



## Corruption and industrial fishing in Africa

André Standing

**U4 ISSUE 2008:7**



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## **U4 Issue**

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## Abstract

Africa's marine resources are increasingly in demand and are gaining in geopolitical importance. Competition between key fishing nations for access and control over marine resources is joined by competition between local communities and industrialised foreign fishing fleets. In this context, incentives for a range of illegal activities abound, to which African nations often have weak capacity to respond. The author describes key areas of concern relating to corruption and the exploitation of marine resources in African countries by foreign fishing fleets. Policy reforms that may reduce incentives and opportunities for corruption in fisheries management are also discussed. The paper is part of the project *Corruption in Natural Resource Management* at the U4 Anti-Corruption Resource Centre: <http://www.u4.no/themes/natural-resources/main.cfm>

# 1 Introduction

Africa's primary resources are gaining in geopolitical importance. A global commodity boom in the extractive industries has resulted in unprecedented exports of oil, gas and many mined commodities from the continent. This boom has been partly created by the rise of newly industrialising countries, such as India and China, and companies from these countries are increasingly competing with Western corporations for exploration and mining rights. The continent's marine resources are not being overlooked in this 'new scramble for Africa', and are increasingly in demand by foreign-based industrial fishing fleets. This paper discusses key issues in the governance of Africa's marine resources, addressing in particular corruption risks in the exploitation of fisheries.

In theory, Africans should benefit from heightened demand and competition for their resources. Yet it is now widely recognised that not only have many African countries failed to benefit as much as they should have, but paradoxically, those living in countries that are heavily reliant on the export of primary commodities seem to suffer negative economic, social and political consequences as a result. Empirical studies have linked resource dependence with the prevalence of civil conflict, poor economic growth, income polarisation, and widening gender inequalities. Precisely what causes this 'resource curse' remains contested,<sup>2</sup> yet increasingly, academics and international development organisations see corruption as being a major contributing factor. Heads of states in many resource-rich countries have embezzled vast sums of government revenues, while bribes and kickbacks between African governments and foreign corporations have resulted in environmental and human rights abuses. In fact, numerous studies now claim that the more developing countries rely on primary commodities for wealth creation, the worse their levels of governance and corruption become. For these reasons, tackling corruption, and improving transparency and accountability is now regarded as one of the key policy goals for resource-rich countries in Africa. This explains the emergence of the Extractive Industries Transparency Initiative (EITI) that provides independent audits and improved public information on revenue flows.<sup>3</sup>

Increasingly, concerns about corruption in the extractive industries, as well as the international timber trade, is also leading to greater interest in the governance of fisheries in developing countries. However, corruption in fisheries has not received the same attention as it has in other resource sectors. To some extent this situation is changing, as will be described later, but research and publications on corruption in fisheries are scarce, and to date it is difficult to find clear examples of specific anti-corruption policies applied to the sphere of fisheries and marine resource governance. Yet a brief overview of the context of commercial fisheries in Africa makes a strong case for the critical importance of accountability and good governance in this sector.

## 1.1 Africa's marine crisis

As with these other resource sectors, Africa's marine resources are increasingly in demand and are gaining in geopolitical importance. The cause of this is complex. A major factor lies with rising global demand and the increasing value of fish and fish products. Recent analysis shows that the value of world exports of fish and fish products - including farmed fish - grew by 9.5% in 2006 and by 7% in 2007, reaching US\$ 92 billion (FAO 2008). Again, China's remarkable economic growth is playing a major role - per capita fish consumption in China has risen from 5kg in the 1970s, to 26kg now (FAO 2008). China looks set to overtake Spain as the world's third most important fish importing country, behind Japan and the US.<sup>4</sup>

However, rising demand for fish is occurring at the same time as fish stocks globally are in decline. The United Nations Food and Agriculture Organisation estimate that three-quarters of the world's

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<sup>2</sup> For a succinct review of the literature on the resource curse see Rosser (2006).

<sup>3</sup> <http://eitransparency.org/>

<sup>4</sup> It is possible that the recent financial crisis may speed up this transition.

available fisheries are either being fished at their maximum or are being over-fished. Since the 1980s, global fish landings have decreased at a rate of approximately 0.7 million tons a year. Exacerbating this situation is the difficulty facing many of the world's leading fishing nations to reduce capacity of their fishing fleets - in fact, many developed countries maintain substantial subsidies, estimated at some US\$ 30-34 billion per year globally (Sumalia et al 2006). Technological improvements in fishing add yet further problems, as now sophisticated boats have better devices for attracting fish, and they have access to digital maps and powerful sonar systems that ensure very few areas of the ocean are left unexplored. In short, industrial fishing has shown a remarkable ability to over-fish the oceans, and many feel the future of wild caught fish is in serious danger.

