



# Position paper

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## Investment and transparency in EU-Africa fisheries relations: what about joint ventures?

Brussels, 20 July 2020

In this joint position, CAOPA and CFFA request that, in the framework of the future EU–Africa partnership, which focuses on sustainable investments and the promotion of good governance in fisheries, 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.

### 1. Introduction

In its March 2020 Communication, ‘Towards a comprehensive strategy with Africa’,<sup>1</sup> the European Commission proposes a discussion with African partners at the next EU–AU Summit in October 2020 to jointly define a new comprehensive EU policy with Africa. This policy would be based on five partnerships, which would accomplish the common strategic priorities set by the EU and the African Union at the 2017 summit in Abidjan.

Fisheries is addressed in the chapter ‘Partners for green transition and energy access’, where the European Commission recalls that there is “*there is a risk of overexploitation and depletion in addition to the threats posed by unsustainable fishing and management of water resources, pollution, desertification, and, in the case of coastal areas, rising sea levels.*” To remedy this situation, the EU is prepared to “*scale up the fight against illegal, unreported and unregulated fishing*”, but also “*to*

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<sup>1</sup> The Communication can be found on the European Commission’s website: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020JC0004&from=FR>

*encourage better ocean governance, including the development of a sustainable fisheries and blue economy.”*

Another focus of the future EU–Africa partnership is sustainable growth and jobs. In particular, the EU proposes that this future partnership should serve to stimulate environmentally, socially and financially sustainable investment and to attract private investors, by helping African states to adopt policies and regulatory reforms that “*improve the business and investment climate.*” This focus on the need to attract private investments is also reflected in the Africa Blue Economy Strategy published by the AU at the end of 2019.<sup>2</sup>

An important aspect to be considered in this context is how this priority will be translated with regard to the setting up of fisheries joint ventures in Africa. For more than 60 years, African countries have been encouraging the creation of joint ventures with foreign industrial fishing companies – Chinese, Russian, European, Korean – in order to develop their industrial fishing capacity.

The formation of these joint ventures in African fisheries is often based on very limited knowledge of ecosystems, of the state of fisheries resources or of the dynamics of the local fisheries sector. This lack of information, instead of encouraging foreign investors and host country institutions to exercise caution, has often led to investments that are damaging to the conservation of fisheries resources and harmful to the future of the coastal communities that depend on them. There are countless cases where overfishing, due to the arrival of foreign vessels, including through joint ventures, has led to a decline in fishery resources, with negative impacts on local coastal fisheries with which these companies were competing for access to resources.

In recent years, these joint ventures have also been denounced for their opacity<sup>3</sup> and, more recently, for their involvement in systematic fraudulent practices, such as the under-declaration of tonnage of vessels of Chinese origin operating in joint ventures in West Africa.<sup>4</sup>

## 2. Fishing vessel nationality: the stakes of the nationality of a fishing vessel

The transfer of fishing vessel(s) from the foreign country to the African host country is at the very heart of a fisheries joint venture in Africa. Many of these joint ventures are described as ‘fictitious’ or ‘front’ joint ventures because even if the flag of the vessel is that of the African host country, control of the operations remains firmly in the hands of the foreign company.

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<sup>2</sup> AU-IBAR, “Africa Blue Economy Strategy”, 2019. Available at: <https://www.au-ibar.org/component/jdownloads/finish/77/3532>

<sup>3</sup> GOREZ, Beatrice, “EU Fishing Joint Ventures in Africa: the need to develop a sustainability framework”, CFFA website, 10 July 2015. Available at: <https://www.cffacape.org/publications-blog/2015/07/10/2015-7-10-fishing-joint-ventures-operations-need-to-be-transparent-sustainability-framework-has-to-be-developed?rq=joint%20ventures>.

<sup>4</sup> This was denounced by Greenpeace in a 2015 report. See GOREZ, Beatrice, “Review of the new Greenpeace report: ‘Scam on the African coasts’”, CFFA website, 6 May 2015. Available at: <https://www.cffacape.org/publications-blog/2015/05/06/2015-5-6-review-of-the-new-greenpeace-report-scam-on-the-african-coast?rq=Greenpeace>.

