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African Confederation of Artisanal
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Joint ventures in African fisheries:
What challenges for sustainable development?

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The constitution of joint ventures in African fisheries is often based on very limited knowledge of ecosystems, the state of fish resources, or the dynamics of the fisheries sector and coastal communities.

This lack of information, instead of encouraging investors and institutions to be cautious, has often resulted in irresponsible investment. There are countless cases in the history of Africa maritime fisheries, where overfishing due to overinvestment in production facilities ultimately led to a fall in fish resources, business closures and negative impacts for local coastal fisheries with which they competed for access to resources.

In West Africa, foreign private investors, - mainly from China, Korea, EU, Russia[1]-, are often operating under joint ventures. In the last years, such joint ventures have been denounced for their opacity, and, more recently, some of them were denounced for being involved in systematic fraudulent practices, such as the massive under reporting of tonnage by vessels of Chinese origin operating under joint ventures in West Africa.

In the case of the EU, it is to be noted that, in fisheries partnership agreements signed between EU and African countries, an article is inserted, on 'Promoting cooperation among economic operators and civil society', which encourages the setting-up of joint ventures.

The implementation of that article requires defining a set of principles to ensure such joint ventures operate in a transparent manner, do not enter in competition with the local artisanal sector, and are in line with the third country sustainable fisheries development objectives[2].

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[1] Russian investors are mostly present in West Africa small pelagics fishing – the recent case of *Africamer* highlights the opacity and irresponsibility of their joint ventures operations http://www.aprapam.org/2014/10/27/reserver-a-la-peche-artisanale-lexploitation-de-la-sardinelle-ou-yaboye/

[2] Numerous references exist at an international level to help define the principles to be integrated within a framework 'for investment in sustainable fishing': the work carried out by the FAO Investment Centre, OECD Guidelines for Multinational Enterprises, etc.

The EU experience of subsidised fishing joint ventures

The emergence of joint ventures between distant-water fishing fleets and African countries dates back to the 1950s, reflecting the ambition of these countries to obtain a share of the profits that foreign fleets were deriving from the exploitation of fisheries resources along their coast. However, it is important to note that under such schemes, the vessels are reflagged to the coastal States who, according to international law, become responsible not only for ensuring the conservation of the resources in waters under their jurisdiction (responsibility as Coastal State) but also for ensuring that these vessels abide by relevant laws where ever they operate (responsibility as Flag State).

In Europe, a subsidised joint ventures scheme was introduced in 1990. Under the scheme, a subsidy was paid to European shipowners who permanently transferred their vessels to a third country by creating joint ventures with local operators. Subsidised joint ventures were set up in around 20 ACP countries, including a number of African countries[3].

Principal countries in Africa with joint ventures	**Number of joint ventures set up**	**Number of vessels involved**
Senegal	27	41
Angola	20	36
Mauritania	8	9
Guinea (Conakry)	5	7
Cameroon	4	9
Guinea-Bissau	4	6
Cape Verde	4	4

Until 2000, this policy allowed the EU to help set up 152 joint ventures and to transfer 241 vessels, mainly of Spanish (82 joint ventures with 138 vessels) and Portuguese (34 joint ventures with 42 vessels) origin. West African countries alone had 54 joint ventures (36%), with 79 vessels (33%), with Africa as a whole representing 77% of joint ventures. Of the 241 vessels transferred, there were 176 trawlers, the remainder being seiners, non-specific vessels and longliners.

