

## Policy brief

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# The role of artisanal fishing “exclusive” zones in preferential access to resources

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This article analyses a series of studies jointly commissioned by CAOPA and CFFA on areas reserved to artisanal fisheries in several African countries. The author sheds light on common challenges for protecting small-scale fishers access and the pressing need for better developing co-management in coastal fisheries, and looks into how can the EU support protection of small-scale fishers’ access to resources.

### Overview

In February 2019, the African Confederation of Artisanal Fisheries Organisations (CAOPA), CFFA, the Regional Partnership for Coastal and Marine Conservation (PRCM), Danish Living Seas and Bloom filed a complaint against the European Commission for “*for alleged failure by Italian authorities to adopt measures to monitor their vessels in the waters of Sierra Leone.*”<sup>1</sup> These 6 Italian trawlers had been caught fishing in Sierra Leone’s Inshore Exclusive Zone (IEZ), an area reserved to artisanal fisheries. Two years and two months later, after a lengthy exchange of letters and informal conversations, the Commission closed the case stating that “*no illegal activities of the operators can be proven in this instance.*”

One of the arguments advanced by the Commission was that “*the lack of exact nautical maps for the delimitation of Sierra Leone IEZ creates difficulties in*

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<sup>1</sup> For all details, see PANOSSIAN, Anaid, “African artisanal fishers and NGOs jointly complain to the EU against Italy turning a blind eye to its trawlers’ illegal activities in West Africa,” CFFA-CAPE website, 6 February 2019. Available at: <https://www.cffacape.org/news-blog/2019/02/06/2019-2-6-african-artisanal-fishers-and-ngos-jointly-complain-to-the-eu-against-italy-turning-a-blind-eye-to-its-trawlers-illegal-activities-in-west-africa>

*identifying the actual illegal activities from those being carried out outside the IEZ.”* This response triggered a series of questions for CAOPA relating to artisanal fishing zones in African countries: what is the legal basis for artisanal fishing zones? How do these artisanal fishing zones play out in practice? What issues do artisanal fishers encounter in those areas? What conflicts arise? And above all, how can these areas be secured and managed in a way that small-scale fishers have a protected and guaranteed access to resources?

CAOPA and CFFA jointly commissioned a series of studies on artisanal fishing zones in several African countries to “*document the challenges faced by artisanal fishers in maritime waters under the jurisdiction*” of such countries. So far, studies have been finalized for Sierra Leone,<sup>2</sup> Guinea,<sup>3</sup> Senegal,<sup>4</sup> Madagascar,<sup>5</sup> The Gambia,<sup>6</sup> and, two are forthcoming, Mauritania, and Ghana (see the links to the studies at the end of this article). These studies were undertaken in a participative way: the consultants collected the views of fishers, and CAOPA organized meetings (“restitution sessions”) in the countries,<sup>7</sup> with fisheries stakeholders and authorities, to discuss the findings.

In this article, we highlight the key common issues faced by artisanal fishers in these countries and reflect about what the EU, a key partner of African countries, can do to better support a protected and guaranteed access of small-scale fisheries to resources, as required by Sustainable Development Goal (SDG) 14b.

## 1. Artisanal fishing zones – what for?

The legal basis for an artisanal fishing zone goes back to the UN Convention of the Law of the Seas,<sup>8</sup> adopted in 1982, in which coastal States are to manage sustainably fishing resources “*as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing States, and taking into account fishing patterns[...]*” (Art. 61.3). The subsequent article in UNCLOS further stresses the “*need to minimize economic dislocation in States whose nationals have habitually fished in the zone*” (Art. 62.3).

Even though the Convention does not specifically mention artisanal fisheries, as Dieynaba Beye, author of several of the Artisanal Fishing Zones (AFZ) reports<sup>9</sup>

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<sup>2</sup> BEYE, Diénaba, “Artisanal fishing zone issues in the Republic of Sierra Leone,” November 2021. The Study is accessible on the online version of this article: <https://www.cffacape.org/publications-blog/preferential-access-ssf-artisanal-fishing-zone>

<sup>3</sup> BEYE, Diénaba, « Les enjeux des zones de pêche artisanale en République de Guinée », Novembre 2021. Available only in French. The EN summary is available here: <https://www.cffacape.org/publications-blog/preferential-access-ssf-artisanal-fishing-zone>

<sup>4</sup> BEYE, Diénaba, « Les enjeux des zones de pêche artisanale en République du Sénégal », Novembre 2021. Available only in French. The EN summary is available here: <https://www.cffacape.org/publications-blog/preferential-access-ssf-artisanal-fishing-zone>

<sup>5</sup> RANAIVOMANANA, Lala, « Règlements des zones de petite pêche à Madagascar », Janvier 2022. Available only in French. The EN summary is available here: <https://www.cffacape.org/publications-blog/preferential-access-ssf-artisanal-fishing-zone>

<sup>6</sup> BEYE, Diénaba, “Artisanal fishing zone issues in the Republic of The Gambia,” March 2022. The Study is accessible on the online version of this article: <https://www.cffacape.org/publications-blog/preferential-access-ssf-artisanal-fishing-zone>

<sup>7</sup> See for example: CAOPA, “Guinea: CAOPA presents the findings of the study on the challenges of artisanal fishing zones”, 15 December 2021. Available at: <https://caopa.org/en/guinea-caopa-presents-the-findings-of-the-study-on-the-challenges-of-artisanal-fishing-zones/15/12/2021/actu/3766/>

<sup>8</sup> United Nations Convention of the Law of the Seas (UNCLOS), 1982. Available at: [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)

