

(b) where the Parties have entered into consultations within the EPA Committee as above and have failed to agree on an acceptable solution within three months following the notification, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned. A temporary suspension shall be notified to the EPA Committee without undue delay.

(c) temporary suspensions under this Article shall be limited to that necessary to protect the financial interests of the Party concerned. They shall not exceed a period of six months, which may be renewed. Temporary suspensions shall be notified immediately after their adoption to the EPA Committee. They shall be subject to periodic consultations within the EPA Committee in particular with a view to their termination as soon as the conditions for their application are no longer satisfied.

6. At the same time as the notification to the EPA Committee under paragraph 5(a) of this Article, the Party concerned should publish a notice to importers in its Official Journal. The notice to importers should indicate for the product concerned that there is a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud.

Article 23

Management of administrative errors

In case of error by the competent authorities in the proper management of the preferential system of export, and in particular in the application of the provisions of Protocol 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation, where this error leads to consequences in terms of import duties, the Party facing such consequences may request the EPA Committee to examine the possibilities of adopting all appropriate measures with a view to resolving the situation.

Article 24

Custom valuation

1. Article VII of GATT 1994 and the Agreement on the implementation of Article VII of GATT 1994 shall govern customs valuation rules applied to reciprocal trade between the Parties.

2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

CHAPTER III

FISHERIES

TITLE I

General provisions

Article 25

1. The Parties recognise that fisheries constitute a key economic resource of the ESA region, contribute significantly to the economies of the Signatory ESA States and have great potential for future regional economic development and poverty reduction. It is also an important source of food and foreign exchange.

2. The Parties further recognise that fisheries resources are also of considerable interest to both the EC Party and the Signatory ESA States, and agree to cooperate for the sustainable development and management of the fisheries sector in their mutual interests taking into account the economic, environmental and social impacts.

3. The Parties agree that the appropriate strategy to promote the economic growth of the fisheries sector and to enhance its contribution to the ESA economy, while taking into consideration its long term sustainability, is through increasing value adding activities within the sector.

(a) promote sustainable development and management of fisheries;

(b) promote and develop regional and international trade based on best practices;

(c) create an enabling environment, including infrastructure and capacity building, for the ESA States to cope with the stringent market requirements for both industrial and small scale fisheries;

(d) support national and regional policies aimed at increasing productivity and competitiveness of the fisheries sector; and

(e) build links with other economic sectors.

Article 26

Objectives

The objectives of cooperation in fisheries are to:

Article 27

Scope

Cooperation in fisheries trade and development shall cover marine, inland fisheries and aquaculture.

*Article 28***Principles**

1. The principles of cooperation in fisheries include:

- (a) support for the development and strengthening of regional integration;
- (b) preservation of the *acquis* of the Cotonou Agreement;
- (c) provision of special and differential treatment;
- (d) the need to take into account the best available scientific information for resource assessment and management;
- (e) a functioning monitoring system of the environmental, economic and social impacts in the Parties;

(f) conformity with existing national laws and relevant international instruments including the United Nations Convention on the Law Of the Sea (UNCLOS), regional and sub-regional agreements; and

(g) preservation and priority of particular needs of the artisanal/subsistence fishery.

2. These guiding principles should contribute to sustainable and responsible development of the living inland and marine resources, aquaculture, and to optimising the benefits of this sector for present and future generations, through increased investment, capacity building and improved market access.

*Article 29***Preferential access**

The Parties shall cooperate to ensure that financial and other support will be provided to improve the competitiveness and production capacity of the processing factories, the diversification of the fishing industry and the improvement of port facilities.

*TITLE II***Marine fisheries***Article 30***Scope**

The scope of this Title is the utilisation, conservation and management of marine fisheries resources to optimise the benefits from fisheries for the ESA region through investment capacity building and improved market access.

exclusive economic zone (EEZ) and waters in which ESA States have jurisdiction based on international instruments, including UNCLOS, for the mutual social and economic benefit of the ESA States and the EC Party.

