



MAC ADVICE

Illegal, unreported and unregulated (IUU) fishing activities by Ghana's industrial trawl sector and the European Union seafood market

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1. Background

The Environmental Justice Foundation (EJF) has published a report detailing ongoing and systemic illegal practices in Ghana's bottom trawl industry¹. The findings are indicative of a high risk that specific seafood species caught by, or in association with, illegal fishing practices continues to enter the EU market, and that EU consumers are inadvertently supporting illegal practices and severe overfishing in Ghana's waters. This is having devastating impacts on local fishing communities, and the 2.7 million people in Ghana that rely on marine fisheries for their livelihoods², as well as a negative impact on the image and reputation of those operators who are deploying good practices.

The EU is Ghana's main market for fisheries exports, accounting for around 85% of the country's seafood export value in recent years³. In 2018, the EU imported 33,574 tonnes of fisheries products from Ghana, worth €157.3 million⁴. The vast majority of these imports involved processed and unprocessed tuna products, which are out of the scope of the present advice.

¹ EJF (2020). *Europe – a market for illegal seafood from West Africa: the case of Ghana's industrial trawl sector*. <https://ejfoundation.org/reports/europe-a-market-for-illegal-seafood-from-west-africa-the-case-of-ghanas-industrial-trawl-sector>.

² Ghana Statistical Service (GSS) (2014) Cited in Fisheries Commission (2018). *2018 Annual Report*. Ministry of Fisheries and Aquaculture Development. Unpublished.

³ Eurostat, reported under chapter 03 and sub-headings 1604 and 1605 of the World Customs Organization Harmonized System. <http://epp.eurostat.ec.europa.eu/newxtweb/>.

⁴ *Ibid.*

2. Scope of this advice

A number of Ghanaian-flagged industrial trawlers, with licences to catch demersal species such as cephalopods, are authorised under EU health legislation to export fisheries products to the EU market⁵. Each year, Ghana's industrial trawl fleet exports between 2,000 and 3,500 tonnes of cuttlefish, octopus and squid to the EU, primarily to Portugal, Italy and Spain, worth around €10 million⁶.

While exports from the industrial trawl fleet represent less than 10% of total seafood trade from Ghana to the EU, the activities of these vessels are having a disproportionate impact, driving the collapse of Ghana's coastal fisheries⁷. Fishing vessels that export seafood to the EU have been implicated in the illegal 'saiko' trade, as well as other illegalities, such as incursions into areas reserved for small-scale fishers⁸.

In addition to IUU fishing concerns, EJF research has uncovered potential issues concerning compliance of trawlers with EU health legislation, as well as nationality requirements under Ghanaian law and legislation on foreign investment. Trawlers operating under the Ghanaian

⁵ European Commission (18.08.19), 'Non-EU Countries Authorised Establishments, Ghana, Fishery Products', accessed 9.7.20. https://webgate.ec.europa.eu/sanco/traces/output/GH/FFP_GH_en.pdf.

⁶ Eurostat, reported under sub-heading 0307 of the World Customs Organization Harmonized System. Annual average (2009-2018). <http://epp.eurostat.ec.europa.eu/newxtweb/>. While the trawl fleet is also understood to export snappers and groupers to the EU, species-specific codes do not exist under the Combined Nomenclature (8-digit) trade reporting system of the EU. See also: GOPA Consortium (2011) *Accompanying developing countries in complying with the Implementation of Regulation 1005/2008 on Illegal, Unreported and Unregulated (IUU) Fishing. Country Profile: Ghana*, EuropeAid/129609/C/SER/Multi, January 2011.

⁷ EJF and Hen Mpoano (2019). *Stolen at sea: How illegal "saiko" fishing is fuelling the collapse of Ghana's fisheries*. <https://ejfoundation.org/reports/stolen-at-sea-how-illegal-saiko-fishing-is-fuelling-the-collapse-of-ghanas-fisheries>.