In this context, Africa's marine resources are increasingly of strategic and financial value. Put simply, as fish resources elsewhere are decreasing, and the demand and value for fish is steadily rising, there is a growing dependence by foreign fishing fleets, particularly from the European Union (EU) and Asia, on gaining access to historically underexploited waters of developing countries (Pauly 2006). Imports of fish in developed countries account for 80% of the value of global trade, and developing countries account for 50% of all exports (FAO 2008). The growth in commercial fishing has been particularly high in West Africa. Here in 1960, fish landings were estimated at 600,000 tons. By 2000, fish landings had risen to 4.5 million tons (Alder et al 2004).

At the same time as external pressures on African marine resources are growing, there is also a growing need for marine resources in developing countries by indigenous communities and local fishing boats. The populations of coastal communities in numerous developing countries are expanding rapidly, and for millions of African citizens fish represents a low cost or free source of protein and subsistence income – a fact that is becoming more important given the global precipitous rise in the cost of food (Pauly 2006 and Campbell et al 2006). However, because of the tendency of African countries to allow the majority of their fish to be exported, as well as the fact that many fish stocks are fast dwindling due to unsustainable fishing, Africa appears to be the only continent where fish supply per capita is in decline (Worldfish 2005, 7). Per capita fish consumption in Africa is already low, roughly 6.5kg, but maintaining this level of consumption, given projections on population growth in the next 10 years, would require domestic fish production to increase by over 25% (Worldfish 2005, 7).

Thus, competition between key fishing nations for access and control over the marine resources of developing countries is joined by ever-greater competition between local communities and industrialised foreign fishing fleets. It is not surprising that due to these pressures, incentives for a range of illegal activities is raised, such as fishing in protected parts of the sea, using proscribed fishing gear, underreporting catches and disregarding various conservation measures. One study estimated the value of illegal fishing in Africa may be as much as US\$ 1 billion each year (MRAG 2005). In broad terms, developing countries have very weak capacity to respond to unlawful fishing. Yet a failure to deal with illegalities places marine resources under further strain, meaning illegal fishing has become both cause and effect of decreasing fish stocks throughout the African continent.

## 1.2 Aims of this paper

There are two objectives of this paper. The first is to describe some of the key areas of concern relating to corruption and the exploitation of marine resources in African countries by foreign fishing fleets. Following from this, the paper considers policy reforms that may reduce both the incentives and opportunities for corruption. Here, the paper takes some inspiration from existing efforts to address corruption in other resource sectors, in particular the EITI.

For the purpose and goals of this paper it is not necessary to rehearse the voluminous literature on the definition of corruption. However, it is important from the outset to make clear what interpretation of corruption is informing this paper and it is important to acknowledge that the boundaries of corruption are contested.



### 1.3 Conceptualising corruption and the exploitation of marine resources

For some commentators, corruption is understood quite narrowly as specific illegal activities conducted by politicians or state officials. An one-line definition that encompasses these activities is the “abuse of public office for personal gain”. Extortion, the demanding of bribe payments, and embezzlement of state revenues tend to be emphasised. This interpretation of corruption is sometimes referred to as ‘administrative corruption’. It represents forms of rent seeking by officials and elected politicians and is sometimes further divided between ‘grand corruption’ and ‘petty corruption’ due to the amounts of money involved. To some extent, Transparency International’s Corruption Perception Index (CPI) conforms to this understanding. It predominantly quantifies corruption in countries as the prevalence of bribe payments between businesses and government officials.

This perspective on corruption is not wrong. However, a narrow understanding of administrative corruption seems limiting and can engender a one-sided view of the problem. One reason is that forms of illegal exchanges with public officials can be instigated by the private sector for their own benefit, which is why Transparency International also has a Bribe Payers Index. Also, forms of corrupt relationships need not only be based on the exchange of cash, they can be influenced by forms of nepotism or patronage, for example, where the abuse of public office and the consequent ‘private benefit’ may be subtle, does not involve the exchange of money at all and is separated by considerable lapse in time. Corruption becomes more complex as the distinction between the private and public sphere can become blurred, particularly where those in government have direct interests in businesses.

In comparison to narrow legalistic interpretations, corruption has a more complex and political application, used to describe the way in which power and wealth are abused to undermine the ideals of democratic governance and social justice. For example, Michael Johnston refers to ‘systemic corruption problems’ as “uses of and connections between wealth and power that significantly weaken open, competitive participation and/or economic and political institutions, or delay or prevent their development” (2005, 16). It is worth noting that scholars such as Johnston, based on this understanding, argue that corruption manifests itself in different ways in specific countries, depending on their level of development, economic liberalisation, and strength of governing institutions. Rank ordering all countries on their level of corruption can therefore be misleading, for the level of corruption is not only impossible to reduce to a single score, but it can also represent a very different problem from one country to the next.