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In order for a fishing vessel to fly the flag of the African host country, and thus be recognised as national, most African countries' legislations require national participation in the ownership of the vessel and/or in the share capital of the company owning the vessel. The two main goals of this principle are to warrant that nationally flagged vessels are operated in the interest of the State through national profit-sharing and foreign exchange earnings; and to ensure that they can be held accountable to the national authorities, the 'flag State'.<sup>5</sup>

In this framework, the vessel must be owned by the State concerned or be more than half owned by nationals or persons residing in the flag State.<sup>6</sup> This rule is found, for example, in the Senegalese Merchant Marine Code,<sup>7</sup> which stipulates that, in order to obtain a Senegalese nationality title, marine vessels must be owned for at least 51% of their value by nationals or nationals of one of the ECOWAS member countries, or belong to a company with at least 51% of the share capital held by Senegalese nationals or nationals of one of the ECOWAS member countries. However, in most African countries where these fisheries joint ventures are set up, these rules are not respected, which leads to the setting up of 'front' joint ventures.

In Senegal, for example, the setting up of fisheries joint ventures is not new. As Dr. Sogui Diouf describes it,<sup>8</sup> already in the early 1980s, a large Korean fleet arrived in Senegal under the cover of joint Senegalese–Korean companies: "*never has Senegal seen so many of its sons desert their usual professional activities to take on the role of CEO of fisheries joint ventures which had the particularity of having a symbolic social capital.*" This practice continued over the following decades, particularly with vessels from EU member states, Russia and, more recently, China.

Recently, in April 2020, in the midst of the coronavirus crisis, the Senegalese authorities proposed to issue 54 licences for industrial fishing, – small pelagic fishing and hake fishing –, including 52 licences for vessels of Chinese origin, and two licences for seiners of Turkish origin. These vessels, on the basis of these promises of licences, could thus have been integrated into the Senegalese fleet within the framework of joint ventures.<sup>9</sup> All these vessels were newcomers to Senegalese waters, and a number of them have a history of non-compliance with the laws in the other African countries where they operated. The granting of these licences would have increased fishing pressure on already fragile resources, endangering the artisanal fishing communities that make a living from them. It should be noted that the share capital of some of these joint ventures is symbolic: some companies have a

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<sup>5</sup> Flag States have the primary responsibility for exercising control over the activities of their fishing vessels. Before authorising the nationalisation of a fishing vessel and allowing it to fly its flag, the State must ensure that it is in a position to exercise control over its activities. In addition, a State must avoid nationalizing a vessel that has a history of IUU fishing. See the chapter on flag state responsibilities in FAO, "Stopping Illegal, Unreported and Unregulated Fishing", Rome, 2002. Available at: <http://www.fao.org/3/y3536e07.htm>.

<sup>6</sup> See Chapter V of UNCTAD's International Shipping Regulations. "International Regulations for the Conditions of Registration of Ships (Open-registry Fleets)", Report of the International Law Commission on its second session, Yearbook of the International Law Commission, vol. II, 1955, op. cit. at p. 22. Available at: <https://books.openedition.org/iheid/2140>.

<sup>7</sup> See article 91 of "LAW No. 2002-22 of 16 August 2002 on the Merchant Navy Code", Journal Officiel, Republic of Senegal. Available at: <http://www.jo.gouv.sn/spip.php?article1661>.

<sup>8</sup> DIOUF, Sogui Dr., "After the Russian ships, soon the Chinese? Fisheries resources are renewable but not inexhaustible", APRAPAM website, 27 April 2020. Available at: <https://aprapam.org/publication/contributions/apres-les-bateaux-russes-bientot-les-chinois>.

<sup>9</sup> "Massive arrival of Chinese and Turkish boats: threat to resources and artisanal fishing communities", APRAPAM website, 17 April 2020. Available at: <https://aprapam.org/publication/l-actualite-d-aprapam/arrivee-massive-de-bateaux-chinois-et-turcs-menace-sur-les-ressources-et-les-communautes-de-peche-artisanale>

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share capital of 100,000 CFA francs (150 euros).<sup>10</sup> The mobilization of a coalition of Senegalese fisheries stakeholders prevented the allocation of these licences and thus put a brake on the constitution of these joint ventures.

The opacity surrounding the establishment of fisheries joint ventures in Africa means that there is little information available on these companies, as was pointed out in a recent study by the ODI Institute on the size of the Chinese fleet.<sup>11</sup> Often, it is only when the arrival of foreign vessels causes discontent among the local fishing communities that the issues associated with their presence under joint ventures are uncovered.

