
 - assumes neg power equal but largely NOT
 - surplus determination of developing countries also problem
 - result?= foreign fishing ito agree contribs over-exploit
 - agreements in compliance art 62 but contrary sust. use
 - access agreements = not conservatory but serve self-interest of 2 parties

Response of international law: Straddling Stocks & FAO Code Conduct

- Straddling Stocks Convention (1995)
 - first express ref to goal of sustainable use fisheries
 - prevent over-fishing & excess capacity
 - influence of Rio, Agenda 21 & J/burg Plan Implementation & CBD Jakarta Mandate
- FAO Code of Conduct Responsible Fisheries (1995)
 - sustainable use & SD of fisheries
 - benefit present & future generations
- so, 'sustainable use' of key objective of international law reg fisheries

Colonial legacy

- most EU access arrangements with W.African coastal states = ex-colonies of member states
- reflect colonial patterns nat resource extraction
- influenced by continual dependency on EU: trade & aid

Case study: Senegal-EU EU's fisheries policy

- EU has common fisheries policy
- aim: sustainable exploitation in context of SD
- SE = not prej future exploitation or adverse impact marine eco-system
- EU committed to promote in EU waters & outside
- NOT historically promoted SE in Senegalese waters
- SE not suffic reflected in agreement or practice

EU's fisheries access arrangements

- large % EC fleet fishes in other country's waters
to agreements
- agreement with Senegal one of over 20, + half
with W.African coastal states
- these 'first generation' (financial comp for access)
- EC motivation = socio-economic
 - employment (sea & land)
 - deploy overcapacity
 - meet EU market demand
- W.African motivation = financial
- EU pays up to 80% costs (subsidised)
- EU relied tradit on Senegal's decl of surplus
- calls for EU to assist /conduct stock assessment
- poor track record of promoting sustainability

EU's new 'fisheries partnership approach'

- part of EU's new strategy for distant water fishing
- aim = re-shape access arrangements w developing coastal states to foster sustainable fishing and fisheries development in their waters
- change to cooperative fisheries partnership agreements (FPAs)
- part of enhanced policy dialogue
- FPAs result in mutual benefits
- financial components:
 - access compensation &
 - new targeted payments for partnership activities
- incremental impl from 2003
- current agreement w Senegal signed on cusp

Senegal fisheries policy

- Marine Fisheries Code (1998)–
 - conservation measures
 - regulates industrial & attempts artisanal
 - foreign fishing regulated
 - poorly implemented
- National Fisheries Dev Strategy (2001) –
 - aim: foster sust fisheries mangement
 - also, only partial realisation
- key problems -
 - no national fisheries management policy (draft)
 - artisanal fishing unregulated
 - over-fishing coastal demersals
- political will is required to foster sust fisheries use
- current agreements with EU inadeq promote sust fisheries so not encourage shift in govt mindset; exacerbates unsustainable use of fisheries resources

Analysis of current EU-Senegal fisheries access arrangement

- numerous agreements since 1980
- mixed results: short-term ec benefits but disrupted local fisheries & contrib to over-fishing
- current agreement: July 2002-June 2006
- attempt to promote sustainable fishing =
- reduced fishing opportunities coastal demersals & no rights for pelagics (positive for artisanal & food security)
- technical measures -
 - reduced fishing zone for EU
 - incr local fishers employed & catch-landing requirements
 - biological rest period
 - stricter by-catch limitations
 - joint stock monitoring provisions

Current EU-Senegal agreement

- observer obligs, locals employed & trans-shipment
- ? 3 million annually for 'partnership' activities for develop sustainable fisheries in Senegal, eg -
 - stock evaluation & monitoring
 - fisheries monitoring & inspection
 - skills improvement & institutional support
- BUT:
 - improvements had minimal positive results in practice re promoting sust fishing or SD in fisheries
 - impl of many of provisions highly problematic eg. stock monitoring & partnership activities
 - no mention 'surplus' in agreement
 - no limit EU catch other than via GRT vessels

Conclusion & way forward

- EU-Senegal agreement complies art 62 UNCLOS but fails adeq promote key objective of sustainable use fisheries
- fisheries access agreements should be re-shaped so that = legal instruments with conservancy purpose ie. promote sustainable use of fisheries to preserve them at levels that can sustain long-term exploitation
- way to ensure this – ideas?
 - amendment UNCLOS unlikely
 - sufficient internat instrs promoting sustainable fishing – one more make difference?
 - unlikely able challenge coastal states for violation UNCLOS
 - attitudes of fishing states need change – what role for international community?