*Article 32***Areas of cooperation***Article 31*
Objectives

The objectives of cooperation are to:

- (a) strengthen cooperation in order to ensure the sustainable exploitation and management of fisheries resources as a strong basis for regional integration, given the straddling and migratory species which are shared among island and coastal States and as no individual ESA State has the capacity to ensure sustainability of the resource;
- (b) ensure a more equitable share of the benefits derived from the fisheries sector;
- (c) ensure effective monitoring control and surveillance (MCS) necessary for combating illegal, unreported and unregulated (IUU) fishing; and
- (d) promote effective exploitation, conservation and management of the living marine resources in the

1. To achieve the objectives of cooperation in marine fisheries within the described principles, cooperation will include fisheries management and conservation issues, vessel management and post harvest arrangements and financial and trade measures and development of fisheries and fishery products and marine aquaculture.

2. The EC Party will contribute to the mobilisation of the resources for the implementation of the identified areas of cooperation at national and regional levels, which will also include support for regional capacity building. Furthermore, the EC Party shall contribute to the measures as described in the section concerning financial and trade measures, and on infrastructure development specific for fisheries and marine aquaculture.

(a) Fisheries Management and Conservation Issues

1. The precautionary approach shall be applied in determining levels of sustainable catch, fishing capacity and other management strategies to avoid or reverse undesirable outcomes such as over-capacity and over-fishing, as well as undesirable impacts on the ecosystems and artisanal fisheries.

2. Each ESA State may take appropriate measures, including seasonal and gear restrictions in order to further protect its territorial waters and ensure the sustainability of the artisanal and coastal fishery.

3. The Parties will promote the membership of all the concerned States to the Indian Ocean Tuna Commission (IOTC) and other relevant fisheries organisations. These countries, with the EC Party, should coordinate action to ensure the management and conservation of all fish species, including tuna and tuna-like resources and facilitate relevant scientific research.

4. Where there is insufficient scientific evidence for the competent national management authority to determine limits and target levels of sustainable catch in an ESA EEZ, both Parties in consultation with the competent national authority and together with IOTC and where relevant, other regional fisheries organisations, shall support such scientific analysis.

5. The Parties agree to take appropriate measures where an increase in effort results in catch levels above the target sustainable level established by the competent national authority.

6. In order to conserve and manage straddling stocks and highly migratory fish stocks, the EC Party and the ESA States shall ensure compliance by vessels flying their flags with relevant national, regional and sub-regional fisheries management measures and related national laws and regulations.

(b) Vessel Management and Post Harvest Arrangements

1. Vessel Management and post harvest arrangements emerging from IOTC and any other relevant regional fisheries organisations will be observed. ESA States and the EC Party shall set out minimum terms and conditions with respect to MCS of EC Party fishing vessels operating in the waters of ESA States, which should include the following:

- (i) a Vessel Monitoring System (VMS) will be set up for all ESA States, and all ESA States will use a compatible VMS. Those ESA States which do not have a VMS will be assisted by the EC Party to set up a compatible VMS;
- (ii) in addition to a compulsory compatible VMS system, all ESA States, in conjunction with the EC Party, will develop other mechanisms to ensure effective MCS and the EC Party will support ESA States to put such an agreed system in place and assist in implementation;
- (iii) the Parties shall have the right to place observers, whether in national or international waters, with the procedures

concerning the deployment of observers being well stipulated. Observers are to be paid by the national governments but all costs on board are to be met by the ship-owner. The EC Party will support the costs of training observers;

- (iv) common systems of reporting of fishing will be developed and be used throughout the region, with minimum terms set for reporting;
- (v) all vessels that land or tranship their catches within the ESA State shall do it in ports or outer-port areas. No transshipment shall be allowed at sea, except on particular conditions foreseen by the relevant Regional Fisheries Management Organisations (RFMO). Both Parties shall cooperate to modernise landing or transshipment infrastructure in ports of ESA States, including development capacity of fish products;
- (vi) all vessels should endeavour to use the facilities of the ESA States and undertake to make use of local supplies;
- (vii) discards reporting shall be compulsory. Priority should be given to avoid discards through the use of selective fishing methods in line with the principles of the IOTC and relevant regional fisheries organisations. As far as possible, by-catch shall be brought ashore.