Recently, a group representing Ghanaian fishermen, the Ghana National Canoe Fishermen Council (GNCFC), denounced the arrival of three Chinese trawlers in Ghanaian waters,<sup>12</sup> adding to the already excessive number of trawlers fishing in the country: Ghana has established a management plan with a maximum sustainable limit of 47 vessels, but at the end of 2019, there were 76 vessels authorized to fish.

Ghana, like other African countries, has rules that require all industrial trawlers to be controlled by Ghanaian nationals. However, according to the GNCFC, most of the country's industrial vessels are owned by Chinese interests that use shell companies as cover. *"These new trawlers arriving in Ghana are registered under the names of local companies established in 2019 that have only a post-box as their address,"*<sup>13</sup> says the association, which wonders: *"How is it possible that a newly established Ghanaian fishing company could suddenly acquire one or two trawlers of this size with the costs involved? Are the authorities able to confirm that they have investigated the beneficial ownership of these companies to ensure that only Ghanaian citizens control and benefit from the operations?"*

This lack of transparency in setting up fisheries joint ventures is a problem in most African coastal countries. In the last century, European countries were among the main distant-water fishing countries involved in these fisheries joint ventures in Africa. Currently, as the above examples show, China has become the central player in African distant water fisheries. According to a recent article, quoting the China Fishery Statistical Yearbook, there are more than 500 vessels Chinese origin active along the African coasts, often in the framework of joint ventures.<sup>14</sup>

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<sup>10</sup> See the list of vessels applying for licences in March and April 2020 on the APRAPAM website. Available at: <https://aprapam.org/storage/articles/April2020/FFdAVBcYt5hmmuUUmDY5.pdf>

<sup>11</sup> See page 12 of the rapport. Gutiérrez, Miren et al., "China's distant-water fishing fleet – scale, impact and governance", Overseas Development Institute, London, June 2020. Available at: [https://www.odi.org/sites/odi.org.uk/files/resource-documents/chinesedistantwaterfishing\\_web\\_1.pdf](https://www.odi.org/sites/odi.org.uk/files/resource-documents/chinesedistantwaterfishing_web_1.pdf)

<sup>12</sup> CHASE, Chris, "Ghanaian fishermen decry arrival of Chinese trawlers", Seafood Source website, 27 May 2020. Available at: <https://www.seafoodsource.com/news/supply-trade/ghana-fishermen-decry-arrival-of-chinese-trawlers>

<sup>13</sup> Translation by the author.

<sup>14</sup> China House Student Fellows, "Chinese and International Public Perceptions of China's Fishing Fleets in West Africa", The Chinafrica project, 8 November 2019. Available at: <https://chinaafricaproject.com/student-xchange/chinese-and-international-public-perceptions-of-chinas-fishing-fleets-in-west-africa/>.

### The European experience of subsidised fisheries joint ventures

The emergence of joint ventures between European distant water fishing fleets and African countries partners dates back to the 1950s. In Europe, a subsidy scheme for setting up fisheries joint ventures was introduced in 1990: a subsidy was paid to European shipowners who permanently transferred their vessels to a third country by setting up a joint venture with a local operator. These subsidised joint ventures were set up in some 20 third countries, including a number of African countries, such as Senegal (41 vessels transferred), Angola (36 vessels transferred), Mauritania (10 vessels transferred), Guinea (7 vessels), etc.<sup>15</sup>

Until 2000, this policy made it possible to set up 152 joint ventures and transfer 241 vessels, mainly of Spanish (82 joint ventures with 138 vessels) and Portuguese (34 joint ventures with 42 vessels) origin. West African countries had 54 joint ventures (36 per cent), and Africa as a whole accounted for 77 per cent of the joint ventures. Of the 241 vessels transferred, there were 176 trawlers, with the remainder being seiners, unspecified vessels and long liners.

Following pressure from civil society in particular, the European Union abolished subsidies for the transfer of fishing vessels at the end of 2004. Since then, very little official information is available on EU fisheries joint ventures, except for Spain. In 2006, the *Cluster de Empresas Pesqueras en países Terceros* reported that it represented 220 EU fishing enterprises and 550 vessels, and provided 10% of fish imported into the EU.<sup>16</sup> Currently, some Spanish joint ventures are represented by the *Asociación de Empresas Comunitarias en Sociedades Mixtas de Pesca* (ACEMIX), which represents 53 vessels under joint ventures. Apart from this information from ACEMIX, there is no information available on joint ventures set up by companies established in other EU Member States.