<sup>9</sup> See for example note 6, page 10 of The Gambia report.

highlights, “*the socio-economic role of small-scale fishing [...] has evolved since the adoption of the UNCLOS in 1982, and has become strategic for the food and nutritional security of populations and the fight against poverty.*” **The lack of an internationally agreed definition of what artisanal fisheries are has not prevented the increasing attention to their role, especially in the last decade,** starting with the drafting of the Code of Conduct for Responsible Fisheries (CCRF)<sup>10</sup> in 1995, continuing with the adoption of the Small Scale Fisheries Guidelines (VGSSF)<sup>11</sup> in 2014, the inclusion of SSF in the Sustainable Development Goals<sup>12</sup> in 2015, and culminating with the celebration of the International Year of Artisanal Fisheries and Aquaculture in 2022.

**In Africa, artisanal fisheries provide livelihoods for more than 10 million men and women while they provide nutritive and affordable food to more than 200 million.**<sup>13</sup> The sector also indirectly employs many other men and women, from carpenter, ice producers, and mechanics, to youth that daily offloads the fish from the canoes, along with other economic informal activities and services that gravitate around artisanal fish landing sites.

Highlighting the role small-scale fisheries play in food security and poverty eradication, the Code of Conduct explicitly calls States to “*appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction*” (CCRF, 6.18).

The 2014 SSF Guidelines build on this article and develop it further: “*Where appropriate, specific measures, inter alia, the creation and enforcement of exclusive zones for small-scale fisheries, should be considered.*” (VGSSF, 5.7) This paragraph further adds that “*small-scale fisheries should be given due consideration before agreements on resource access are entered into with third countries and third parties.*”

**These documents recognize not only the contribution of SSF, but also the need for sustainable fisheries management while acknowledging the vulnerability of SSF facing other competitors for the coastal space and access to waters,** those being industrial fisheries – in Africa, largely of foreign origin – or other “blue” industries. The Guidelines also stress the need for a human-rights based approach, “*placing emphasis on the needs of developing countries and for the benefit of vulnerable and marginalized groups*” (VGSSF, 1.2).

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<sup>10</sup> FAO, “Code of Conduct for Responsible Fisheries”, Rome, 1995. Available at: [https://www.wto.org/english/tratop\\_e/rulesneg\\_e/fish\\_e/1995\\_fao\\_ccrf.pdf](https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/1995_fao_ccrf.pdf)

<sup>11</sup> FAO. “Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication.” Rome, 2015. Available at: <https://www.fao.org/documents/card/en/c/I4356EN>

<sup>12</sup> See Sustainable Development Goal (SDG) 14b: <https://sdgs.un.org/goals/goal14>

<sup>13</sup> CFFA-CAPE, “The value of African artisanal fisheries”, Storyboard, 24 January 2022. Available at: [https://youtu.be/psB\\_MW3zoro?si=oC9Grzx9VZHSiwUo](https://youtu.be/psB_MW3zoro?si=oC9Grzx9VZHSiwUo)

## 2. Artisanal fishing zones in Africa: legislations and gaps

### A) ARTISANAL FISHING OR ARTISANAL FISHING VESSEL DEFINITION

Despite the lack of internationally-agreed definition for “artisanal fisheries”, for the purposes of legislating access to their countries’ waters and the management of fishing operations as required under UNCLOS (Art. 61-73), countries define or categorize either the activity or the vessels carrying out the fishing operations. This results in quite some disparities between the definitions of the countries under review, most of which are based on a codification of the types of fishing that were present in the country at the time of drafting the legislation.

For example, in Guinea, there is a distinction between “traditional artisanal fishing”, which is non-motorised (propelled by sail or paddle) and reserved to nationals, and “motorised artisanal fishing” which is accessible to ECOWAS nationals, making fisheries a driver of subregional integration.<sup>14</sup> In Mauritania and Guinea, the definitions mention “motorised” vessels yet the operations need to be carried out with “*passive gear, with the exception of purse seine*”, which points to the type of fishing carried by Senegalese artisanal fishers throughout the region. In the case of Ghana, the legislation talks of “traditional canoe fishing”, which includes both the traditional dugout canoes but also other vessels with outboard motors. The Ghana Fisheries Commission is currently looking into the re-characterisation of canoes, basing them on size and horse power.

In three cases, Guinea, Ghana, and Madagascar, there is a distinction between some type of “traditional” artisanal fishing and a more “advanced”, which can be identified through the difference in power of the engine, the length of the vessel or the fishing gear. In Madagascar, this is not relevant, because what is defined under “artisanal fisheries” has little weight in the economy of the country (less than 0.01% of the catches), with “*petite pêche*” (traditional) catching more than 65%. However, in Guinea and Ghana, **it can become more problematic if this distinct category - “advanced” and “small local semi-industrial vessel” (SIV) respectively- opens the door for small trawlers, usually of foreign origin operating under joint ventures, to carry out their activities in the same area than artisanal fishers. This causes competition with fishers and increases the risk of collisions and of destruction of artisanal fishing gear.**

In Guinea, the restitution session of the AFZ study<sup>15</sup> was an opportunity to raise the issue of “advanced artisanal fishing”<sup>16</sup> in a constructive dialogue with the newly appointed fisheries minister.<sup>17</sup> This category in practice allowed semi-industrial pelagic and demersal trawlers to access an area from the baseline up to 10 or 12 nm.

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<sup>14</sup> See for example CFFA-CAPE, “Fish processing in Kafountine: a driver of subregional integration”, Video, 8 March 2022.

