ACP-EU TBT Programme

090-16 - Training for Regulatory Authorities, Businesses and Communities in Regulatory Frameworks: Towards a Better Management of Risks

Integrating risk management in a fishery regulatory framework

Ggaba, Kampala, Uganda - EAC
23 to 25 November, 2016

Integrating Risk Management in a Fisheries Regulatory Framework

Key ingredients and components of a fisheries regulatory system

- A fisheries Regulatory system, like most other regulatory frameworks, is complex cross-sectoral/industry system
  - With a broad range of stakeholders that have own motivations, values and perceptions.
- Subjective perception of risks
  - One of the challenges faced in developing and implementing in setting the objectives of the fisheries regulatory system is the "subjective perception of risks",
    - Usually accompanied by a "failure to adequately identify and involve relevant stakeholders" beyond the specific interests
    - Industrial processors and exporters may not consider the interests/risks of artisan processors and regional/local fish traders
    - The heck fishery may not consider the risks faced tuna fishery
- Transparency
  - Given the varied perceptions of risks prerequisite for an effective fisheries risk governance framework is
    - transparent and reliable mechanisms for consultations with stakeholders, especially at the early stages of regulatory activity

Integrating Risk Management in a Fisheries Regulatory Framework

- When carrying out regulatory impact assessment in fisheries therefore,
  - policymakers and regulators need to conduct extensive and wide-ranging public consultations.
  - Consultations should include not only with fishing communities, fisheries businesses and civil society, but
    - Also with the different ministries and other public authorities involved.
- Taking into account the level of risk tolerance of the fisheries regulatory system's stakeholders, regulatory authorities should
  - establish, implement and maintain a process for determining, analysing, reviewing and monitoring a socially acceptable level of risk in fisheries sector.
  - Systematization of this process helps create a well-balanced and acceptable regulatory system.

Integrating Risk Management in a Fisheries Regulatory Framework

- A widely used concept for setting risk tolereance in fisheries regulatory is that promoted by UN Food and Agriculture Organization – FAO:
  - Precautionary Principle
  - A key tenet of many international legal systems and adopted nearly all recent legislative efforts in fisheries
  - It is also enshrined in the Rio Declaration following the UN Conference on Environment and Development.
- According to the precautionary principle,
  - if "an action or policy has a suspected risk of causing harm to the public or to the environment, in the absence of scientific consensus that the action or policy is not harmful, the burden of proof that it is not harmful falls on those who advocate taking the action".
  - In practice, regulatory authorities often refer to the precautionary principle when there is no available scientific evidence of a risk.
    - Measures though should be taken NOT to extend the scope of regulatory policies beyond desirable boundaries in pretext of precautionary principle.

Integrating Risk Management in a Fisheries Regulatory Framework

- Traceability as an integral part of fisheries regulatory systems
  - Traceability has to be a key tenet of the fisheries sector given:
    - the wide number of players and differences in sources, species, fishing and handling methods, suppliers, processors, transporters etc.
  - Fisheries authorities need to regularly map out a process of communication and consultation for identifying key assets as objects or qualities that have value and that the system sets out to protect.
  - Including traceability requirements for fisheries business operators is not only good for food safety BUT also for
    - Facilitating the identification and monitoring of key fisheries assets
    - Monitoring and control of fisheries supply chains.
    - Giving consumers confidence in quality and safety of fishery products and the origin of the fish.
    - Traceability allows companies to increase the stability and transparency of procurement and production processes.
    - It helps regulators and market surveillance authorities take prompt and targeted action, such as withdrawing dangerous products from the market.
    - Traceability is also an essential part of any system designed to fight counterfeit goods.

Integrating Risk Management in a Fisheries Regulatory Framework

- Traceability is therefor a key risk mitigation tool in its own right.
  - Within a business entity, it ensures a consistent level of quality in supplies, a prerequisite for a high-quality end product.
  - It also helps minimize the costs of incidents.
- More generally, within regulatory systems, traceability helps to:
  - Protect consumers by minimizing the risks related to proliferation of dangerous products on the market
  - Enable accurate withdrawals of products from the market, when necessary
  - Achieve traceability within regulatory systems, which requires:
    - Traceability of the production processes of businesses
    - Implementation of traceability tools by the regulator

Integrating Risk Management in a Fisheries Regulatory Framework

Need to accommodate the diverse and multiplicity nature of risks faced in the fisheries sector:

- Calls for properly and wide assessment of risks from the outset prior to developing or implementing the regulatory framework.
- Creating an inventory of assets and then conducting a structured identification of risks is critical to development of the regulatory framework
  - Beginning with the risks that affect the most critical assets as this reduces the likelihood of missing some important risks.

Integrating Risk Management in a Fisheries Regulatory Framework

In-depth knowledge of the key fisheries assets and their importance

- The system of assets, their classifications and levels of criticality must be integral to a fisheries regulatory system.
  - Because a risk mitigation measure taken to protect one asset may pose a risk to another asset,
  - it is crucial to be able to forecast the interdependence of risks and of regulatory or non-regulatory responses.
- An up-to-date asset inventory is essential for this purpose, as are the processes required to keep the inventories up-to-date.
  - The need for an acceptable fisheries resource inventory
  - Involvement of key stakeholders in the updating fisheries resource inventory

Integrating Risk Management in a Fisheries Regulatory Framework

Effective and workable regulatory and control solutions:

- To mitigate risks effectively, the fisheries regulatory process should provide:
  - A set of requirements, which can be tariffs, technical requirements, price regulations, etc.
  - When appropriate, provisions for pre-market controls:
    - This could consist of processes that allow only those who meet the requirements to operate on the market, and could take the form of certification or licensing.
  - Organization of post-market controls:
    - This could comprise processes that remove non-conforming fishery products or services from the market, which could be referred to as supervision, market surveillance or oversight.

Risk Management Approaches and Processes in a Fisheries Regulatory Framework

Key requirements and inputs of an effective risk based fisheries regulatory system

- Clearly defined objectives for the whole regulatory system
- Solid legal basis
  - Principle Act that is adaptable and allows development of effective guidelines and subsidiary legislations
- Available national and international standards
- A codified references to standards system
  - Largely lacking in Uganda's fisheries regulatory system
    - Limited number of standards?
- Crisis management system
- International best practice

Risk Management Approaches and Processes in a Fisheries Regulatory Framework

- Namibia has some of the best existing regulations and guidelines but often have failed or have wrongly implemented this regulations
- Implementing regulations is a complex organizational project that should be efficiently managed.
- The following are critical requirements for the successful implementation of technical regulations:
  - Cooperation and communication among various stakeholders (most of whom have different interests)
  - Availability of the necessary infrastructure (e.g. for conformity assessment and market surveillance)
  - Planning, budgeting and other aspects of systematic project management
- Other key requirements for a good fisheries regulatory system include:
  - Metrology
  - Conformity assessment measures
  - Post market control – market surveillance
- Are all above integrated in practice in the current fisheries regulatory system?

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Project funded by the EU at the request of the ACP Group