### 3. Irresponsible flag states: a threat to African coastal communities

When setting up a joint venture involving the transfer of a fishing vessel to an African country, the vessel (or vessels) concerned takes the flag of the African coastal

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<sup>15</sup> GOREZ, Beatrice, "EU Fishing Joint Ventures in Africa: the need to develop a sustainability framework", CFFA website, 10 July 2015. Available at: <https://www.cffacape.org/publications-blog/2015/07/10/2015-7-10-fishing-joint-ventures-operations-need-to-be-transparent-sustainability-framework-has-to-be-developed?rq=joint%20ventures>.

<sup>16</sup> See "El Cluster de Empresas Pesqueras en Países Terceros se pone en marcha", Vigoempresa, 11 February 2005. Available at: <http://www.vigoempresa.com/el-cluster-de-empresas-pesqueras-en-paises-terceros-se-pone-en-marcha/>

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country, which thus becomes, according to international law, responsible for ensuring that these vessels comply with the laws in force in the waters in which they operate.<sup>17</sup>

In an article of May 2020, concerning the above-mentioned case of the fishing licenses requested by 54 foreign vessels in Senegal, the local association APRAPAM<sup>18</sup> recalled the opinion of the International Tribunal for the Law of the Sea (ITLOS) which, following questions posed by the Sub-Regional Fisheries Commission (SRFC), specified in 2015 the obligations of the flag State.<sup>19</sup> The association asked the following questions: *“Before authorizing the nationalization of a fishing vessel and allowing it to fly its flag, Senegal must ensure that it is able to exercise control over its activities. In addition, a state must avoid nationalizing a vessel that has a history of IUU fishing. In the case we are looking at, has Senegal verified that these vessels have the tools in place, particularly the VMS, to enable effective control of their activities? Has the State been informed of the fact that some of these vessels have been involved in IUU fishing activities in Madagascar?”*<sup>20</sup>

As APRAPAM points out, the flagging of fishing vessels through the establishment of joint ventures gives the African ‘host’ State responsibilities that it does not always have the capacity or the political will to exercise.

The ties between foreign fishing companies and decision-makers in host African countries have been repeatedly underscored. It is not uncommon to find that politically well-connected individuals with positions of responsibility in fisheries have direct financial interests in commercial fishing enterprises, often as local partners in joint ventures, holders of fishing licenses, or acting as local agents for foreign fishing companies.<sup>21</sup>

In Mozambique, for example, the former president, Armando Guebuza, and other senior military officials have played a significant role in the ownership of shrimp fishing joint ventures since the independence. This would explain the setting of quotas for shrimp fishing that are too high and the fact that the allocation of fishing rights is concentrated in the hands of a few large companies.<sup>22</sup>

In Ghana, where nearly all trawlers flying the national flag are of Chinese origin, some have complained that trawler agents – those who profit from the sale of fishing licenses – are parliamentarians.<sup>23</sup>

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<sup>17</sup> See the chapter on flag state responsibilities in FAO, “Stopping Illegal, Unreported and Unregulated Fishing”, Rome, 2002. Available at: <http://www.fao.org/3/y3536e07.htm>.

<sup>18</sup> The Association pour la Promotion et la Responsabilisation des Acteurs de la Pêche Artisanale Maritime (APRAPAM) is a Senegalese civil society organisation. See « ‘Promesses’ de licence de pêche industrielle : l’Etat prend-il ses responsabilités ? », APRAPAM website, 21 May 2020. Available at: <https://www.aprapam.org/publication/l-actualite-d-aprapam/promesses-de-licence-de-peche-industrielle-l-etat-prend-il-ses-responsabilites#:~:text=Avant%20d'autoriser%20la%20nationalisation,une%20histoire%20de%20op%C3%AChe%20INN>.

<sup>19</sup> ITLOS, “Case No. 21, Request for an Advisory Opinion submitted by the Sub-Regional Fisheries Commission (SRFC)”. Available at: <https://www.itlos.org/fr/affaires/role-des-affaires/affaire-no-21/>.

