

At what cost? How Ghana is losing out in fishing arrangements with China's distant water fleet

SUMMARY

The expansion of coastal bottom trawling in West Africa is of serious concern. In addition to the highly destructive environmental footprint¹, conflicts with small-scale fishers², engagement of vessels in illegal activities³ and reports of possible forced labour⁴ have been documented in these fleets. The damaging implications for the sustainability of the region's coastal fisheries – which are of critical importance to food security and the livelihoods of local communities – are increasingly clear. Meanwhile, assessments have found limited financial benefit accruing to developing states from coastal bottom trawling activities.⁵

China is the leading player in West Africa's bottom trawl fishery, with hundreds of vessels operating from Mauritania to Liberia and throughout the Gulf of Guinea down to Angola. While many Chinese bottom trawlers operate as foreign vessels, generally under fishing authorisations issued directly by coastal states to vessel owners (private agreements)⁶, in Ghana the vessels register to the local flag and access the country's waters on local licences. An estimated 90% of trawlers operating in Ghana are beneficially owned by Chinese corporations⁷, in spite of a prohibition against foreign ownership or control of trawlers flying the Ghanaian flag⁸. These corporations operate through local front companies, using opaque corporate structures to import their vessels, register and obtain a licence to fish⁹.

This study considers whether the licensing regime for bottom trawlers in Ghana is impacting the amount of government revenue that could be generated by the sector. We look at two main sources of public revenue: (i) licence fees paid by fishing companies, and (ii) financial penalties imposed for fisheries-related infringements. We compare actual licensing revenue with projected licensing revenue based on foreign licence fees applied by other coastal states in the region. We assess fisheries enforcement revenue collected by the Ghanaian government and estimate lost (or unrealised) revenue where fines below the statutory minimum have been imposed.



Overall, it is estimated conservatively that Ghana could be generating an additional US\$14.4-23.7 million annually from its trawl sector by way of fishing licence fees and enforcement revenue for fisheries-related infringements. The concealment of beneficial ownership behind local front companies may serve to justify the application of low licence fees and the imposition of financial penalties at well below the statutory minimum.

Key findings

The findings of this research indicate that Ghana is substantially undervaluing its fisheries resources in arrangements with Chinese fishing companies to license vessels under the Ghanaian flag.

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- Overall, it is estimated conservatively that Ghana could be generating an additional US\$14.4-23.7 million annually from its trawl sector by way of fishing licence fees and enforcement revenue for fisheries-related infringements. The concealment of beneficial ownership behind local front companies may serve to justify the application of low licence fees and the imposition of financial penalties at well below the statutory minimum.
- The study identified eight Chinese companies that currently, or in the recent past, have beneficially owned industrial trawlers operating under the Ghanaian flag. These companies accounted for 75% of trawlers that were licensed to fish in Ghana at the end of 2019. Two companies were found to be particularly dominant in the sector: Dalian Mengxin Ocean Fishery Co. Ltd and Rongcheng Marine Fishery Co. Ltd. Together these companies accounted for 44% of licensed vessels at the end of 2019, each with a fleet of 15-20 bottom trawlers operating under the Ghanaian flag.
- One state-owned Chinese company with trawl operations in Ghana, Shandong Zhonglu Oceanic Fisheries Co Ltd, reported an operating revenue of around US\$164.5 million in 2019, receiving subsidies for the development of its overseas fishing operations of around US\$3.0 million in that year. At least seven Chinese fishing companies with trawl operations in Ghana have obtained ocean fishery enterprise qualifications from the Chinese government which confer eligibility to receive state subsidies.
- For the purposes of licensing, trawl vessels in Ghana are registered to numerous local companies. A total of 52 Ghanaian companies have held licences for trawl vessels since 2015. The majority of local licence holders reported an envisaged annual revenue of less than US\$10,000 on incorporation. Nearly half of companies for which data were obtained reported an envisaged annual revenue of less than US\$1,000.
- Projections of licensing revenue based on fees and royalties payable in other coastal states in the region suggest Ghana could be generating an additional US\$2.4-6.7 million annually by increasing its fees from the current level of US\$135/GRT/annum. The projections in this study are based on fees charged primarily under Sustainable Fisheries Partnership Agreements (SFPAs) between West African coastal states and the European Union (EU), which have come under their own criticism for being too low¹⁰.
- Total licensing revenue in Ghana is insignificant compared to the landed value of catches by the industrial trawl fleet. In 2018, licence fees collected from trawling companies in Ghana represented just 0.4% of the landed value, excluding illegal and unreported catches which are thought to be significant¹¹. Cases of apparent under-reporting of vessel tonnage for trawlers operating in Ghana have also been identified, further impacting licence fees received.
- Ghana's licence fee remains lower than fees applied to foreign trawlers by other West African coastal states, even with the increase in 2020 to US\$135/GRT/annum from the historical fee of US\$35/GRT/annum. Since 2002, licence fees for an average 200 GRT trawler in Ghana have been in the region of US\$7,000 per year, increasing in 2020 to around US\$30,000 per year. In 2020, industrial vessel operators successfully appealed to the Presidency for a reduction in the proposed licence fee of US\$200/GRT/annum that had been previously approved by cabinet and parliament¹².
- In addition to low licensing revenues, Ghana is failing to apply deterrent financial penalties in accordance with minimum fines in its legislation (and its obligations under international law). This resulted in unrealised enforcement revenue of around US\$12 million in 2015 and US\$17 million in 2018.
- As a result of the lack of transparency around vessel ownership, prosecutions fail to target the beneficial owners –often a much larger entity with a controlling interest in the vessel – to ensure sanctions imposed are proportionate and have a deterrent effect. Cases are generally heard through opaque out-of-court settlement processes, with fines imposed at well below the statutory minimum and in some cases going unpaid. This study has identified several cases of alleged illegal fishing in Ghana linked to a Chinese state-owned corporation in receipt of government subsidies, Shandong Zhonglu Oceanic Fisheries Co Ltd, and further cases of alleged illegal fishing linked to a second Chinese state-owned company, Shandong Ocean Fishery Development Corporation.