Recent work by the World Bank supports this more political idea of corruption. Adding to the notion of administrative corruption, scholars at the World Bank have studied what they refer to as ‘state capture’. Where state capture has been considered in most detail, it is used to describe the undue influence corporations have in shaping policy and decisions for their own interest, at the expense of the broader public good. An example of state capture is a corporation that contributes to a political party’s election fund in return for a change in legislation, such as lower environmental standards or tax obligations. State capture appears most problematic where the state is weak or interest groups have disproportionate power and wealth.

Countries differ in how they control this relationship between public office and private interests, and legislation or laws governing such relationships are often non-existent or vague. Thus scholars increasingly refer to ‘legal corruption’. Daniel Kaufmann and Paul Vicente, two of the leading corruption experts at the World Bank Institute, write:

It is timely to explore a less traditional definition of corruption, one that accounts more broadly for the undue benefits derived by the private few from their excessive influence in shaping the institutions, policies, laws and regulations of the state to their own ends. Vested interests that remove public policy from the realm of democratic – i.e. contestable – decision-making should be an important component of this new definition. Undue influence by private vested interests on the state sector may, or may not, involve the exchange of a bribe or related form of illegal corruption. In other words, room is thus provided, in this more neutral definition of corruption, for so-called legal forms of corruption, which can be defined simply as the ‘privatisation of public policy.’ Such an

alternative definition focuses on the key mediating institution or agent committing the abuse of power, namely the institution of (undue) influence, driven by vested interests (2005).

Again, attempts to measure the extent of state capture in societies have resulted in data that contrast with more common measures of administrative corruption. According to the World Bank, state capture seems to be problematic in some advanced capitalist societies that tend to score relatively well on other corruption indices. Moreover, it appears that policies of economic liberalisation can exacerbate this form of corruption as it tends to shift greater power and financial resources towards companies and private businesses, while compromising the independence and capacity of government departments and policy makers.

Of course, taking Johnston's definition of corruption and the notion of state capture, it becomes exceedingly difficult to know where to draw the line between non-corrupt forms of political relationships and those that are considered corrupt. What constitutes undue influence or abuses of power are matters which generate disagreement and can be influenced by underlying assumptions on the way society ought to be governed. This is one of the reasons why the notion of corruption remains contested and one-line definitions fail to gain widespread endorsement. To a certain extent, excessive analysis on whether a relationship or act conforms to a definition of corruption can be an unnecessary distraction to broader concerns—something that is only of interest to scholars of corruption and is perhaps less important to those concerned that resources are governed responsibly and in the best interests of human development.

## 2 Corruption and fisheries - key areas of concern

The following pages on corruption in marine fisheries deal with both administrative corruption and the more complex understanding derived from the notion of political corruption and state capture. To simplify matters, the analysis is divided into three broad themes. The first deals with corruption and the potentially negative impact on democratic governance by fisheries access agreements. The second deals with forms of conflicts of interests and embezzlement by public officials. Finally, the paper describes how bribe payments and other forms of corruption undermine efforts at policing illegal fishing.

### 2.1 Bilateral fisheries access agreements and 'state capture'

Bilateral access agreements emerged as a response to the United Nations Convention on the Laws of the Seas (UNCLOS), signed after several years of negotiations in 1982. Before this landmark agreement, international fishing boats had almost free access to the vast majority of the world's oceans. There was limited control over who fished where and for what. However, due to intensifying international competition for fish, as well as a realisation that fish stocks were being depleted due to inadequate management, UNCLOS gave coastal countries and island states ownership of, and responsibility for, the sea stretching in a 200 mile radius from their coast, their Exclusive Economic Zone (EEZ). The terms of this convention made clear that all countries have an obligation to manage their marine resources in a sustainable way, taking into account the best available scientific data. However, for those countries that are unable to fully exploit their own fish stocks, UNCLOS states that they are obliged to offer access to surplus fish stocks to those who can.

UNCLOS therefore created an environment where foreign fleets and coastal countries had to negotiate access between themselves to parts of the ocean that were previously rent-free. The trend since 1982 has been for developed nations to consolidate control of their EEZ. However, due to a lack of capacity to fully exploit their own marine resources, developing nations have tended to sell fishing rights to developed countries and their fishing fleets - known as distant water fleets (DWF). In addition to private licenses and joint ventures, this process has led to the development of fisheries access agreements, contracts that permit a certain number of foreign boats to operate in a country's water in

return for a lump sum, typically paid annually. For many countries, these access agreements represent considerable income, accounting for a substantial proportion of the operating budgets of fishing ministries. Some access agreements are signed between governments, others between host governments and private fishing associations and there are those agreements signed between host governments and inter-governmental organisations, most notably the EU. In fact, in Africa it appears to be the case that EU fisheries access agreements are the most numerous and substantial - the EU has held such agreements with 17 African countries since the late 1970s, although some, such as Senegal and Angola, have failed to renew access agreements, and there are others being negotiated for the first time, possibly including Tanzania and Kenya.