⁸ EJF (2020). *Europe – a market for illegal seafood from West Africa: the case of Ghana's industrial trawl sector*. <https://ejfoundation.org/reports/europe-a-market-for-illegal-seafood-from-west-africa-the-case-of-ghanas-industrial-trawl-sector>.

flag have also been implicated in alleged human rights abuses and labour violations at sea, including potential cases of forced labour⁹.

The report identifies the following key issues: illegal trans-shipment at sea from trawlers to canoes, foreign beneficial ownership in breach of national law, and irregularities in relation to EU health requirements. Further details on these three key issues can be found in the Annex.

3. Recommendations

Given the severity of impacts of illegal fishing on Ghana's coastal communities and marine resources, it is critical that the European Commission and EU Member States undertake detailed scrutiny of seafood imports from Ghana to ensure products caught by, or in association with, illegal practices are blocked from entering the EU market.

In particular, it is recommended that the European Commission:

- a) Cooperates with the government of Ghana through the EU-Ghana IUU Working Group established after the lifting of the yellow card to address illegal and destructive fishing practices, with a specific focus on ending saiko and improving transparency in Ghana's industrial fishing sector;
- b) Is prepared to use all tools foreseen under the EU IUU Regulation if it is demonstrated that Ghana has failed to discharge its duties under international law as flag, port, coastal or market state and to remedy this situation as envisaged in Commissioner Sinkevičius' mission letter¹⁰;
- c) Brings, through the appropriate channels, IUU fishing risks to the attention of EU Member States, particularly Portugal, Italy and Spain, which receive the majority of

⁹ EJF (2020). *Fear, hunger and violence: Human rights in Ghana's industrial trawl fleet*. https://ejfoundation.org/resources/downloads/EJF_Ghana-human-rights-in-fisheries_2020_final.pdf.

¹⁰ Von der Leyen, U. (10.9.19). *Mission letter to Virginijus Sinkevičius, Commissioner-designate for Environment and Oceans*. https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-virginijus-sinkevicius_en.pdf.

cephalopod imports from Ghana, and requires them to increase scrutiny of fisheries imports stemming from Ghana's trawl sector;

- d) Brings, through the appropriate channels, risks of potential deterioration of image to the attention of other EU Member States, such as France, Germany and the Netherlands, as well as the United Kingdom, which are major importers of tuna products from the country;
- e) Uses the information gathered from EU Member States' verifications to best orient the actions under the auspices of the EU-Ghana IUU Working Group;
- f) Brings IUU fishing risks to the attention of importers and other relevant seafood businesses in the EU, particularly in the Member States mentioned above;
- g) Cooperates with the governments of Ghana and China to ensure industrial trawlers exporting catches to the EU comply with EU health requirements, as well as local laws on beneficial ownership and foreign investment, and international human rights and labour standards;
- h) Promotes the implementation of the EU IUU Regulation catch certificate IT system (CATCH) and advocates for it to become mandatory for EU Member States as stated in the Commission's proposal for the revision of the Control Regulation;
- i) In the interim and during the implementation period of the revised European Control System, which is expected to be two to five years, encourages EU Member States to use the CATCH system on a voluntary basis;
- j) Encourages the swift adoption of more comprehensive risk criteria and seamless data cross-checks during the next iterations of the CATCH IT system;
- k) Ensures the application of standardised risk analysis criteria and procedures for the verification of high-risk catch certificates and inspection of consignments, taking into account best practices currently implemented in the EU.

Annex

1. Key Issues Identified by the Report

1.1. Illegal trans-shipment at sea from trawlers to canoes

Recent years have seen an increase in the illegal and highly destructive practice known locally as ‘saiko’¹¹. In the saiko trade, demersal trawlers use mid-water trawl and under-sized mesh nets to illegally target small pelagic species, such as sardinella, reserved for small-scale fishers. The catches, which often include large numbers of juvenile fish, are trans-shipped at sea to purpose-built canoes for landing and onward sale to fishing communities¹².