- The findings indicate that revenue generated by the industrial trawl sector could be maintained with a significantly reduced fleet. Through aligning licence fees with those applied by Guinea, for instance, Ghana could address fleet over-capacity and reduce trawler numbers by around 87% from 75 to 10 vessels yet double the revenue generated in 2018. Indeed, Ghana could go further and reduce trawler numbers by around 93% to five vessels and still remain revenue neutral at 2018 levels. Such a reduction would provide massive benefits to the country's struggling artisanal fishery, which supports jobs and food security for millions of Ghanaians.

The report recommends urgent reforms in Ghana's trawl sector that first and foremost improve transparency, so it is clear who is benefiting from fishing access, what and how much they are fishing, how much they are paying and what these funds are used for. There is a need to enhance accountability through parliamentary oversight of industrial fishing licences, as required by the 1992 Constitution¹³, and to effectively enforce the law governing the nationality of vessel ownership in the 2002 Fisheries Act. The governments of Ghana and China must work collaboratively to ensure the perpetrators and beneficiaries of illegal fishing are identified and held to account for their acts, through implementation of an enforcement regime that imposes proportionate and dissuasive sanctions through transparent processes and ensures that fishing licences and government subsidies are withdrawn for entities that engage in illegal practices. China's adoption of new distant water fishing regulations provides the country with the legal basis and opportunity to scrutinise the operations of private and state-controlled fishing companies in Ghana and bring its "hidden" fleet into compliance with national and international law.

There is a need to enhance accountability through parliamentary oversight of industrial fishing licences, as required by the 1992 Constitution, and to effectively enforce the law governing the nationality of vessel ownership set out in the 2002 Fisheries Act.



An industrial trawler in Ghana engaged in an alleged illegal trans-shipment at sea (a practice known locally as "saiko").

Recommendations

To the Government of Ghana:

1. Improve transparency in the industrial trawl sector in accordance with EJJ's ten principles for global transparency in the fishing industry¹⁴, including, as a matter of priority, making the following information publicly available^{15,16}:
 - a. A detailed and updated list of all fishing vessels licensed to fish under the Ghanaian flag and in the Ghanaian EEZ, as well as the record of external fishing authorisations and register of vessels, including information on beneficial ownership. These lists should be consistent with and feed into information made available through the FAO Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels¹⁷.
 - b. Licence fees paid for access to fisheries resources, conditions of access and numbers of fishing days allocated to each licensed vessel.
 - c. Total catches of all fishing sub-sectors, including by-catch.
 - d. IUU fishing infringements and sanctions imposed/paid.
 - e. Licensing and enforcement revenue collected and how these funds are used.
 - f. Vessel-monitoring data through publication of unedited VMS data and/or introduction of mandatory AIS requirements for all industrial fishing vessels.
2. Review the licence fees payable for industrial trawl operations to ensure these are aligned with regional practice and represent a fair market value for access to Ghana's marine fisheries.
3. Immediately, reduce the number of fishing licences issued for industrial trawl vessels in line with best available scientific advice on the status of both small pelagic and demersal fish stocks.
4. Scrutinise, in detail, publishing the results, the ownership arrangements of all industrial trawl vessels currently operating in Ghana to ensure compliance with requirements regarding the nationality of beneficial owner(s) set out in the 2002 Fisheries Act, and that all aspects of their operations are carried out legally.