It is important to appreciate that fisheries agreements are gaining more significance due to competition between fishing fleets, stemming from overcapacity in global fisheries. According to the European Commission (EC), for example, the challenges facing European boats are growing and threaten to undermine their competitiveness in African waters:

fisheries agreements generate in Europe and the coastal states important, often vital, economic activities ... The situation is amplified by the fact that the LDWF [long distant waters fleets] is evolving in a global context of scarcity and overexploitation of some fish stocks and is becoming less competitive vis-à-vis the fleets of new emerging fishing nations which are operating at lower costs. In the mean time, the generalization of flags of convenience, illegal fishing, lack of transparent rules, effects of direct or indirect public subsidies leads to an increasing distortion of competition and the development of practices that offer fewer guarantees for the maintenance of a sustainable global fishing activity (EC 2002, 4).

In principle, fisheries access agreements can be a positive way of managing the surplus fish stocks of developing countries and they can deliver much needed foreign exchange earnings. Moreover, the money received from access agreements can be used to develop infrastructure to improve domestic management of fisheries and develop local fishing businesses. In fact, the EU has, for a long time, insisted that a portion of the revenue it provides to developing countries through access agreements is spent either on improving monitoring and surveillance capacity or is invested in the local small-scale fisheries sector. In theory, European access agreements could therefore contribute towards a scenario where African countries develop sufficient capacity to exploit their own territorial waters, which in turn would greatly improve their ability to capture profits and jobs, as well as secure food security for millions of citizens.

#### 2.1.1 The negotiation of access agreements and the role of 'undue influence'

The reality of access agreements seems rarely to be so positive and they have been controversial since their inception. Among other concerns, it appears that access agreements can have a negative impact on the domestic governance of fisheries, with the outcome being both unsustainable fishing and the marginalisation of local resource users.

One weakness of access agreements stems from the strong incentives on both sides to increase their short-term profitability. The scale of funds available to African countries through access agreements is directly influenced by the scale of fishing rights they provide to foreign countries - the more fishing boats they allow to operate in their territorial waters, the greater the payments being received. Thus, in many countries access agreements have led to the licensing of too many boats and this has undermined the ideal of managing fisheries responsibly. For example in 2005, the Mauritian Institute of Oceanographic Research and Fisheries (IMROP) published data showing that capacity of fishing boats in the country's octopus fishery needed to be reduced by roughly a third for sustainable fisheries to be achieved, yet the government of Mauritania failed to respond to this warning and reduced the EU's fishing capacity by only 6% (CFFA 2006a, 3-5).

While both sides may wish to maximise fishing intensity, there may also be strong incentives to limit regulations controlling fishing boats and create the most favourable conditions for profit

maximisation. In Guinea, for example, there is a law prohibiting commercial fishing boats from trans-shipping fish catches at sea. This regulation ensures fish are landed in ports and can be subject to necessary checks and inspections. Yet Chinese boats operating under access agreements in Guinea are apparently exempt from this rule and are free to off-load fish catches in foreign ports or onto other ships at sea.<sup>5</sup> Likewise, whilst there is a view that EU access agreements are less controversial than others, they have also been blamed for overfishing and marine ecosystem damage which threatens not only the long-term viability of marine resources, but also the livelihoods of indigenous fishermen (see Adler et al 2005, Brown 2005, CFFA 2006b and Bartels et al 2007). Under the terms of these agreements, often there is no limit on the quantity of fish licensed boats can catch, and where there are limits put in place, critics feel they are too high and, as a consequence, lead to the depletion of surplus stocks and rapid decrease in marine biodiversity. Exacerbating the situation, regulations to reduce by-catch can also be non-existent or at least more lenient than regulations stipulated for fishing boats in other waters, such as the seas of the EU member states. Using Guinea as an example again, EU shrimp trawlers are allowed to catch five times more by-catch than the local government permits Guinean trawlers (Gorez 2005, 26).

Explanations for why African states allow poor regulations in access agreements is sometimes depicted as the outcome of a weak bargaining position. For example, Dr. Ndiaga Gueye, the then Senegalese Director of Marine Fisheries, was reported to have claimed that during the negotiation of a new access agreement in 2002, “the EU actively resisted numerous conservation measures and drove a hard bargain on price” (Clover 2004, 43). However, due to the increasing competition for fisheries access, it may be misleading to imagine African states are always forced to accept bad terms unwillingly. Other reports suggest that the failure to implement responsible fisheries regulations in access agreements may be an outcome of bribe payments and kickbacks. Martin Tysamnyi and Quentin Hanich from the Australian National Centre for Ocean Resources and Security, claim that the negotiation of access agreements in Pacific Island states, particularly involving Asian countries, has been influenced by a range of crass incentives and strategies:

Allegations of corruption of Pacific Islands officials during access agreement negotiations take a variety of forms, including: payment of business and first class air tickets for officials and their spouses; the provision of generous per diems and lavish hotel accommodation and entertainment, often in the foreign country; extended holidays and side-trips for Pacific Islands senior officials and their spouses after access negotiations; and payment of overseas tuition fees for the children of Ministers (2007, 10).