The European Union abolished fishing vessels transfer subsidies in December 2004. Since then, very little official information has been available about EU fishing joint ventures. Information was made available some years ago about Spanish Joint ventures by *El Cluster de Empresas Pesqueras en Paises Terceros*, which declared representing, in 2006, '*220 EU fishing companies and 550 vessels, responsible for 10% of EU fish-product imports*'[4]

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[3] The figures mentioned are taken from the document 'Study of mixed companies in the context of structural intervention in the fisheries sector', Cofrepêche, June 2000

[4] Agritrade article, April 2006, http://agritrade.cta.int/en/layout/set/print/Fisheries/Topics/ACP-EU-relations-FPAs/October-seminar-on-fishing-joint-enterprises-and-their-role-in-development

The current situation: the example of West Africa

West Africa is rich in fishery resources, attracting a large number of foreign vessels (Chinese, European, Russian, Korean, etc) setting up joint ventures. A study on the situation in Senegal found that, in 2011, there were 130 joint ventures approved by the Senegalese government in the industrial fishing sector, mainly with China and Korea, Spain, France, Italy[5].

Most of these joint ventures are described as ‘front companies’, or ‘dummy companies’, which operate without transparency and without complying with the legislation in force in the country. A recent report from Greenpeace[6] exposes widespread fraud involving Chinese companies fishing in West Africa, both with vessels flying the Chinese flag and vessels operating under joint ventures. Based on information obtained in Senegal, Guinea Bissau and the Republic of Guinea (Conakry), the report shows that China’s biggest distant water fishing company, the state-owned China National Fisheries Corporation (CNFC), as well as other Chinese companies, have systematically under-declared the gross tonnage (GT) of their fishing vessels for years.

Under-declaring GT is an illegal practice. It allowed these companies to pay less access fees to the coastal country, as those are calculated on the basis of the tonnage declared. It also meant that the actual fishing capacity deployed was much higher than authorized and undermines fisheries management and conservation efforts by coastal States.

To address this lack of transparency, there have been a number of interesting measures proposed, such as an audit of the Senegalese register of vessels, following a recommendation issued by the Assises Nationales de la Pêche (National Fisheries Conference) in March 2001. Unfortunately, this audit has never seen the light of day.

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[5] Study, L’accaparement des ressources marines ouest africaines: Sociétés mixtes de façade et licences de complaisance Expériences du Sénégal et de la Mauritanie, étude CAOPA/EED/CAPE 2011 http://www.ntiposoft.com/domaine_200/pdf/societes_mixtes_draft_final2.pdf

[6] Report, Scam on the African Coast', Greenpeace, 2015 http://www.greenpeace.org/africa/Global/africa/graphics/Amigo/Scam%20on%20the%20African%20Coast%20FINAL%20PROOF(1).pdf

Joint ventures have to answer the needs of African countries and their populations

In August 2005, African governments rallied behind the 'Fish for All' initiative organised by NEPAD[7], based on the fact that strategic investment was urgently needed to safeguard the future contribution of the African fisheries sector to tackling poverty and to regional economic development, as well as being necessary to (i) improve the management of fishing stocks, (ii) bolster aquaculture production, and (iii) improve the trade in fisheries products on domestic, regional and international markets.

On other occasions[8], stakeholders consulted were of the opinion that, in the majority of coastal countries, particularly those where resources had been fully exploited, or even overexploited, the priority areas for investment had to be support for artisanal fishing, the processing and preparation of high added-value products, related services and infrastructures, and training. Such recommendations were also endorsed at the meeting of African civil society, in parallel with the Conference of African Fisheries and Aquaculture Ministers in 2010[9].

More recently, operating within the framework of the Comprehensive Africa Agriculture Development Programme (CAADP), the African Union, through the Inter African Bureau for Animal Resources (IBAR) and NEPAD, launched an ambitious reform strategy for African Fisheries and Aquaculture[10], to enhance the contribution of fisheries to food security and economic growth in Africa.

The reform strategy focuses on addressing challenges on good governance and the promotion of equitable, social and environmentally sustainable fisheries development. In that context, it needs to be noted that, although African countries have introduced institutional reforms in order to attract foreign investors, numerous obstacles still exist for creating a conducive environment to sustainable fisheries, including:

- the lack of responsible management of fishery resources exploitation;
- the lack of transparency and stakeholders participation mechanisms;
- the high cost and difficulties of marketing fish;
- lack of port and fish landing services and infrastructures;
- numerous difficulties and high costs for fish products transport at national, regional, international levels;

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[7] See http://www.fishforall.org/ffa-summit/africasummit.asp.