<sup>20</sup> Author’s translation.

<sup>21</sup> STANDING, Andre Dr., “One of the greatest barriers to sustainable fisheries? The role of fishing agents in Africa”, CFFA website, 14 September 2017. Available at: <https://www.cffacape.org/publications-blog/2017/09/14/2017-9-14-one-of-the-greatest-barriers-to-sustainable-fisheries-the-role-of-fishing-agents-in-africa?rq=fishing%20agents>

<sup>22</sup> STANDING, Andre Dr., “Commercial Fisheries Crime in Africa: A Threat to Human Security”, Africa Security Bulletin No. 33, Africa Center for Strategic Studies, 5 December 2017. Available at: <https://africacenter.org/publication/criminallity-africa-fishing-industry-threat-human-security/>

<sup>23</sup> CLOVER, Charles, “How China’s fishermen are impoverishing Africa”, The Spectator, 9 June 2020. Available at: <https://www.spectator.co.uk/article/how-china-s-fishermen-are-impoverishing-africa>.

In a report published in 2015,<sup>24</sup> Greenpeace exposed massive fraud involving Chinese fishing companies in West Africa, fishing with vessels under joint ventures. Cases in Senegal, Guinea-Bissau and the Republic of Guinea show that these companies have systematically underreported the tonnage of their fishing vessels for more than 30 years, a practice that is illegal under the laws of the coastal and flag states involved, as well as under the terms of the FAO's International Plan of Action to Prevent, Deter and Eliminate IUU fishing.<sup>25</sup> According to Greenpeace, this widespread form of fraud involves both China and the administrations of the coastal countries concerned.

## 4. African artisanal fisheries, an asset for sustainable development

In the immediate post-independence period, African countries focused on the development of industrial fisheries and therefore promoted the establishment of joint ventures with foreign fishing companies. The contribution of artisanal fishing was recognized by the States, but it was considered above all as a subsistence activity to supply local markets. Industrial fishing was intended to bring in foreign currency to strengthen the balance of payments and develop know-how through the transfer of more efficient fishing techniques.

The collapse in the 1980s of many public and private organisations set up to promote this industrialist vision of fisheries development in Africa led many African countries to discover the potential of artisanal and semi-industrial fisheries to meet sustainable development challenges. In recent years, artisanal fisheries have been increasingly recognized as an asset of African countries in meeting the challenges of sustainable development, notably through the adoption of the FAO Voluntary Guidelines to ensure the sustainability of artisanal fisheries in the context of food security and poverty eradication.<sup>26</sup>

Artisanal fishing stimulates local economies if it is combined with policies for social protection and promotion of the well-being of coastal communities. For many people involved in artisanal fisheries, the sector represents more than a source of income and employment: it is a way of life, the expression of a culture.

According to FAO, ten million Africans depend on artisanal fisheries as their main source of income, and 90 million (farmers and resource-poor) depend on artisanal fisheries as part of a livelihood diversification strategy. Women play a crucial role in artisanal fisheries in Africa, mainly in fish processing (smoking, salting, etc.), but also as vendors and traders.<sup>27</sup> A 2015 study on the value of African fisheries estimated that the contribution of fisheries to the gross domestic product of all African countries

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<sup>24</sup> See GOREZ, Beatrice, "Review of the new Greenpeace report: 'Scam on the African coasts'", CFFA website, 6 May 2015. Available at: <https://www.cffacape.org/publications-blog/2015/05/06/2015-5-6-review-of-the-new-greenpeace-report-scam-on-the-african-coast?rq=Greenpeace>.

<sup>25</sup> See FAO, "International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing", Rome, 2001. Available at: <http://www.fao.org/3/a-y1224e.pdf>

<sup>26</sup> FAO, "Voluntary Guidelines for Sustainable Artisanal Fisheries in the Context of Food Security and Poverty Eradication", 2015. Available at: <http://www.fao.org/documents/card/en/c/I4356EN>

<sup>27</sup> AU-IBAR, "Africa Blue Economy Strategy", 2019. Available at: <https://www.au-ibar.org/component/jdownloads/finish/77/3532>.

reached US\$1,909,514 million, with the contribution of maritime and inland artisanal fisheries accounting for more than half of this figure.<sup>28</sup>

African artisanal fisheries also make a key contribution to food security. For more than 200 million people in Africa, fish is a low-cost source of protein and essential nutrients (fatty acids, vitamins, minerals). FAO estimates that fish constitutes on average 22 percent of the protein ration in sub-Saharan Africa. However, in the poorest African countries, this rate can exceed 50%. In most parts of Africa, capture and trade through the artisanal fishing sector provides a ‘food safety net’ for the poorest people.

