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South West Indian Ocean Tuna Forum

Fisheries Access Agreements Information sheet

achieving those goals.

- Selecting a strategy-This is the process of deciding which negotiation theory will be used for understanding, preparing for and negotiating fisheries agreements.
2. **Bargaining phase:** Both parties state their positions and negotiate with each other .It either ends with the formulation of an agreement, or a failure to agree (deadlock).
 - Getting started on the actual negotiation- This is the process of discussing and reaching an agreement.
 - Negotiation techniques-One of the skills in negotiations is knowing as much information about the other party which is essential to achieving a good outcome.
 3. **Post-negotiation phase:** The parties analyse the negotiation outcome, identify possible mistakes made during the bargaining phase, and adjust their tactics in preparation for future negotiations.
 - This involves concluding and evaluating the negotiation-At the end of each negotiation session, it is imperative that the parties confirm each and every significant agreement reached.





- **Harvesting capacity and surplus:** Coastal nations or Island states determines their own harvesting capacity in relation to the fisheries resources of its exclusive economic zone. In the instance where a Coastal Nation or Island State does not have the capacity to harvest the entire allowable catch, it gives other countries access to the surplus of the allowable catch.
- **Highly migratory species:** Access to highly migratory species such as tuna and tuna like species is dependent on fisheries policies and management instruments of the Coastal Nation or Island State and the region.

1. **Preparation phase:** Both parties collect information about each other, study previous negotiations and identify each other's strengths and weaknesses.

The negotiating context-The negotiating context considers both the immediate and external environment during the preparation phase. The key elements of the negotiating context are:

- Issues- These are the matters with respect to which there must be joint assessment and decision-making during negotiations.
- Interests - These are the underlying needs, concerns and wishes of the principals in the negotiation.

Fisheries Access Agreement (FAA) is a form of International Trade between Countries from the Northern Hemisphere/ Developed Countries usually called Distant Water Fishing Nations (DWFN) and countries from the Southern Hemisphere / Developing Countries usually called Coastal Nations or Island States.

In the agreement, a developing country grants access of its fisheries resources to a Developed Country in its territorial waters particularly in the Exclusive Economic Zone (EEZ). This agreement allows fishers from one country to harvest fish in a Coastal Nation or Island Nation in the South West Indian Ocean region.



The fisheries framework for Fisheries Access Arrangements under the national jurisdiction is provided for by the United Nations Convention of the Law of the Sea (UNCLOS). This forms the basis of negotiation before the agreement is arrived at.

The approach to Fisheries Access Arrangements differs considerably within the South West Indian Ocean region and this is attributed to by a number of factors:

The South West Indian Ocean countries offer fishing opportunities to Distant Water Fishing Nations (DWFNs) through some form of access arrangements and licensing. According to the European Commission, Kenya and Tanzania are yet to negotiate for a sustainable fisheries access agreement with the European Union, although there have been some efforts in the recent past towards this. Mozambique and Madagascar are currently negotiating for the renewal of their fisheries access agreement with the European Union. Seychelles have already renewed their sustainable fisheries access agreement with the European Union. Comoros sustainable fisheries access agreement with the European Union was denounced following the country's inclusion on the list of non-cooperating countries in the fight against illegal, unreported and unregulated (IUU) fishing.

- Positions-This is a preference for a specific result with respect to an issue.
- Bargaining power-This is shaped by a State's share of market power and production capacity with respect to the subject matter of the negotiation.
- Negotiations strategy- This is a plan setting out decisions or actions that can be taken to achieve a negotiations goal.
- Rules of negotiation-This describes the guidelines that govern negotiations.

- **Territorial sea and Exclusive Economic Zone (EEZ):** Coastal Nations or an Island States have sovereignty over all fisheries resources found within the limits of national territory/ jurisdiction including but not beyond the Exclusive Economic Zone (EEZ) in which they are located. Access to these resources will be granted by a coastal nation or island state.
- **Total allowable catch:** Coastal Nations or Island States usually determines the total allowable catch of the fisheries resources in its exclusive economic zone.

Negotiating a Fisheries Access Agreement

Negotiations for fisheries access is a joint decision-making process in which two or more parties/states engage until an acceptable agreement is arrived at. These negotiations are carried out in three phases namely preparation, bargaining and post negotiation phase. These are the steps to achieve the phases of negotiating a Fisheries Access Agreement.

- The other key elements in this phase are:
- Setting goals- It is important that at the very beginning of the negotiation process to develop both immediate and long term goals. This is also the stage where the coastal nation or island state states what is negotiable and what is not.
 - Preparation-Designing a plan that considers the issues, interests and parties and develop a strategy based on