2. The Parties agree to cooperate in developing and implementing national/regional training programmes for ESA nationals in order to facilitate their effective participation in the fishing industry. Where the EC Party has negotiated bilateral fisheries agreements, employment of ESA nationals shall be encouraged. The International Labour Organisation (ILO) Declaration on fundamental principles and rights at work shall apply as of right to seamen signed on Community vessels.

3. Both Parties shall undertake coordinated efforts to improve the means for preventing, deterring, and eliminating IUU fishing and to this end take appropriate measures. Fishing vessels involved in IUU fishing should be prosecuted and should not be allowed to fish again in ESA waters, unless prior authorisation has been obtained from both the flag State and the concerned ESA States as well as, where relevant, the concerned RFMO.

(c) Financial and Trade Measures and Development issues

The Parties undertake to cooperate in promoting the setting up of joint ventures in fishing operations, fish processing and port services; to enhance production capacity; to improve competitiveness of fishing and related industries and services, to downstream processing, development and improvement of port facilities, and to diversify the fishery to include non-tuna species which are under-exploited or not exploited.

TITLE III

Inland fisheries and aquaculture development

Article 33

Scope

The scope of this Title shall cover inland fisheries, coastal and aquaculture development in the ESA region with respect to capacity building, technology transfer, Sanitary and Phytosanitary (SPS) standards, investment, and investment finance, environmental protection as well as legal and regulatory frameworks.

Article 34

Objectives

The objectives of cooperation in inland fisheries and aquaculture development will be to promote sustainable exploitation of inland fisheries resources, enhance aquaculture production, remove supply side constraints, improve fish and fish product quality to meet SPS standards in the EC market, improve access to the EC market, address intra-regional trade barriers, attract capital inflows and investment into the sector, build capacity and enhance access to financial support for the private investors for inland fisheries and aquaculture development.

Article 35

Areas of cooperation

1. The areas of cooperation shall include EC Party contributions to the following:

(a) capacity building and export market development through:

- (i) building capacity in industrial and artisanal production, processing and product diversification that strengthen the competitiveness of the region's inland fisheries and aquaculture. This could, for example, be achieved by the creation of Research and development (R&D) centres including the development of aquaculture for commercial fishing farms;
- (ii) building capacity for managing export market chains, including the introduction and management of certification schemes for specific product lines; and implementation of market promotion, value addition and reduction in post harvest losses in fishery products;
- (iii) increasing capacity in the region through, for example, improving competent authorities, traders' associations and fishermen's associations in order to participate in fisheries trade with the EC Party and training programs in product development and branding.

(b) Infrastructure

- (i) developing and improving infrastructure for inland fisheries and aquaculture;
- (ii) facilitating access to funding for infrastructure, including all types of equipment.

(c) Technology

- (i) contributing to the development of technical capabilities, including value adding technology promotion, for example, through fisheries technology transfer from the EC Party to the ESA countries;
- (ii) enhancing fisheries management capacity in the region, for example through research and data collection systems and contribution towards appropriate technologies on harvesting and post harvest management.

(d) Legal and regulatory

- (i) supporting the development of inland fisheries and aquaculture regulations and monitoring control and surveillance systems;
- (ii) supporting ESA States in developing appropriate legal and regulatory instruments on intellectual property rights (IPR) and building capacity for their implementation in international trade;
- (iii) eco-labelling and intellectual property protection.

(e) Investment and finance

- (i) promoting joint ventures and other forms of mixed investments between stakeholders in ESA States and the EC Party, for example for the setting up of modalities for identifying investors for joint venture operations in inland fisheries and aquaculture;
- (ii) contributing to providing access to credit facilities for the development of small to medium scale enterprises as well as industrial scale inland fisheries.