Available at: <https://youtu.be/OHuCNiURPoQ?si=WtKE-39f2ea0lUn>

<sup>15</sup> CAOPA, “Guinea: CAOPA presents the findings of the study on the challenges of artisanal fishing zones”, *op.cit.*

<sup>16</sup> BAH, Alassane, “Guinean Artisanal fishermen complain that Asians are fishing in the area reserved for them”, CFFA-CAPE website, 31 March 2022. Available at: <https://www.cffacape.org/news-blog/artisanal-fishermen-complain-that-asians-are-fishing-in-the-area-reserved-for-them>

<sup>17</sup> « Nomination au compte-goutte des membres du gouvernement : 4 nouvelles têtes dévoilées », *Guinee7.com*, 26 Octobre 2021. Available at : <https://www.guinee7.com/2021/10/26/nomination-au-compte-goutte-des-membres-du-gouvernement-4-nouvelles-tetes-devoilees/>

Local artisanal fisheries organisations denounced Asian origin vessels were accessing this area in principle reserved to nationals. A new decree<sup>18</sup> spelling out fishing categories replaced the “advanced” zone for “semi-industrial” and the 2022 management plan<sup>19</sup> completely banned these vessels from the artisanal fisheries traditional area, allowing them to operate only beyond 14 nm.

In Ghana, even though towing gear is forbidden in the IEZ (Act 625, section 81.5)<sup>20</sup> and SIVs commonly use ring nets, in practice trawlers do operate in the zone.

### B) ARTISANAL FISHING ZONES

Only Guinea, Sierra Leone and Ghana have specifically codified artisanal fishing zones by regulation or decree (see official names on the table in Annex 1). **Effectually, however, most of the countries have some type of artisanal fishing zone.** For example, in Madagascar, due to the characteristics of traditional fishing and the geography of the country, the 2 nm-trawling ban serves de facto as a small-scale fishing zone. **In some cases, the codification in fisheries legislations has evolved throughout the years under different governments, and, even if the Fisheries legislation opens the possibility, the absence of an implementing decree or confusing subsequent amendments result in a lack of clear regulation for fishing zones.**

In The Gambia, a regulation from 2008 established a reserved artisanal fishing zone up to 12 nm from the low water mark, but the amendments from 2009 allow for certain industrial vessels to operate from 9 nm. Then an additional provision for “semi-industrial vessels”, allows them to operate from 7nm. However, *“this notion of ‘semi-industrial fishing’ is not provided for in the 2007 Fisheries Code or its 2008 implementing regulation. It is found for the first time in the 2019 Regulation without any indication of its definition.”*<sup>21</sup>

Senegal, by far the country that has the most developed commercial artisanal fishing, defines the vessel carrying out the activity. Further, while the law opens the possibility for an artisanal fishing zone (the “*State may reserve certain zones for exploitation by artisanal fishers*”),<sup>22</sup> Senegal has never established a zone reserved for artisanal fisheries. In the decree of application of the Code, the zones are defined by the type of licence the vessels are authorised for, starting from 3 nm for “coastal pelagic fishing”.<sup>23</sup> Fishers sometimes refer to the 6nm trawling ban<sup>24</sup> as the “artisanal fishing zone”, which does not reflect the existing legislation. Artisanal fishing pirogues can fish inside and outside the 3-mile limit, except from protected zones (ZPP) and Marine Protected Areas (MPAs), and do not require a licence but a fishing permit.

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<sup>18</sup> See « Arrêté n°A/2017/6805/MPAEM/SGG du 29 décembre 2017 portant catégorisation de la pêche artisanale maritime. ». Available at : <https://faolex.fao.org/docs/pdf/gui214862.pdf>

<sup>19</sup> The plan is available on the Fisheries Ministry webpage: <https://peches.gov.gn/storage/2022/09/PAGP-2022-signé.pdf>

<sup>20</sup> Available at: <https://www.mofad.gov.gh/wp-content/uploads/2016/05/Fisheries-Act-2002-Act-625.pdf>

<sup>21</sup> See pages 28 and 29 of The Gambia report. *Op. cit.*

<sup>22</sup> See article 24, « Loi n° 2015-18 du 13 juillet 2015 portant Code de la Pêche maritime ». Available at : <https://faolex.fao.org/docs/pdf/sen155049.pdf>

<sup>23</sup> See Chapter V, Section 3 of « Décret n° 2016-1804 du 22 novembre 2016 portant application de la loi n° 2015-18 du 13 juillet 2015 portant code de la pêche maritime ». Available at : <https://faolex.fao.org/docs/pdf/Sen163863.pdf>

<sup>24</sup> BELHABIB, Dyhia, *et al.*, “Catching industrial fishing incursions into inshore waters of Africa from space”, *Fish Fish*. 2020;21:379–392. Available at:

<https://www.imsehawaii.org/iuuf/ewExternalFiles/Catching%20industrial%20fishing%20incursions%20into%20inshore%20waters%20of%20Africa%20from%20space.pdf>

Mauritania's zones are also linked to the type of licence, although the law additionally specifies that artisanal fisheries have a reserved zone, nevertheless, they are also authorised to operate in the area between 6 and 9 nautical miles and beyond 9 nm fishing is free.<sup>25</sup>

### C) MAIN CHALLENGES IN THE LEGISLATION AND ITS APPLICATION

**Regardless of the clarity of the law, one of the key challenges in its application is the still very informal nature of the artisanal fisheries sector.** Provisions are made in Fisheries legislation which demand that pirogues and artisanal fishing vessels are registered and marked, and that they have a fishing licence and/or authorization. On the ground, this is much harder. For example, in Mauritania, a census campaign started in 2018, and registered and marked more than 9000 artisanal fishing vessels – yet work was far from over. A second campaign was planned for 2021 which has yet to happen. In this same country, fishers experience many challenges in obtaining licences as there is a long and strict list of documents to be presented to the authorities.