Allegations of similar forms of undue influence are not restricted to the exploitation of fish, they exist in other resource sectors, too. In Ghana, for instance, a group of civil society organisations claims that a considerable shift in government policy relating to mining in protected forests occurred a short time after senior Ghanaian officials were treated to an extravagant overseas trip sponsored by several mining companies (Akabzar, forthcoming). Likewise, it has been repeatedly documented that some oil contracts in developing countries have been augmented by exceedingly generous gifts and kickbacks to politicians and their families. For example, in 2004 a US Senate special investigation was launched amid mounting evidence that ExxonMobil, ChevronTexaco, Marathon and Hess, among others, had paid several million dollars in bribes for oil drilling rights, reduced tax burdens and favourable environmental regulations. The same companies were accused of assisting President Obiang and other leading politicians to launder vast sums of public money out of the country. In 2004, it was alleged that US oil companies were giving more than US\$ 4 million to relatives of President Obiang so that they could live and study in the US (McSherry 2006 and Shaxson 2007).

Bribe payments are not the only means of achieving influence in the negotiation of access agreements. A common concern, albeit rarely substantiated, is that access agreements can be influenced by the lure of donor funds or the threat of their removal. Such allegations have been made against the EU as well

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<sup>5</sup> This information was provided to the author by the Coalition for Fair Fisheries Agreements, Brussels.

as Asian countries (Clover 2005, 44 and Mwikya 2006, 11). In particular China's emergence as Africa's largest lender has been explained by its desire to gain control over primary resources, including oil and timber, but also fish. We therefore find that many commentators are concerned that the terms of Chinese access agreements may be negatively influenced by wider support for infrastructure developments. For example, the head of the Artisanal Fisheries Council of Senegal remarked in 2006, "here and there we see infrastructures being built with the support of China, and we say these may be part of the access agreements, but we know nothing about the contents of these agreements" (cited in Bartels 2007, 81).

Opportunities for these forms of corruption are greatly facilitated where public access to information is restricted. In the case of fisheries, despite concerted pressure from many civil society organisations and local fishing representatives, the negotiation of all access agreements in developing countries is characterised by a lack of transparency. In Africa and the Pacific Island states, for example, the EU now publishes the contents of its agreements with third countries, but in most cases the negotiation process is confidential, with no involvement from civil society or other domestic fishing stakeholders. Moreover, certain key documents, including the results of audits and evaluations, are also kept confidential. Access agreements signed between host countries and Asian fishing associations or Asian governments remain completely private, meaning the public has no information on the scale and terms of these agreements, nor the sums being exchanged. As Lee Clark writes, "with resources becoming scarcer and access to them becoming more valuable, incentives for corrupt practices are bound to increase and impatience with the kind of secrecy that attends access agreements also can be expected to rise" (2006, 89).

#### 2.1.2 Access agreements and the corrosive influence on good governance

In the past decade, the resource curse has increasingly been linked to the deleterious impact revenues from primary commodities can have on the democratic governance of developing countries. Empirical studies have shown a correlation between forms of corruption or proxies of "bad governance", and the degree to which an economy is dependant on external revenues from natural resource exploitation (Jensen et al 2004). Many analysts believe that where countries receive substantial income from undisclosed resource rents - or sovereign rents as Paul Collier (2005) refers to them - governments fail to become accountable and they tend to show a disinterest towards local citizens and sectors that do not offer comparable sources of income. This disinterest can appear as a political form of what is known as the 'Dutch disease syndrome' — the stream of income from foreign contracts and industrial resource exploitation results in other sectors of the economy being underdeveloped, most importantly those that could create far more local jobs.

This aspect of the resource curse has not often been applied to fisheries. Yet it seems possible that an outcome of some access agreements is to encourage governments, or at least the ministry responsible for fisheries, to operate in ways that are not transparent or sensitive to local communities, particularly to small-scale or subsistence fishers. This may be more evident in those countries where a large portion of total government revenues from fisheries is derived from access agreements and in comparison, state funding in the form of taxes and levies from local fishermen and coastal communities can be small or insignificant. A report by Worldfish describes this tendency well: "As demand for fish and competition for access to fishing areas increases, lower income groups are likely to become marginalised, replaced by more powerful groups with growing interests in these scarce natural resources" (2004, 7).

In one examination of the impact of fisheries access agreements in developing countries, it was argued that significant improvements in local fisheries policy has been observed where access agreements have been ended and greater government revenue has come from locally based fishing and processing:

Fisheries agreements may not provide the right incentive to improve management and fisheries policy. They may in fact be a distraction to effective management, rather than an incentive, due to the steady stream of guaranteed income to the fisheries sector for several years. Improvements in fisheries management have been observed when countries

actively decided not to sign fisheries agreements with the EU. Namibia chose not to sign an access agreement with the EU from the very start. Mozambique, after having an access agreement with the EU for a few years, decided not to continue and instead to focus on developing its national fleet, although they later negotiated an agreement with the EU again. The result in both cases has been the formation of joint ventures, initiation of charter arrangements, increase in the national fleet capacity, greater control over levels of resource exploitation, an increase in the value of fish exports and the development of national fisheries plans and policies (MRAG 2007, 48-49).