(f) Socio-economic and poverty alleviation measures

- (i) contributing to the promotion of small and medium scale fisheries, processors, and fish traders by building the capacity of ESA States to participate in trade with the EC Party;
- (ii) encouraging participation of marginal groups in the fishing industry, for example, through the promotion of gender equality in fisheries by developing the

capacity of women engaged in fisheries, as well as other disadvantaged groups with the potential to engage in fisheries for sustainable social economic development.

- 2. Both Parties shall contribute to measures to ensure that fish trade supports environmental conservation and safeguards against stocks depletion, and to the maintenance of biodiversity and the cautious introduction of exotic species for aquaculture (to be introduced only in managed/closed spaces in consultation with all concerned neighbouring countries).

CHAPTER IV

ECONOMIC AND DEVELOPMENT COOPERATION

TITLE I

General provisions

Article 36

General provisions

1. The Parties agree to address the developmental needs of the ESA States in order to promote sustained growth in the ESA region, increase production and supply capacity of the States concerned, foster structural transformation and competitiveness of their economies and their diversification and value addition and support regional integration.

2. The Parties commit themselves to cooperating in order to facilitate the implementation of this Agreement and to support regional integration and development strategies. The Parties agree that cooperation will be based on the ESA Development Cooperation Strategy and the jointly agreed Development Matrix. The matrix is attached as Annex IV to this Agreement. The ESA Development Cooperation Strategy and the Development Matrix will be regularly reviewed subject to the provisions of Chapter VI on Dispute Avoidance, Settlement, Institutional, General and Final Provisions. This cooperation will be measured against jointly agreed development benchmarks to be developed and adopted and annexed to this Agreement. The cooperation shall be in the form of financial and non-financial support to the ESA region.

3. In this regard, the financing pertaining to development cooperation between the ESA Region and the EC Party for the implementation of this Agreement shall be carried out within the framework of the rules and relevant procedures provided for by the Cotonou Agreement, in particular the programming procedures of the European Development Fund within successive financial frameworks of the EU during the period of this Agreement as well as within the frameworks of relevant instruments financed by the General Budget of the EU. In this context, taking into account the new challenges deriving from enhanced regional integration and competition on the global markets, the Parties agree that supporting the implementation of the EPA shall be one of the priorities.

4. Both Parties shall cooperate to mobilise resources additional to the financial framework of the EU, from EU Member States and other donors, in particular expanding Aid for Trade commitments, relating specifically to EPA support requirements and adjustment costs. The programmes/projects proposed for financing will be worked out jointly based on a detailed costed development matrix.

5. Sufficient resources should be mobilised on a predictable, timely and sustainable basis including through grants and concessional loans based on the Development Matrix. The EC shall contribute to these efforts under its international commitment on the scaling up of Official Development Aid. The Parties agree to monitor and coordinate the use of these resources.

6. Consistent with the Paris Declaration on Aid Effectiveness, the Parties agree to use and support as appropriate nationally and/or regionally owned delivery mechanisms, funds or facilities for channelling and coordinating resources for implementing the EPA. The Parties shall, in that regard, support the establishment of an EPA Fund to channel EPA related resources. The Parties also agree that all forms of aid delivery pertaining to their cooperation under this Agreement shall be guided by the Paris Declaration on Aid Effectiveness.

7. The trade-related issues to be provided for in the comprehensive EPA shall be the subject of development cooperation in accordance with this Article taking into consideration the Paris Declaration on Aid Effectiveness.

8. The Parties agree that EPA monitoring, on the basis of agreed indicators, will need to address all aspects of the EPA, including achievements at the national level and at the level of regional integration and development strategies, as well as the effectiveness of the institutional arrangements and their achievements in meeting Aid effectiveness objectives, including ensuring predictability of the resources.