In Senegal, according to the Merchant Navy Code (and confirmed by the Fisheries Code<sup>26</sup>) the authorisation for any import, construction, acquisition, conversion, or transformation of a vessel must be given by the Minister of the Merchant Navy. In practice, nevertheless, vessels are launched without prior authorisation, due to ignorance of the regulations and a lack of expertise within the fisheries administration (which issues the artisanal fishing permit) to carry out the technical safety inspection. More than 20,000 fishermen work aboard vessels that do not comply with the legislation.

Almost everywhere in Africa, **small-scale fisheries remain of “open access”, which has resulted in the increase of the fishing effort by artisanal fisheries, contributing to the problem of overcapacity mainly caused by industrial fleets,** especially in countries like Senegal and Ghana. In Ghana, the government tried to reduce the fishing effort by creating a “Canoe Identification Card” to control new entrants. The authors of the Ghana study hint: “*subtly, the CIC can be used as a fishing licence*” and foresee difficulties in the “*regulating access through the introduction of a licencing scheme and enforcement of this action.*”<sup>27</sup>

The sanctions regime in some legislations needs coherence and proportionality: in Guinea, the fines are so disproportionate in relation to offenses that it is sometimes much easier for fishers to abandon their canoes which cost them much less than the amount of the penalty. State agents are also aware of the challenges fishers themselves face in meeting the criteria required by law: “*If we press too hard, we will suffocate the fishers, there will be no more fishing, and therefore no more fish to eat,*”<sup>28</sup> explained an officer in the Ivorian maritime police.

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<sup>25</sup> See the Conclusion of the Mauritania study, forthcoming.

<sup>26</sup> See Article 26, « Loi n° 2015-18 du 13 juillet 2015 portant Code de la Pêche maritime ». Available at : <https://faolex.fao.org/docs/pdf/sen155049.pdf>

<sup>27</sup> BEYE, Diénaba, et. al., forthcoming.

<sup>28</sup> PHILIPPE, Joëlle, “Conservation is not for conservation's sake. Conservation is for us: we need a fair place for communities' ”, CFFA-CAPE website, 3 April 2023. Available at: <https://www.cffacape.org/news-blog/conservation-is-not-for-conservations-sake-conservation-is-for-us-we-need-a-fair-place-for-communities>

Enforcement of the IEZ is difficult for various reasons, but mostly due to a lack of resources. In Madagascar, 109 agents are invested with authority to monitor fisheries and to ensure no incursions are made into the areas reserved for small-scale fishing, but with a coastline of 5,600 km, this means each officer is responsible for approximately 50 km. In some countries, there is only one patrol boat per administrative region however large it is, or there is no regular funding for the fuel of the patrol boat. Some countries seek to address shortcomings through partnerships with foreign groups: In The Gambia, the fishing authorities resort to an arrangement with Sea Shepherd, an activist organization which acts in support of the Navy in arresting industrial vessels suspected of illegal activities.<sup>29</sup> This, in our opinion, poses questions about the limits of the role of civil society organisations when it comes to policing a country's waters.

One other avenue some African governments have tried to address the challenges of MCS is participative surveillance. While these projects have the benefit of being participative and inclusive, they usually are a way for governments to shed the responsibility on fishing communities without always giving them the recognition and the resources<sup>30</sup> required for successful participative surveillance.

#### D) JOINT VENTURES AND CHARTERING

A big threat to security at sea for fishers are the incursions by trawlers, as these pose the risk of collision with artisanal fishing vessels but also involve the destruction of artisanal fishing gear resulting in grave losses for the fishers, including loss of life. A study by Ecotrust Canada calculated that *"in West Africa, collisions with industrial vessels kill over 250 artisanal fishers annually."*<sup>31</sup> There have even been cases of fishers who were assaulted for protesting against these incursions: In The Gambia, a fisher was burnt alive by the crew of an Asian-origin trawler.<sup>32</sup> Precedents such as these, or like the disappearance of 3 coast guards who were in hot pursuit of a trawler in Côte d'Ivoire,<sup>33</sup> cause fear of denouncing the culprits among fishing communities. Almost all Artisanal Fishing Zone studies mention some type of conflict between artisanal fishers and industrial vessels of foreign origin, often reflagged, which further exacerbates anger, and the feeling of frustration and powerlessness by local fishing communities.