[8] See report entitled 'The future of ACP-EU fisheries relations' http://www.anancy.net/documents/file_en/Version%20ANG.pdf

[9] The Banjul Civil Society Declaration on Sustainable Livelihoods in African Fisheries (made in parallel to the Conference of African Fisheries and Aquaculture Ministers, held in Banjul, September 2010) https://cape-cffa.squarespace.com/new-blog/2009/9/27/first-conference-of-african-ministers-of-fisheries-and-aquaculture-in-banjul

[10] African Union/NEPAD, Policy Framework And Reform Strategy For Fisheries And Aquaculture In Africa http://rea.au.int/en/sites/default/files/AU-IBAR%20-%20Fisheries%20Policy%20Framework%20and%20Reform%20Strategy.pdf

Taking into account the potential of sustainable small scale fisheries

In the immediate post-independence period, most African countries focused on developing industrial fishing. They acknowledged the contribution of artisanal fishing, but regarded it as a subsistence activity to supply local markets. It was industrial fishing that was destined to earn the country budget revenues for public spending and foreign exchange to strengthen the balance of payments, as well as key technological knowhow for their development.

The collapse in the late 1980s of many public organisations and ventures set up to promote the industrial fishing policy led many African countries to discover the opportunities which artisanal/semi industrial fishing offered to develop their national fishery sectors. Nowadays, artisanal fisheries are an asset for African countries to face the challenges of sustainable development[11]:

- **Job creation and fight against poverty**

At the global level, FAO[12] indicates that 10% of people are engaged in fishing and aquaculture in Africa, making it the second largest continent after Asia, in terms of jobs in this sector. The vast majority of these 12.3 million people living on fisheries in Africa are in the artisanal fisheries sector: over 7.5 million fishermen , as well as 2.3 million women , - i.e. 9.8 million, depend on artisanal fishing for their livelihood. These jobs provide income for millions of families in Africa.

African artisanal fishing is by far the leading provider of jobs in the sector.

- **Contribution to African States economies**

A recent study[13] on the value of African fisheries stresses that the contribution of fisheries to GDP of all African countries reached 1,909,514 million, with a contribution of marine and inland artisanal fisheries accounting for more than half this figure.

Artisanal fishing stimulates local economies if it is associated with policies to ensure social protection and promote the well-being of coastal communities

- **Contribution to food security**

In Africa, for over 200 million people, fish is a source of protein and essential nutrients (fatty acids, vitamins, minerals) at low prices. FAO estimates that fish represents on average 22% of the protein intake in sub-Saharan Africa. However, in the poorest African countries, this level can exceed 50%.

In most parts of Africa, capture and trade by the artisanal fisheries sector provides a ‘food safety net 'to the poorest populations.

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[11] These figures are from the Advocacy paper published by the African Confederation of Artisanal Fishing Organisations (CAOPA) for an African Year of Artisanal Fisheries https://cape-cffa.squarespace.com/config/#/|/new-blog/2015/4/9/2016-should-be-the-african-year-of-artisanal-fisheries

[12] The State of World Fisheries and Aquaculture 2014, FAO, http://www.fao.org/3/a-i3720e.pdf

[13] The value of African fisheries, FAO 2014, http://www.fao.org/3/66254dd2-3778-4b4c-8989-e58107aefcad/i3917e.pdf

Developing a Framework for joint ventures in African fisheries

The introduction of a regulatory framework for the setting up and operations of joint ventures in African fisheries is a vital prerequisite to ensure that investments are environmentally and socially sustainable. It is also important that investors themselves are aware of their corporate responsibilities and act appropriately.