In other words, an unintended consequence of governments relying on funds from access agreements may be to retard the development of policies that may improve local management capacity as well as policies that will benefit job creation and the welfare of small-scale fishers. This may undermine the explicit aim of the EU to set aside a proportion of the fees from its access agreements for the capacity building of fisheries management and the development of small-scale fisheries. Indeed, in so many countries, it appears the funds from EU access agreements have not been used well and evidence of poverty reduction are hard to find. For instance, there are only two locally based fishing boats in the Seychelles, despite the fact that, for over 20 years, the EU has held access agreements with the Seychelles and considerable funds have been set aside for the development of a local fishing fleet capacity (MRAG 2007, 119).

This criticism is given heightened importance where the host governments are known to have a poor track record on human rights and democracy. So, for example, the EU's fishing agreement with Morocco, worth € 36 million per year, allows boats into the waters of the Western Sahara. The EU has defended the deal on the grounds that a proportion of the compensation payments will be used by the Moroccan government to advance the welfare of the occupied Sahrawi people, although they have not been consulted about the agreement, nor have they consented to it. Given the stance of the Moroccan government to the people of the Western Sahara, there are reasons to believe that their welfare will not be improved (IPS 2008). Similarly, reports claim that little, if any, of the money targeted to address poverty alleviation through EU access agreements in Angola have reached the poor (Lankaster 2002).

Again, the disappointing legacy of funds from access agreements seems to be exacerbated by a lack of transparency. Here, EU access agreements appear to be better than those originating from Asian countries. In fact, the EU claims it conducts evaluations and audits of its agreements which presumably would document instances where funds have been poorly allocated. Yet these audits are not made publicly available. Moreover, since the early 2000s, targeted payments by the EU have been gradually phased out in favour of Fisheries Partnership Agreements (FPAs). Under these new agreements, the EU distinguishes between funds paid to the government for licenses of boats, and funds transferred by the EU for 'sectoral reforms'. These funds are supposed to be managed jointly by the EU and the host government. Detailed plans on sectoral development assistance have not been made publicly available, and the activities and participants of joint committees remain largely unknown. We therefore have very little idea as to how precisely FPAs will achieve sustainable fisheries and promote poverty reduction. With the exception of the latest agreement in Mauritania, civil society groups and representatives of artisanal fishing communities are not invited to participate in any of the discussions, nor are minutes of meetings published.

It would be misleading to argue that access agreements always have a corrosive impact on governance and African states invariably develop a dependence on the resulting revenues. There are notable examples where African states have rejected access agreements on the grounds that they undermine local fisheries policy and do not represent sound fisheries management. Senegal, for instance, failed to renew its access agreement with the EU in 2004, while for the time being, Tanzania has also rejected a FPA with the EU.

### *Industrial vs small-scale fishing*

Many analysts argue that favouring industrial fishing techniques over those of small-scale fisheries is counter-productive for sustainable fisheries and pro-poor development. Daniel Pauly, one of the world's leading marine biologists, claims that globally, small-scale fisheries generate approximately the same annual catch as large-scale industrial fishing, about 30 million tons (2006). However, small-scale fisheries require far less capital investment and are far more labour-intensive. Despite landing the same quantity of fish, the large-scale sector employs roughly half a million people, compared to over 12 million engaged in small-scale fisheries. Every single job on board an industrial fishing boat represents a capital cost of up to US\$ 300,000, in comparison to a maximum of US\$ 3,000 on board a small-scale boat. Small-scale fisheries generate very little by-catch, whereas industrial fishing discards up to 20 million tons every year. Moreover, industrial fishing consumes far more fuel: 37 million tons compared to approximately 5 million tons by the small-scale sector.

Based on these facts, Greenpeace have argued that "providing foreign industrial fleets with access to coastal tuna is the worst possible fisheries development and conservation option for coastal communities." Their recommendation is based on a straightforward principle: "Building a domestic fisheries economy is required to maximize the employment benefits of the fishery ... the best means of doing so for job-starved coastal states is to develop labour-intensive, domestically built and financed, small-scale fishing fleets based exclusively on passive and highly selective fishing gear, preferably hook and line, pots and fish traps."

Sources: Pauly (2006) and Greenpeace (2007)

#### 2.1.3 A captured state?

The corrosive impact of access agreements on governance may occur in other ways. Dependence on revenues from access agreements may undermine the independence of African regulators and policy makers. This tendency may be exacerbated where access agreements are linked to further loans and aid projects.