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An industrial trawler operating in Ghanaian waters.

5. Require, as part of all applications for a fishing licence, fishing authorisation or entry to the Ghanaian fleet register, submission of records on the destination of profits from fishing activities, and information on beneficial ownership and foreign interests in vessels, to support implementation of nationality requirements in the 2002 Fisheries Act.
6. Reform the 2002 Fisheries Act to include a requirement for all applications for industrial fishing licences to be subject to parliamentary approval, as required under Article 268 of the 1992 Constitution¹⁸.
7. As part of the ongoing reform of the fisheries law framework, strengthen legal provisions on beneficial ownership in the fishing industry through inclusion of minimum disclosure requirements and publication of details of beneficial ownership in a national register, in a manner consistent with Ghana's beneficial ownership roadmap produced under the Extractive Industries Transparency Initiative (EiTI)¹⁹ and the requirements under the 2019 Companies Act (Act 992). Provide for dissuasive sanctions for breach of nationality requirements set out in the legislation.
8. Ensure the effective, consistent and transparent enforcement of the law and imposition of sanctions of sufficient severity to prevent, deter and eliminate IUU fishing, including the suspension and withdrawal of licences, and the effective recovery of all outstanding fines.
9. Take urgent action to bring a permanent end to illegal saiko fishing, in line with the government's commitment in the 2020 Budget Statement and Economic Policy²⁰.
10. Investigate the discrepancies in vessel gross tonnage highlighted in this report, and ensure appropriate sanctions are imposed in the event infringements are detected.



Trawl vessels unloading at Tema port, Ghana.

To the Government of China:

1. Improve transparency in relation to the Chinese distant water fishing fleet in accordance with EJJ's ten principles for global transparency in the fishing industry²¹, including as a matter of priority:
 - a. Publishing and maintaining updated a detailed list of all distant water fishing vessels authorised/licensed to fish under the Chinese and local flags, including information on beneficial ownership.
 - b. Mandating IMO numbers for all vessels in the Chinese distant water fleet, where eligible under the IMO ship number identification scheme, and providing all information to the FAO Global Record and maintaining this information up to date.
2. Cooperate with the Ghanaian authorities to identify Chinese beneficial ownership of industrial trawl vessels and ensure that arrangements comply with all relevant fisheries, company and tax laws, including the provisions of China's distant water fishing regulation that entered into force on 1 April 2020²².
3. Carry out all necessary investigations into cases of illegal fishing by Chinese nationals in connection with industrial trawl vessels flying the flag of Ghana and impose deterrent sanctions in accordance with Chinese law and regulations, including with respect to vessel captains and company managers²³.
4. Investigate the discrepancies in vessel gross tonnage highlighted in this report, and ensure appropriate sanctions are imposed in the event infringements are identified.
5. Withdraw the distant water fishing certificates of any Chinese companies found to be supporting or engaging in illegal fishing by vessels under the Ghanaian flag²⁴.
6. Ensure that Chinese fishing companies for which the distant water fishing certificates have already been withdrawn are no longer operating vessels in West Africa under third country flags such as Ghana.
7. Ensure government support in the form of subsidies, loans and other funds are not available to companies that are found to have engaged in illegal fishing²⁵.
8. Update the national law framework, if necessary, to ensure that Chinese nationals engaged as beneficial owners of fishing vessels flying the flag of third countries can be prosecuted for IUU fishing infringements and deterrent sanctions imposed.



Image of a Ghanaian-flagged industrial trawl vessel captured by local fishers at sea.