It needs to be noted that there is very little local industrial fishing, as for the last 6 decades African countries have favoured the creation of joint ventures<sup>34</sup> to develop their industrial fishing capacity. How does it work? **Joint ventures involve the**

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<sup>29</sup> See for example: "Italian Trawler Arrested in The Gambia with "Sustainably Caught Shrimp" Bound for Europe", Sea Shepherd website, News, 13 September 2023. Available at: <https://www.seashepherdglobal.org/latest-news/italian-trawler-arrested-gambia/>

<sup>30</sup> TRAORE, Paule K., "Artisanal Fishing Local Councils "CLPA": the fight to preserve the marine ecosystem", CFFA-CAPE website, 10 July 2023. Available at: <https://www.cffacape.org/news-blog/clpa-comanagement-preserve-marine-ecosystem-senegal>

<sup>31</sup> BELHABIB, Dyhia, *et al.*, "Catching industrial fishing incursions into inshore waters of Africa from space", *op. cit.*

<sup>32</sup> « Suite à une altercation, un pêcheur sénégalais brûlé vif par des Chinois », Senenews.com, 24 septembre 2020. Available in French at: [https://www.senenews.com/actualites/urgent-un-pecheur-senegalais-brule-par-des-membres-dun-equipage-chinois\\_331832.html](https://www.senenews.com/actualites/urgent-un-pecheur-senegalais-brule-par-des-membres-dun-equipage-chinois_331832.html)

<sup>33</sup> « Police maritime : après la disparition des 4 marins - L'enquête vise les bateaux chinois », news.abidjan.net, 14 mars 2009. Available in French at: <https://news.abidjan.net/articles/323416/police-maritime-apres-la-disparition-des-4-marins-lenquete-vise-les-bateaux-chinois>; for more context on this incident see also PHILIPPE, Joëlle, "Conservation is not for conservation's sake. Conservation is for us: we need a fair place for communities!", *op. cit.* These incidents can be talked about for years among the concerned communities.

<sup>34</sup> GOREZ, Béatrice, "Investment and transparency in EU-Africa fisheries relations: what about joint ventures?", CFFA-CAPE and CAOPA joint position, updated on 28 July 2020. Available at: <https://www.cffacape.org/publications-blog/q2nriapbiy782wqmauibptrt43x1ku>

transfer of a foreign vessel to an African host country fleet registry. Most legislations require a national participation in the ownership (generally, at least 51%), but these joint ventures are often described as “fictitious” or “front” because the real control of the operations remains in the hands of the foreign company. A FAO study on distant water fleets<sup>35</sup> calls these arrangements “second-generation access arrangements”, *“based on bogus joint ventures, as the African national partner in the joint venture is merely a figurehead employed to register the foreign vessel locally.”*

Usually, the reflagging allows these vessels to have a preferential treatment<sup>36</sup> under national legislation, such as exemption from fuel taxes, reduced port charges, lower cost fishing licence, or priority for administrative purposes, and often grants them access waters much nearer to the coast. For example, in Guinea, under the “advanced artisanal fishing” category, which was reserved to nationals, Asian-origin trawlers could target croakers<sup>37</sup> from the baseline up to 12nm. Similarly, in Mauritania, approximately 40 vessels of Chinese-origin, from the company Fuzhou HongDong were nationalised,<sup>38</sup> and fish different type of species, including small pelagics under the “coastal fishing category” to supply fishmeal and fishoil factories, competing directly with artisanal fishers.

**Chartering is another way to for foreign vessels to get access to African countries fish resources.** In 2021, at least 28 Turkish seiners<sup>39</sup> operated in Mauritania, fishing small pelagics to supply fishmeal and fishoil factories,<sup>40</sup> under a chartering scheme. The Senegal study highlights how artisanal fishers disapprove of these contracts as they *“perceive this situation as a right of access facilitated by fishing authorities to foreign fishing vessels to benefit from the same fishing regime as nationals.”*<sup>41</sup>

The creation of fishing joint ventures in an African country allows the vessels of foreign origin to access other African countries waters when there are bilateral agreements between these countries. For example, trawlers of foreign origin with a Senegalese flag can access the waters of The Gambia, Guinea Bissau, and Liberia through the different bilateral agreements Senegal has with these countries. Recently, in Liberia,<sup>42</sup> we raised the alarm regarding three large trawlers belonging to a Senegalese-Spanish company fishing for carabineros (a high value species) in a vulnerable area and inside the IEZ. They were fishing beyond 4 nm -an exception granted to several types of fisheries-, posing risks of collision and competition with artisanal fishers (Liberia’s IEZ is 6 nm).

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<sup>35</sup> FAO, “Mapping distant-water fisheries access arrangements”, FAO Fisheries and Aquaculture Circular No. 1252, Rome, 2022. Available at: <https://www.fao.org/3/cc2545en/cc2545en.pdf>

<sup>36</sup> GOREZ, Beatrice, “African artisanal fisheries at the forefront of the fight against predatory and opaque industrial fishing companies”, CFFA-CAPE policy brief, 23 March 2021. Available at: <https://www.cffacape.org/publications-blog/african-artisanal-fisheries-at-the-forefront-of-the-fight-against-predatory-and-opaque-industrial-fishing-companies>

<sup>37</sup> Alassane, “Guinean Artisanal fishermen complain that Asians are fishing in the area reserved for them”, *op. cit.*

<sup>38</sup> The protocol concluded with this company is available on the Mauritania Fisheries Transparency Initiative (FiTI) website: <http://www.fiti-mauritanie.mr/wp-content/uploads/2020/12/PROTOCOLE-D-ACCOD-FUZHOU-HONDONG.pdf>

<sup>39</sup> FiTI, « Mauritanie - Rapport à l’Initiative pour la Transparence des Pêches (FiTI) – Préparé par le Groupe Multipartite National (GMN) FiTI de la Mauritanie - Résumé 2021 », 2023. Available at : <http://www.fiti-mauritanie.mr/wp-content/uploads/2023/04/MauritaniaFiTIReport20230426.pdf>

<sup>40</sup> GOREZ, Béatrice, “Mauritania: A 40-metre seiner authorised to fish on the borders of the Banc d’Arguin”, CFFA-CAPE policy brief, 13 September 2021. Available at: <https://www.cffacape.org/publications-blog/mauritania-a-40-metre-seiner-authorized-to-fish-at-the-gates-of-the-banc-darguin>

<sup>41</sup> BEYE, Diénaba, « Les enjeux des zones de pêche artisanale en République du Sénégal », *op. cit.*, p. 30.