A manifestation of this problem may occur when fishing boats operating under access agreements break rules and regulations. The host state may fail to respond with appropriate sanctions, due to a wish to protect diplomatic relations. This may explain why, in many African countries, forms of illegal fishing by DWF seem to be treated leniently. For example, some commentators in Mozambique sense that non-existent law enforcement against illegal fishing and logging carried out by Chinese nationals may be explained by China's growing economic importance in the country. In this context, the likelihood of a successful prosecution of a Chinese company is thought to be extremely low. This is compounded by widespread evidence that senior Mozambique officials are often complicit in these crimes, a point which will be expanded on below.

There are also cases suggesting foreign governments may apply diplomatic pressure to avert investigations and prosecutions. For example, in 2004, a Tanzanian patrol led to the discovery of 25 European fishing boats operating illegally in protected areas of the sea. According to sources in Tanzania,<sup>6</sup> following the arrest of the crews of these boats a delegation from the EC's Directorate-General for Maritime Affairs and Fisheries visited Tanzania. While the boats' owners received a fine, several commentators thought the influence of the EC delegation meant the response by the Tanzanian authorities was not as punitive as it could have been. Unfortunately, details of the fine were not made publicly available, which only adds to the suspicion that political interference occurred.

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<sup>6</sup> This event has been confirmed to the author by a source from within the European Commission in Tanzania.

There are other examples of political interference in combating illegal fisheries outside Africa. In the Philippines, the country director of the World Wildlife Fund (WWF), interviewed in the Manila Times, claimed that over the past decade some 600 Chinese nationals have been arrested for poaching, but only one successful prosecution had occurred by 2007 (Espina-Varona 2007). This situation was explained by WWF as being the outcome of 'executive interference' from senior Philippine politicians resulting in dropped charges, lenient admission of plea-bargains and even the granting of official pardons. It was the view of the WWF that the Chinese Embassy in Manila had requested such interference, and that the prosecutions of Chinese nationals was considered negative for diplomatic reasons.

Such cases only point to tendencies that may be evident to varying degrees in countries. There are of course other reasons, such as wanting to preserve fish stocks and receive revenues through fines, which explains why African states will take firm action against illegal fishing by DWF. Indeed, there have been occasional high-profile arrests of foreign fishing boats, including recently, the arrest of Spanish-owned boats in Mozambique and Mauritius. Nevertheless, such instances appear, for the time being, to be exceptional.

## 2.2 Conflicts of interests and the embezzlement of license fees

So far, the focus has been on the relationship between democratic governance and access agreements. While this may give the impression that such bilateral deals can be the source of corruption in commercial fisheries, the regulation and management of fisheries outside access agreements provides other opportunities for corruption. To some extent, where access agreements are not in place or have been rejected, these other forms of corruption may become more problematic.

### 2.2.1 Conflicts of interests and joint ventures

Allegations of conflicts of interests can emerge throughout the management of fisheries. A fundamental source of tension is that many government and intergovernmental bodies set up to manage marine resources have the purpose of promoting commercial fishing, protecting the rights of indigenous coastal communities and ensuring the protection of the sea. Although in an ideal scenario these objectives can be balanced, it is easy for outsiders to feel that they are not - a government's desire to increase revenues from fishing may override its obligations to promote small-scale fisheries, for example. Many representatives of small-scale fisheries in Africa complain that governments unfairly favour the interests of commercial and foreign fishing at the expense of their own welfare.

However, where the concept of conflicts of interest is more easily applied, it involves those in a position of public office abusing their power for personal financial reward. A manifestation of this is when senior officials and politicians, some of whom may be involved directly in fisheries management, simultaneously own private fishing boats or are partners in fishing and fish processing companies. This appears to be a common occurrence in many countries. For example, in the in-shore prawn sector of one East African country it is widely known that the three leading commercial fishing companies are each co-owned by the President and both the current and former Ministers of Fisheries.<sup>7</sup>

Conflicts of interests also extend to other spheres of government responsibility. Shipping agents, for example, are known to include senior political figures in some African countries and their position of influence can greatly assist in the smuggling of illegal fish or providing favourable assistance with fishing licenses. Transparency International in Vanuatu describes this problem well in pointing out that the director of the Maritime Authority is also the shipping agent for Taiwanese long-line boats. On the same day that he donated two trucks to the Department of Fisheries, fishing licenses were granted to two Taiwanese long-liners that allowed them to operate within the six-mile zone off the coast, something that was formerly prohibited under Vanuatu law (Ferrieux-Patterson 2003, 3).

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<sup>7</sup> A report on the potential for the prawn sector in this country to gain the Marine Stewardship Council's certification detailed this situation. The author of the report has requested anonymity in this paper.