Despite being prohibited under Ghanaian law, saiko fishing has expanded rapidly over the past decade, putting livelihoods and food security at risk¹³. In 2017, an estimated 100,000 metric tonnes of fish were traded illegally through saiko, with an estimated landed value of between US\$52.7 and US\$81.1 million¹⁴. Landings of sardinella have declined by around 80% over the past two decades, from 135,628 metric tonnes in 1996, to 29,111 tonnes in 2016¹⁵. A recent

¹¹ EJF and Hen Mpoano (2019). *Stolen at sea: How illegal “saiko” fishing is fuelling the collapse of Ghana’s fisheries*. <https://ejfoundation.org/reports/stolen-at-sea-how-illegal-saiko-fishing-is-fuelling-the-collapse-of-ghanas-fisheries>.

¹² EJF (2020). *The “people’s” fishery on the brink of collapse: Small pelagics in landings of Ghana’s industrial trawl fleet*. <https://ejfoundation.org/reports/the-peoples-fishery-on-the-brink-of-collapse-small-pelagics-in-landings-of-ghanas-industrial-trawl-fleet>.

¹³ *Ibid.*

¹⁴ EJF and Hen Mpoano (2019). *Stolen at sea: How illegal “saiko” fishing is fuelling the collapse of Ghana’s fisheries*. <https://ejfoundation.org/reports/stolen-at-sea-how-illegal-saiko-fishing-is-fuelling-the-collapse-of-ghanas-fisheries>.

¹⁵ FAO (2019). *Report of the FAO/CECAF Working Group on the Assessment of Small Pelagic Fish – Subgroup South*. Elmina, Ghana, 12-20 September 2018. *Rapport du Groupe de travail FAO/COPACE sur l’évaluation des petits poissons pélagiques – Sous-groupe Sud*. Elmina, Ghana, 12-20 septembre 2018. CECAF/ ECAF Series / COPACE/PACE Séries No. 19/81. Rome. <http://www.fao.org/3/ca5402b/ca5402b.pdf>.

assessment by UN FAO recommended the closure of the sardinella fishery shared between Côte d'Ivoire, Ghana, Togo and Benin to allow fish populations to recover¹⁶.

1.2. Foreign beneficial ownership in breach of national law

Currently, 72 industrial trawlers are licensed to fish in Ghana's waters¹⁷, the vast majority of which – an estimated 90% – are beneficially owned¹⁸ by Chinese corporations¹⁹. To circumvent a legal prohibition against foreign involvement in the trawl sector²⁰, operators set up front companies and lease management/hire purchase arrangements to register their vessels to the Ghanaian flag and gain access to Ghana's fisheries on local licences²¹.

The result is a concerning lack of transparency around the ownership and control of vessels operating in Ghanaian waters. This precludes attempts to identify the beneficiaries of illegal activities and ensure those individuals are held to account. Prosecutions for fisheries-related

¹⁶ *Ibid.*

¹⁷ Republic of Ghana, Ministry of Fisheries and Aquaculture Development (MoFAD), 'Vessel Registry', accessed 4.6.20. <https://www.mofad.gov.gh/publications/statistics-and-reports/vessel-registry/>. The list of licensed vessels is not published routinely on the website of the Ministry for Fisheries and Aquaculture Development (MoFAD) precluding external scrutiny of licences.

¹⁸ A beneficial owner is a natural person who ultimately owns or controls a legal entity or arrangement: IDB and OECD (2019). *A beneficial ownership implementation toolkit*. <https://www.oecd.org/tax/transparency/beneficial-ownership-toolkit.pdf>.