In its Reform Strategy for Fisheries and Aquaculture in Africa,<sup>29</sup> adopted in 2014, the African Union notes the untapped potential of artisanal fisheries, stresses the dangers threatening its development, in particular the fact that many resources are in a critical state for a number of reasons, including “*fishing overcapacity, illegal and uncontrolled practices, overexploitation and environmental degradation, including through mechanized trawling in coastal waters and protected areas, and pollution.*”

One of the principles of the AU strategy is to develop artisanal fisheries to contribute to poverty alleviation, increase food and nutritional security and as a means of ensuring a fair distribution of benefits, especially to the poorest, marginalised and most vulnerable groups in society: “*in line with the global concern for the sustainable development of artisanal fisheries, it is necessary for artisanal fishing communities to have secure access rights to fisheries resources.*”

Trawlers that catch fish in African coastal waters, which the AU itself acknowledges threaten the development of artisanal fisheries, most often operate under the cover of joint ventures.

## 5. Development of a framework for joint industrial fishing companies in Africa

The establishment of a regulatory framework for the constitution and operations of joint ventures in African fisheries is a sine qua non for this type of investment to be ecologically and socially sustainable. It is also important that the foreign investors involved are aware of their responsibilities and act accordingly.

In the case of the EU, the experience gained up to 2004 and the findings of the evolution of the current joint ventures would be of considerable benefit to coastal countries. This should serve as a basis for a dialogue on the need to develop this regulatory framework, and its content, involving both EU and third country

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<sup>28</sup> See FAO report, "The value of African fisheries", 2015. Available at: <http://www.fao.org/3/a-i3917e.pdf>

<sup>29</sup> AU-NEPAD, Policy Framework and Reform Strategy for Fisheries and Aquaculture in Africa, 2014. Available at: <https://au.int/en/documents/20140910>



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stakeholders,<sup>30</sup> which could take place in the framework of the EU-Africa dialogue.<sup>31</sup> The possible future regulatory framework to be developed would apply in a non-discriminatory manner to the establishment and operations of all fisheries joint ventures in the third country.

Guiding principles for a regulatory framework could be based on international instruments, such as:

- The FAO Code of Conduct for Responsible Fisheries;
- The FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security;
- The FAO Voluntary Guidelines for Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication;
- The ILO Declaration on Fundamental Principles and Rights at Work;
- ILO Convention 188 on Work in Fishing;
- The (future) FAO Guidance on Social Sustainability in Fisheries and Aquaculture value chains;<sup>32</sup>
- The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;
- The OECD Guidelines for Multinational Enterprises;
- The Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters;
- The Fisheries Transparency Initiative (FITI);
- The Principles for Investment in Sustainable Wild-Caught Fisheries<sup>33</sup>

The dialogue between the European Union, partner countries and stakeholders of both entities could focus on the following elements:

### I. CONFORMITY OF JOINT VENTURES WITH THE TEXTS GOVERNING THE ESTABLISHMENT OF NATIONAL ENTERPRISES

In order to improve the way in which joint ventures are set up and operate, for greater transparency and economic spin-offs for host States in a context of sustainable fisheries, it is necessary to revise the texts, taking into account the specific nature of

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<sup>30</sup> At EU level, the involvement of stakeholders can be done in particular through the Advisory Committee for Distant Water Fisheries <http://dac.eu/>. At the level of the African Union, there are regional consultative platforms / a pan-African platform for the formation of non-state fisheries actors. See article BEVITT, Kate, « Élever une voix unifiée: aider les pêcheurs et les travailleurs de la pêche artisanale africaine à se faire entendre », WorldFish, The Fish tank, Août 2019. Available at: <http://blog.worldfishcenter.org/2019/08/elever-une-voix-unifiee-aider-les-pecheurs-et-les-travailleurs-de-la-peche-artisanale-africaine-a-se-faire-entendre/>.