<sup>42</sup> GOREZ, Béatrice, “Experimental fishing or experimental pillaging in Liberia?”, CFFA-CAPE Policy Brief, 26 October 2021. Available at: <https://www.cffacape.org/publications-blog/experimental-fishing-or-experimental-pillaging-in-liberia>



Ultimately, it needs to be stressed that vessels of Chinese and Korean origin, are by far the most numerous taking advantage of these schemes in the countries studied in West Africa and also, in Madagascar.<sup>43</sup> These arrangements, says the FAO study, are, with rare exceptions, “*opaque and conceal nefarious practices that permit joint venture vessels to fish without obeying fisheries management and ecosystem conservation measures, hence endangering the existence of local SSF communities.*”<sup>44</sup> **There is an increasingly urgent need for transparency surrounding these schemes.** In a joint position with the African confederation of artisanal fisheries organisations (CAOPA), we asked of the European Union and African states that they lay out “*a set of principles be defined to ensure that fisheries joint ventures operate in a transparent manner, do not compete with local artisanal fisheries, and are in line with the objectives of sustainable fisheries development in the third country concerned.*”<sup>45</sup>

### E) OTHER CHALLENGES FOR FISHERS

The scarcity of fish resources, caused by several factors including overfishing, climate change and other anthropogenic pressures on coastal areas and the ocean more generally, is pushing artisanal fishers to venture<sup>46</sup> beyond their traditional fishing areas. This is particularly dangerous when the vessels are not equipped with the necessary gear,<sup>47</sup> but also due to a loss of traditional knowledge on how to find their way at sea in case of failure of GPS systems. Other meteorological hazards linked to climate change can also cause damage inside the IEZ, such as tidal waves.<sup>48</sup>

Many artisanal fishers of the ECOWAS region cross borders<sup>49</sup> to seek waters that are richer in fish or follow migratory species such as small pelagics. This has historically been the case especially where there was no (or almost none) national artisanal fishing, like in Côte d’Ivoire,<sup>50</sup> where the majority of artisanal fishers are Liberian and Ghanaian, including a high proportion of women fish processors. Ghanaian fishers can be found throughout the West African coast, as well as Senegalese fishers along the migration paths of small pelagics. In some cases, this causes conflicts<sup>51</sup> with local fishers who complain they cannot compete with them (more powerful engine, more effective fishing gear).

There are also cases of conflicts that arise between fishers using different gears or, for the use of illegal gear. Recently in Senegal<sup>52</sup> there have recently been clashes

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<sup>43</sup> GOREZ, Béatrice, “Small scale fisheries at risk: Madagascar signs destructive fishing agreements with Chinese investors”, CFFA-CAPE Policy Brief, 17 November 2020. Available at: <https://www.cffacape.org/publications-blog/small-scale-fisheries-at-risk-madagascar-signs-destructive-fishing-agreements-with-chinese-investors>

<sup>44</sup> FAO, “Mapping distant-water fisheries access arrangements”, *op. cit.*

<sup>45</sup> GOREZ, Béatrice, “Investment and transparency in EU-Africa fisheries relations: what about joint ventures?”, *op. cit.*

<sup>46</sup> GOREZ, Beatrice, “The number of deaths of African artisanal fishers is devastatingly high, says new research”, CFFA-CAPE website, 23 November 2022. Available at: <https://www.cffacape.org/news-blog/the-number-of-deaths-of-african-artisanal-fishers-is-devastatingly-high-says-new-research>

<sup>47</sup> CFFA-CAPE, “Safety at sea, the experience of Senegalese fishers”, Video, 22 February 2023. Available at: <https://youtu.be/JFHJQn1wrqw?si=kyyU05dZY1O8D0ck>

<sup>48</sup> GOREZ, Beatrice, “Ghana artisanal fishers facing the perfect storm of climate change and IUU fishing”, CFFA-CAPE website, 26 April 2022. Available at: <https://www.cffacape.org/news-blog/ghana-artisanal-fishers-facing-the-perfect-storm-of-climate-change-and-iuu-fishing>

<sup>49</sup> CFFA-CAPE, “Fish processing in Kafountine: a driver of subregional integration”, *op. cit.*

<sup>50</sup> PHILIPPE, Joëlle, “Conservation is not for conservation’s sake. Conservation is for us: we need a fair place for communities’.”, *op. cit.*

<sup>51</sup> CFFA-CAPE, “The Gambia: the unease of fishers with regards to the fishmeal factories”, Video, 24 October 2022. Available at: [https://www.youtube.com/watch?v=CPHv2s1E\\_1E](https://www.youtube.com/watch?v=CPHv2s1E_1E)

<sup>52</sup> TRAORE, Paule K., “Artisanal Fishing Local Councils “CLPA”: the fight to preserve the marine ecosystem”, *op. cit.*

between fishermen from two regions over the use of monofilament. In Ghana, there are recurrent cases of fishers using light or dynamite. The inaction by authorities further exacerbates the tensions.