- 1 Jones, J. B. (1992). Environmental impact of trawling on the seabed: a review. *New Zealand Journal of Marine and Freshwater Research*, 26, 59–67; Watling, L. and Norse, E.A. (1998). Disturbance of the Seabed by Mobile Fishing Gear: A Comparison to Forest Clearcutting. *Conservation Biology*, 12(6), 1180–1197.
- 2 Mallory, T.G. (2013). China's distant water fishing industry: evolving policies and implications, *Marine Policy* 38, 99–108; INTERPOL (2014). *Study on fisheries crime in the West African Coastal Region*. September 2014; 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>
- 3 *Ibid.* See also: Belhabib, D., Cheung, W., Kroodsma, D., Lam, V., Underwood, P. and Virdin, J. (2019). Catching industrial fishing incursions into inshore waters of Africa from space. *Fish and Fisheries*, 21(1); Mullié, W. (2019) Apparent reduction of illegal trawler fishing effort in Ghana's Inshore Exclusive Zone 2012-2018 as revealed by publicly available AIS data. *Marine Policy*, 108: <https://doi.org/10.1016/j.marpol.2019.103623>
- 4 EJF (2020). *Human rights and labour issues in Ghana's industrial trawl fleet*. <https://ejfoundation.org/reports/fear-hunger-and-violence-human-rights-in-ghanas-industrial-trawl-fleet>
- 5 A study found public revenues equating to 2%-8% of the estimated landed value of the harvest in three out of four West African countries studied: Virdin, J., Kobayashi, M., Akester, S., Vegh, T. and Cunningham, S. (2019) West Africa's coastal bottom trawl fishery: initial examination of a trade in fishing services. *Marine Policy*, 100, 288–297.
- 6 Morin, M. (2020). *Fisheries in Africa: Exclusive Economic Zones for which purpose?* Policy Brief, Coalition for Fair Fisheries Arrangements (CFFA), May 2020. <https://www.cffacape.org/publications-blog/fisheries-in-africa-exclusive-economic-zones-for-which-purpose>
- 7 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>
- 8 Section 47(1), 2002 Fisheries Act (Act 625).
- 9 Trygg Mat Tracking (2020). *Spotlight on the exploitation of company structures by illegal fishing operators*. <https://www.tm-tracking.org/post/illegal-fishing-operators-exploit-company-structures-to-cover-up-illegal-operations>; Samari, M. (12.9.19). 'Investigation ties foreign-owned trawlers to illegal fishing in Ghana', *China Dialogue Ocean*, accessed 14.8.20. <https://chinadialogueocean.net/10050-investigation-illegal-fishing-inghana-pt-1/>
- 10 Okafor-Yarwood, I., and Belhabib, D. (2020). The duplicity of the European Union Common Fisheries Policy in third countries: evidence from the Gulf of Guinea. *Ocean and Coastal Management*, 184:11
- 11 For an estimate of illegal and unreported catch traded through saiko activities in Ghana, see: 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 Republic of Ghana (2020). *Medium term expenditure framework (MTEF) for 2020-2023*. Ministry of Fisheries and Aquaculture Development. Programme based budget estimates for 2020; Second Schedule, Appropriation Act, 2019 (Act 1008); Asafu-Adjei, K. (2019) *Report of the Parliamentary Select Committee on Food, Agriculture and Cocoa Affairs on the 2020 programme based budget estimates of the Ministry of Fisheries and Aquaculture Development*. December 2019.
- 13 Pursuant to Article 268 of the 1992 Constitution, any application for a licence to exploit a natural resource requires Parliamentary approval. Since fisheries are considered a natural resource, any application for a fishing licence in Ghana should be subjected to Parliamentary ratification. Currently, industrial fishing licences are processed by the Fisheries Commission and issued by the Minister for Fisheries in accordance with Sections 69 and 70 of the 2002 Fisheries Act and without the involvement of Parliament. For further information see: 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-parliamentary-fishing-licenses>.
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- 15 EJF (2020). *Transparency principle three: Factsheet for implementation*. https://ejfoundation.org/resources/downloads/Transparency-Factsheet_Principle-3-final.pdf
- 16 EJF (2020). *Transparency principle four: Factsheet for implementation*. https://ejfoundation.org/resources/downloads/Transparency-Factsheet_Principle-4-final.pdf
- 17 FAO, 'Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels. Information system', accessed 10.9.20, <http://www.fao.org/global-record/information-system/en/>
- 18 Taylor Crabbe Initiative (2020). *Legal opinion on the requirement for parliamentary approval for industrial fishing licences in Ghana – Summary*. March 2020. <https://ejfoundation.org/reports/legal-opinion-parliamentary-fishing-licenses>.
- 19 Republic of Ghana (2016). *Ghana EITI Beneficial Ownership Roadmap*. Ghana Extractive Industries Transparency Initiative (GHEITI). https://eiti.org/sites/default/files/documents/ghanas_eiti_beneficial_ownership_road_map.pdf
- 20 Republic of Ghana (2019). *Budget Statement and Economic Policy of the Government of Ghana for the 2020 Financial Year*. Presented to Parliament on Wednesday, 13th November by Ken Ofori-Atta, Minister for Finance.
- 21 EJF (2018). *The ten principles for global transparency*. <https://ejfoundation.org/reports/the-ten-principles-for-global-transparency>
- 22 Ministry of Agriculture and Rural Affairs of the People's Republic of China (2020). *Regulations on the Management of Ocean Fisheries*. Order No. 2 of 2020. http://www.moa.gov.cn/govpublic/YYJ/202003/t20200310_6338553.htm
- 23 In accordance with Article 34 of the Regulations on the Management of Ocean Fisheries.
- 24 In accordance with Article 39 of the Regulations on the Management of Ocean Fisheries.
- 25 *Ibid.*



Blocks of "saiko" fish landed illegally at Elmina fish market in Ghana's Central Region.