<sup>31</sup> The existence of Sustainable Fisheries Partnership Agreements (SFPAs) between the EU and certain African coastal countries, which promotes the establishment of joint ventures, could also be used in this dynamic.

<sup>32</sup> See CAOPA and CFFA comments on this future FAO guidance on the article: PHILIPPE, Joëlle, "Best practices in fish value chains: a specific guide for artisanal fisheries is needed", CAPE website, 6 August 2019. Available at: <https://www.cffcape.org/publications-blog/2019/08/06/2019-8-6-best-practices-in-fish-value-chains-a-specific-guidance-needed-for-artisanal-fisheries?rq=Best%20practices>

<sup>33</sup> Launched at the World Ocean Summit 2018, these principles were supported by FAO and are voluntary. The Principles underscore that the adopting and endorsing investors and institutions voluntarily support the Principles to ensure that the wild-caught fisheries projects and companies that they finance or support perform in an environmentally and socially responsible manner. They are available at: [https://www.pacificcommunityventures.org/wp-content/uploads/sites/6/2018/03/Fisheries\\_PrinciplesforInvestment.pdf](https://www.pacificcommunityventures.org/wp-content/uploads/sites/6/2018/03/Fisheries_PrinciplesforInvestment.pdf)

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this harvesting activity (Fisheries Code, Merchant Marine Code, Investments Code, etc.).

The measures that could be proposed include the revision of the conditions for the setting up of such joint venture, in particular on the substantial increase in share capital depending on the nature of the activity, the origin of the capital and the ability of the national shareholder to mobilise its share.

### II. COMPLIANCE OF OPERATIONS WITH THE THIRD COUNTRY'S SUSTAINABLE FISHERIES OBJECTIVES

The setting up of joint ventures should respect the objectives of promoting sustainable fisheries and respecting the ecosystems of the countries in which they operate. In this respect, the regulatory framework should ensure that the establishment and operations of the joint venture:

- Contribute to economic and social progress and to the conservation of ecosystems in the third country;
- Respect the human rights of those affected by such investments, in accordance with international obligations;
- Promote training, including through job creation, and by facilitating the training of women and young people in the sector;
- There are no exemptions or waivers from compliance with environmental, health, labour, tax or other regulations not included in the existing legislative or regulatory framework; foreign investors should not apply for such exemptions or waivers.

### III. TRANSPARENCY AND PUBLICATION OF INFORMATION ON JOINT VENTURES

- Investors should ensure that reliable and relevant information on the activities of joint ventures, their structure, financial position and results is published regularly and in a timely manner.
- Investors must apply high standards of quality in their communications, accounting and auditing, taking into consideration non-financial, environmental and social information.
- Investors should inform about their efforts to crack down on corruption. These measures could include a public commitment by investors to fight corruption and the publication of information on the measures adopted by the company to meet these commitments.

### IV. ENVIRONMENT

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

- Develop and implement an environmental, safety and health management system at the joint venture level covering:
  - The timely collection and assessment of sufficient information on the potential environmental, health and safety impact of their activities;

- The implementation of measures to improve their environmental performance, with periodic independent verification of results in relation to the objectives set;
- Regular review of progress towards environmental, health and safety objectives;
- Adopt the precautionary approach: where there is a threat of serious environmental damage and risk to health and safety, the absence of absolute scientific evidence should not be used as a reason to delay effective action to prevent or reduce such damage.

## V. TAXATION

It is important that joint ventures in third countries contribute to the public finances of the host country. Joint ventures must respect the tax laws and regulations in all countries in which they operate and endeavour to act in accordance with the spirit and letter of the laws and regulations. This implies mainly that joint ventures should provide the competent authorities with the correct and necessary information to calculate their taxes and miscellaneous charges payable.

## 6. Involvement of local communities in the host country

Any investment project in the fisheries sector must be based on a comprehensive assessment of local conditions, not only technical or environmental, but also economic, political and social.

Another key issue is the perception of innovation and risk. A joint venture project that seems attractive to a government or donor from an economic and technological point of view may seem irrational to local fishing communities, who must be concerned primarily with avoiding risk and ensuring their livelihood, rather than maximizing profits.

The best way to address these issues is to ensure that coastal communities potentially affected are involved from the earliest stages of project planning. In this way, not only are their rights to take part in decisions affecting their lives respected, but the project itself is more likely to survive.