In Ghana, foreign industrial fleets (under joint venture) fishing small pelagics non-selectively used to sell and tranship their bycatch to these artisanal fishers who sell it on land, a trade called “saiko” in Ghana, which was illegal under the law. Now they come to port directly but in any case, small-scale fishers targeting small pelagics therefore face this unlawful competition.<sup>53</sup>

The studies also point at tensions that arise between fishers and their fishing authorities, many times due to the lack of understanding of legislation and the lack of engagement by the authorities to address the issues faced by the fishers. It is not uncommon that a new minister of fisheries does not meet artisanal fishing representatives for years, even though during the election period political parties are well aware of the importance of keeping hold this - often substantial - portion of the electorate.

Beyond the fact that laws are often not translated into local languages, fisheries legislation is also usually fragmented and unclear. If legislation is already difficult for fishers to understand, it can become impossible when legislations from several ministries apply to artisanal fisheries. In Senegal, on top of the fisheries legislation, the Merchant Navy code for authorisation of vessels<sup>54</sup> and Environmental regulations to establish marine protected areas (MPA) also apply to artisanal fisheries. Beyond the fact that fishers often complain of not being consulted and informed properly, there are issues to understand the delimitation of these areas and what is allowed and not allowed in these MPAs.

Lack of meaningful and effective participation results in a lack of ownership by fishers, including on initiatives that are technically carried out in their favour. For example, in Ghana, the overexploitation of samba/wawa wood is pushing the government, among other reasons, to encourage canoes to be built in fibreglass. For Nana Kweigyah, Chair of the Canoe and Fishing Gear Owners Association of Ghana (CaFGOAG), however, “*nothing looks enticing about it*”: There have been “*no effective engagements with canoe owners on the project*”, on top of “*inadequate information about the benefits of fibreglass canoes*” and “*no flexible payment system for canoe owners who may be interested in acquiring one.*”<sup>55</sup>

In Madagascar, Lala Ranaivomanana, author of the AFZ study, also highlights the importance of ownership by the fishers: “*Fishing communities have a very precise vision of their traditional fishing zone especially when natural landmarks are present.*”<sup>56</sup> Despite the fact that the 2 nm shrimp trawling ban was established mainly to protect them, they still do not own it. Mr. Ranaivomanana concludes “*the establishment of an official map issued by the fisheries administration [...] would encourage the active participation of small-scale fishermen.*”<sup>57</sup>

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<sup>53</sup> PHILIPPE, Joelle, “Ghana artisanal fishers launch a wakeup call against “unhealthy competition” and for a new approach to fight IUU”, CFFA-CAPE website, 2 September 2021. Available at: <https://www.cffacape.org/news-blog/ghana-artisanal-fisheries-launch-a-wakeup-call-against-unhealthy-competition-and-for-a-new-approach-to-fight-iuu>

<sup>54</sup> See page 6 of this policy brief and footnote 26.

<sup>55</sup> Informal exchange, quoted with permission.

<sup>56</sup> RANAIVOMANANA, Lala, « Règlements des zones de petite pêche à Madagascar », *op. cit.*, page 20.

<sup>57</sup> *Ibid.*

More generally, the studies point to a lack of effective systems for participation of small-scale fishers in fisheries management, although most legislation includes some reference to or provides for some kind of co-management system. Co-management systems are generally considered to be beneficial for all stakeholders. However, the co-management provisions in legislation (see Annex 2 for a table summarizing the legislation for the 7 countries concerned) are seldom developed into a decree or even implemented because they require resources the government does not have, due to lack of political will, or because of the lack of clarity<sup>58</sup> of responsibilities, either within the administration or between the state and fishing communities' duties.

For example, in Mauritania, the Conseil Consultatif National pour l'Aménagement et le Développement des Pêcheries ("National advisory council for the management and development of fisheries"), which is supposed to meet at least twice a year and give advice on management plans and quotas, meets very seldomly, only on demand by the minister and with an imposed agenda.<sup>59</sup>

## Recommendations to the EU

In 2022, the International Year of Artisanal Fisheries and Aquaculture, CAOPA and other small-scale fisheries organisations from 5 continents launched a Call to Action with 5 key asks to their governments, one of which was to *"urgently secure preferential access by closing inshore areas to industrial fishing and other industrial activity and by protecting title, tenure, access, and resource rights."* These areas were to be co-managed *"putting in place specific legal frameworks that clearly define the roles and responsibilities of the authorities and fishers and by providing the appropriate support for fishers to engage (including for participatory surveillance, closed fishing seasons, etc)."*<sup>60</sup>

While some legislation is in place for artisanal fishing zones, more needs to be done to ensure these are clearer for fishers, to guarantee these zones are free from incursions, better enforced, monitored, and controlled. One obvious avenue for the EU to support the protection of small-scale fishers' access to resources is through the Sustainable Fisheries Partnership Agreements (SFPAs).

First of all, **EU vessels should not have access to areas where they compete with small-scale fishers.** While there has been much progress in the last 30 years, there are still instances where EU vessels' bycatch are species also targeted by artisanal fisheries, such as in Senegal and Mauritania SFPAs with EU trawlers.<sup>61</sup> However, as the recent SFPAs evaluation by the Commission<sup>62</sup> highlights, in cases of resource over-

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<sup>58</sup> TRAORE, Paule K., "Artisanal Fishing Local Councils "CLPA": the fight to preserve the marine ecosystem", *op. cit.*

<sup>59</sup> Mauritania study, forthcoming.