¹⁹ EJF (2018). *China's hidden fleet in West Africa: A spotlight on illegal practices within Ghana's industrial trawl sector*. <https://ejfoundation.org/reports/chinas-hidden-fleet-in-west-africa-a-spotlight-on-illegal-practices-within-ghanas-industrial-trawl-sector>; Gutiérrez, M., Daniels, A., Jobbins, G., Gutiérrez Almazor, G. and Montenegro, C. (2020). *China's distant-water fleet. Scale, impact and governance*. Overseas Development Institute (ODI). June 2020. <https://www.odi.org/publications/16958-china-s-distant-water-fishing-fleet-scale-impact-and-governance>; Samari, M. (12.9.19), 'Investigation ties foreign-owned trawlers to illegal fishing in Ghana', *China Dialogue Ocean*, accessed 15.4.19. <https://chinadialogueocean.net/10050-investigation-illegal-fishing-in-ghana-pt-1/>.

²⁰ Section 47(1) 2002 Fisheries Act; Taylor Crabbe Initiative (2020). *Legal opinion on the engagement of foreign companies in Ghana's industrial trawl sector. Summary*. March 2020. <https://ejfoundation.org/reports/legal-opinion-on-the-engagement-of-foreign-companies-in-ghanas-industrial-trawl-sector>.

²¹ EJF (2018). *China's hidden fleet in West Africa: A spotlight on illegal practices within Ghana's industrial trawl sector*. <https://ejfoundation.org/reports/chinas-hidden-fleet-in-west-africa-a-spotlight-on-illegal-practices-within-ghanas-industrial-trawl-sector>; Samari, M. (12.9.19), 'Investigation ties foreign-owned trawlers to illegal fishing in Ghana', *China Dialogue Ocean*, accessed 15.4.19, <https://chinadialogueocean.net/10050-investigation-illegal-fishing-in-ghana-pt-1/>.

offences target only the local licence holders meaning that sanctions imposed fail to have a deterrent effect and, in some cases, go unpaid²². This has contributed to the proliferation of illegal and unreported fishing in Ghana's trawl sector.

1.3. Irregularities in relation to EU health requirements

Once authorised to export fisheries products to the EU market, fishing vessels should appear in their flag state's list of authorised establishments under EU health legislation.²³ However, up to the end of 2019, nine trawlers operating under the Ghanaian flag appeared in China's list of authorised establishments²⁴.

The presence of Ghanaian-flagged vessels in China's list of authorised establishments raises the question of potential 'double flagging' of these vessels to both Ghana and China²⁵. The lack of traceability in supply chains may also mean that, in reality, considerably more products from Ghana's trawl fishery may find their way to the EU market as products of Chinese rather than Ghanaian origin²⁶.

²² Anon. (23.1.20), 'Trawlers charged with illegal fishing continue to dodge fines in Ghana', *EJF*, accessed 4.5.20. <https://ejfoundation.org/news-media/trawlers-charged-with-illegal-fishing-continue-to-dodge-fines-in-ghana-1>.

²³ Article 10, Commission Delegated Regulation (EU) 2019/625 of 4 March 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of certain animals and goods intended for human consumption. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02019R0625-20190517>.

²⁴ European Commission (15.1.19), 'Non-EU Countries Authorised Establishments, China, Fishery Products', accessed 11.6.19. https://webgate.ec.europa.eu/sanco/traces/output/CN/FFP_CN_en.pdf. Three of the vessels, LU RONG YUAN YU 906, 907 and 908, were listed in China's list of authorised establishments on 29.8.13. Another six vessels, LU RONG YUAN YU 910, 916, 917, 918, 919 and 920, were listed on 7.12.17. The vessels have since been removed from the most recent version of the list dated 8.8.20.

²⁵ Ghana Fisheries Commission, personal communication to EJF, November 2018.

²⁶ EJF (2020). *Europe – a market for illegal seafood from West Africa: the case of Ghana's industrial trawl sector*. <https://ejfoundation.org/reports/europe-a-market-for-illegal-seafood-from-west-africa-the-case-of-ghanas-industrial-trawl-sector>.