In the case of the EU, there is an opportunity to use the existing framework of Sustainable Fisheries Partnership Agreements to open a dialogue with the partner country, - and EU and partner country stakeholders, in particular fishing communities, about the necessity to develop such regulatory framework, and what it should include.

The guiding principles for a regulatory framework and for ventures could be taken from existing international instruments, such as:

- the FAO Code of Conduct for Responsible Fisheries,
- the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.
- the Voluntary Guidelines to ensure the sustainability of the artisanal fisheries in the context of food security and eradicating of poverty
- the ILO Declaration on Fundamental Principles and Rights at Work,
- the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,
- the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters,
- the OECD Guidelines for Multinational Ventures.
- The Extractive Industry Transparency Initiative
- etc

A dialogue about the content of such framework could discuss the following:

1. **Conformity of investments with the policy objectives of the third country towards sustainable fisheries**

   Investments should take into account the policies introduced in the countries in which they operate. In this respect, the regulatory framework should ensure that investments:

    - contribute to economic, social and environmental progress with a view to achieving sustainable fishing;
    - respect the human rights of those affected by these investments, in accordance with the international obligations and commitments of the government of the third country;
    - boost local capacity by working closely with local communities while also expanding in the domestic market and foreign markets in a way which is compatible with sound business practices;
    - encourage training, particularly by creating job opportunities and facilitating the training of women and young people in the sector;
    - are not granted any dispensations or exemptions concerning the environment, health, safety, labour, taxation, financial incentives or other areas that are not envisaged in the legislative or regulatory framework; investors should not look for such dispensations or exemptions.

- **Transparency and disclosure**
    - Investors must ensure that reliable and pertinent information about their activities, structure, financial situation and results is communicated to the public regularly and on time.
    - Investors must apply high standards of quality in their disclosures, accounts and audits, and with regard to any information of a non-financial, environmental and social nature.
    - Investors must improve the transparency of their efforts to clamp down on corruption and extortion. These measures might include a public commitment to fight corruption and extortion, and information about the management systems adopted by the enterprise in order to meet these commitments.

- **Environment**

Investments should take into account the need to protect the environment and maintain public health and safety. In particular, investors must:

- set up and implement an environmental management system suited to the enterprise and involving:

    a) the timely collection and evaluation of sufficient information about the potential impact of their activities on the environment and on health and safety;

    b) set measurable and if necessary specific targets to improve their environmental performance, with a periodic audit of these targets;

    c) monitor and review on a regular basis the progress achieved in the pursuit of general and specific targets in terms of the environment and health and safety;

- in view of scientific and technical knowledge about risks, where there is the threat of serious environmental damage, and taking health and safety into account, refrain from using the absence of absolute scientific proof as a reason for delaying the adoption of effective measures destined to prevent or reduce such damage.

- **Tax**

It is important that business investment in third countries contributes to the public finances of the host country, with the enterprise paying any taxes due on time.

Specifically, ventures must comply with the tax laws and regulations in every country in which they operate and make every effort to act in accordance with the spirit and letter of such laws and regulations. This mainly involves ventures sending the relevant authorities the information necessary for calculating their tax liability and observing the arm’s length principle in their transfer pricing practices.

- **Participation of local communities in the host country**

This question has been closely examined by the FAO Investment Centre[14], which has declared that any investment project in the fisheries sector must be founded on a complete evaluation of local conditions, not only at a technical or environmental level, but also at an economic, political and social level. Another key issue for the FAO Investment Centre is the perception of innovation and risk. A project which appears worthwhile to a government or donors from an economic and technological point of view might seem irrational to disadvantaged local operators, who care more about avoiding risks than about maximising gains.

The best way to address these issues is to ensure that the beneficiaries are involved in the early stages of planning the project. In this way, not only are their rights to take part in decisions concerning their life respected, but the project itself has more chance of surviving, particularly if new infrastructure is proposed or issues arise which might require collective cooperation.

For more information

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[14] http://www.fao.org/tc/tci/fisheries_fr.asp.