

# **International fisheries access agreements: instruments of conservancy or exploitation?**

## **The case of EU-Senegal**

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## 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/berg 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?