

Proposal for an LDAC advice on changes to EU SFPAs in relation to the use of fishing agents

Introduction

Fishing agents play a critical role in facilitating EU fleets fisheries operations in Africa. Fishing agents provide several services, from organising a license, arranging vessel inspections, recruiting crews, providing food and water supplies to vessels in port, arranging refueling, receiving and passing on information from the vessel to the authorities, etc.

Fishing agents are usually local citizens. In some countries, agents are certified and receive official authority to work. But there are countries where fishing agents are not subject to national certification, which means a person doesn't need a legal basis for acting as a fishing agent. Therefore, EU vessel operators have no way of verifying the legitimacy and legal standing of persons offering fishing agent services.

There have been serious concerns about such informal arrangements, including: the adequacy of measures in place to avoid conflicts of interests, the high levels of discretion in the setting of fees between agents and their clients and the lack of transparency regarding actual payments between agents and national authorities. Indeed, public knowledge of how much African states earn from foreign fishing is usually flawed, like the argument that foreign fishing companies get away with paying very low license fees. What is being obscured is the actual amount paid by vessels to their agents, as opposed as what is paid to the central treasury.

Other issues include inflated costs for services like the organization of inspections on board - as there are no fee structure made public by authorities, there is no way for the operators to check they are paying a fair price. The role of agents is an area where risks of corruption and unethical business practices are high.

The use of fishing agents under SFPAs

The obligation for EU vessel to employ the services of a local agent is included as a clause in SFPAs. For example, under chapter 1 of the annex to the Protocol agreement between the EU and Mauritania, point 6, "designation of an Agent" reads:

"An EU vessel must be represented by a local agent if it intends to land or tranship in a Mauritanian port and for any other obligation or practical matters resulting from this Agreement."

While there may be legitimate reasons to mandate the use of local agents for EU vessels operating under SFPAs for specific services, there is a need for the EU and partner third countries to establish what these services are and to ensure this sector is subject to reasonable professional standards. Specifically, it is recommended that, in future SFPAs protocols:

- The text of the protocol includes further detailed information on the roles and responsibilities of agents, which may include, for example, obtaining and processing license applications, transmitting catch data or arranging for vessel inspections.
- That the protocol sets out the fees agents must pay to national authorities on behalf of the industry for these specific services.

Furthermore, it is recommended that the EC instigates a discussion on whether it is necessary for some services, such as processing licenses and arranging for vessel inspections, to warrant the mandatory use by EU vessels of local fishing agents, whereas such services ought to be handled directly by the national authority.