<sup>60</sup> "A Call to action from small-scale fisheries", a joint call by small-scale fishing organisations, Lisbon, 2022. Available in 7 languages at: <https://www.cffacape.org/ssf-call-to-action>

<sup>61</sup> Regarding the challenges linked to hake bycatch of EU shrimp trawlers in Mauritania, which end up catching overexploited hake, see GOREZ, Béatrice, "EU-Mauritania SFPAs: scientists highlight key sustainability issues, do not consider coral reefs protection", CFFA policy brief, 6 November 2023. Available at: <https://www.cffacape.org/publications-blog/eu-mauritania-sfpa-scientists-highlight-key-sustainability-issues-do-not-consider-coral-reefs-protection>. Regarding the competition of EU hake trawlers with Senegalese artisanal fishermen, see the access issues raised in the latest policy brief on the EU-Senegal SFPAs: PHILIPPE, Joëlle, "EU-Senegal fisheries partnership: transparency is essential at all levels", CFFA policy brief, 28 September 2023. Available at: <https://www.cffacape.org/publications-blog/eu-senegal-fisheries-partnership-transparency-is-essential-at-all-levels>

<sup>62</sup> CAILLART, Benoît, et al., "Evaluation and analysis of the Sustainable Fisheries Partnership Agreements (SFPAs) between the EU and third countries including an in-depth analysis of the sectoral support component of the SFPAs – Final report",

exploitation, the diminution of fishing opportunities for EU fleets, “*may not be sufficient on its own to rebuild overexploited stocks if fishing effort by other fleets is insufficiently regulated by the coastal state*”. This is why it is urgent for the EU to strictly implement the non-discrimination clause, which engages the coastal state to apply the same SFPAs measures to all foreign fleets.<sup>63</sup>

Secondly, to support fishers call for priority access to coastal areas, **SFPAs sectoral support funds should focus on safety at sea, on Monitoring, Control and Surveillance of the most sensitive areas, especially inshore exclusive zones, but also support co-management initiatives including participative surveillance.** The EU should streamline actions through budgetary support and ensure more efficiency and a better coherence<sup>64</sup> between SFPAs sectoral support spending and development cooperation. These actions to be supported should have been identified with fishers, in a transparent and participative way.

The EU has a policy of 0 tolerance for IUU, or so it says, listing developing states for non-cooperation in the fight against IUU. However, it is not so strict when it comes to keep an eye on vessels from certain member states which are involved in illegal operations in Africa. **There are several instances where either EU vessels or EU nationals<sup>65</sup> were implicated in IUU operations, one of the cases involved incursions in an artisanal fishing zone.<sup>66</sup> It is crucial that the EU applies its own standards.**

In Africa, vessels of foreign origin engaged in fishing joint ventures are often making incursions in areas where local artisanal fisheries operate, thus competing with them. Their operations are opaque. The EU has recently started a dialogue with the African Union to discuss “blue economy”: **A Blue Economy Taskforce was launched in February 2022 during the EU-AU Summit, which has identified fisheries management and governance, including transparency, as a priority. In this dialogue, it is essential that the issue of joint fisheries ventures is addressed, and that a clear framework is established in which these joint ventures<sup>67</sup> should align with development objectives of the country, operate in a transparent and sustainable manner, and without competing with local fishing communities.**

Finally, in their Call to Action, fishers ask that free, prior, and informed consent is ensured “*for any new ocean use or activity, including for conservation purposes.*” As the EU is increasingly supporting and funding the establishment of MPAs throughout its partnerships in order to help countries fulfil their commitment to protect 30% of oceans by 2030, it should ensure that some safeguards are put in place to secure small-scale fisheries. There is an urgent necessity of a human rights approach to

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EUROPEAN COMMISSION, Directorate-General for Maritime Affairs and Fisheries, Publications Office of the European Union, 2023. Available at: <https://op.europa.eu/en/publication-detail/-/publication/21927e4c-2f4d-11ee-9e98-01aa75ed71a1/language-en>

<sup>63</sup> GOREZ, Béatrice, “‘It takes two to tango’ – EU fishing partnerships agreements must become more attractive to partner countries”, CFFA policy brief, 2 October 2023. Available at: <https://www.cffacape.org/publications-blog/it-takes-two-to-tango-eu-fishing-partnerships-agreements-must-become-more-attractive-to-partner-countries>

<sup>64</sup> *Ibid.*

<sup>65</sup> GOREZ, Béatrice, “Cameroon IUU yellow card: The EU should also sanction European companies hiding behind this country’s flag”, CFFA policy brief, 11 March 2021. Available at: <https://www.cffacape.org/publications-blog/cameroon-iuu-yellow-card-the-eu-should-also-sanction-european-fishing-companies-hiding-behind-this-countrys-flag>

<sup>66</sup> See CFFA-CAPE, “Can an EU vessel fish sustainably in an IUU yellow carded country?” CFFA position paper, 20 April 2021. Available at: <https://www.cffacape.org/publications-blog/can-an-eu-vessel-fish-sustainably-in-an-iuu-carded-country>

<sup>67</sup> GOREZ, Béatrice, “Investment and transparency in EU-Africa fisheries relations: what about joint ventures?”, *op. cit.*

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conservation.<sup>68</sup> This means the EU should make sure that in the conservation initiatives it supports the fishing communities effectively participate. The EU should also consider compensation for fishing communities' social and economic costs of establishing such MPAs.<sup>69</sup>

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Brussels, 11 December 2023

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<sup>68</sup> PHILIPPE, Joëlle, "UN Ocean Conference political declaration: where are the fishers?", CFFA policy brief, 19 July 2022. Available at: <https://www.cffacape.org/publications-blog/unoc-political-declaration-where-are-the-fishers>

<sup>69</sup> GOREZ, Béatrice, "It takes two to tango' – EU fishing partnerships agreements must become more attractive to partner countries", *op. cit.*