Countries appear particularly vulnerable to conflicts of interests where domestic policies favour the establishment of joint ventures between foreign fishing companies and local businesses. The motivation behind this policy is to ensure increased value-added in countries, and to move away from a situation where developing countries merely play a passive role in the exploitation of their natural resources. However, whereas foreign partners in joint ventures are typically the ones to bring in capital, boats and fisheries expertise, a danger of this policy is that ideal local partners are those who offer political influence. A fisheries consultant working in Mozambique explained this situation:

The problem in many countries is that there are not many private businessmen who know much about the commercial fishing deals or have access to the relevant information. The only people with those connections and knowledge work in the government, and that's why corruption thrives.<sup>8</sup>

Where conflicts of interests occur, the danger lies in public officials being able to influence policy decisions and policy implementation for their own benefit. This may impact on various decisions on levies, catch restrictions and labour standards, for example. Moreover, where fishing boats are co-owned by senior officials, they may be free to engage in a range of illegal activities knowing that there is protection from arrest and investigations. For example in Angola, the EU and South African Development Council recently undertook a project aimed at increasing the capacity of marine surveillance and inspections. A research report undertaken as part of this project noted that inspectors in Angola typically lacked capacity to carry out their work, but also in many cases evidence of malpractices were not reported to the authorities due to the knowledge that boats were co-owned by politicians and public officials. The report notes:

A very high percentage of Angolan fishing vessels are reportedly owned or operated by employees of the Ministry of Fisheries or senior government officials. To avoid any speculation of possible corruption, politicians and senior civil servants in general should avoid having interests in business spheres over which they wield political or administrative powers. Transparency should also be prioritised (Cederrand 2004, 28).

It was further noted that where such conflicts of interests occur, it leads to a lack of morale among public officials and inspectors, which may further undermine their ability to police waters effectively. It may also be the case that conflicts of interests ensure that the capacity of law enforcement is deliberately kept low, with funding and training restricted, and the most diligent inspectors may be marginalised or kept from senior positions.

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<sup>8</sup> Interview with the author, July 2008.

### *Conflicts of interests and shrimp farming in developing countries*

Demand for prawns, primarily in the USA, Europe and Japan has far outstripped what is available from wild caught fisheries. To meet this demand, aquaculture in developing countries has grown impressively, accounting for 28% of global consumption in 2000, rising to nearly 50% by 2008 (Greenpeace 2008). Such remarkable growth has been assisted by significant lending by international financial institutions - by 2002, the International Finance Corporation was reported to have lent some US\$ 82 million for the development of shrimp farming in Latin America.

The preferred method of farming shrimps is to create large artificial reservoirs, and the best sites for this include mangrove forests, the natural habitat of many crustaceans. Substantial areas of mangrove forests have therefore been cut down contributing to the fact that only 50% of mangrove forests remain in the world. Mangrove forests are critical ecosystems for coastal communities. Not only do they provide firewood and material for building houses, but more importantly, they are vital breeding grounds for marine wildlife that is used for subsistence fishing. Some estimates show that mangrove forests provide four times more fish for local fishermen than coral reefs. In West Africa, 60% of all fish caught between the Gulf of Guinea and Angola breed in the mangrove belt of the Niger Delta. Further environmental concerns of shrimp farming stem from the use of pesticides and antibiotics, which are poorly regulated in many countries and can contaminate surrounding water. Moreover, shrimp farms often do not have a long life span and it seems few countries insist on rehabilitating land after farms have ceased operating. As the World Rainforest Movement writes: “over the years, the shrimp ponds drown in their own contamination, and are subsequently abandoned leaving a destroyed ecosystem and local communities impoverished.”

In providing access to mangrove forests, numerous governments have been accused of selling land to companies that thousands of rural poor depend on, including in protected areas in countries such as Thailand. In some cases, indigenous communities are not consulted in advance, and many communities have been forcefully removed in the process. Resulting protests and anti-shrimp farming campaigns have also led to widespread accusations of human rights abuses, including false arrests and the murder of prominent activists by police and military. This response has been explained by civil society organizations as the outcome of the corrupt relationship between some governments in developing countries and corporate interests. There have been allegations that prominent politicians and ruling political parties in countries including Bangladesh, Guatemala, Honduras, India, Indonesia, Thailand and Vietnam have investments in the shrimp farming industry. Moreover, in Myanmar it is alleged that the military regime runs its own shrimp farms, and that there is evidence of forced labour.

**Sources:** EJF (2003), Greenpeace (2008) and WRM (2002).

#### 2.2.2 Embezzlement of license fees

In the extractive industries, concern with corruption has often focused on the misappropriation of resource rents by those in government and public office. Vast sums of money from oil reserves have been siphoned off into private bank accounts, making rulers of resource rich countries some of the wealthiest people on earth.

Broadly speaking, accountability of state revenues derived from the exploitation of marine resources has not been scrutinised, at least not to the same extent as in other resource sectors. However, revenues from fisheries can be substantial, and the opportunities for embezzlement and fraud are high. Just as is the case in other sectors, public access to information can be extremely limited.

As argued by Tsyamni and Hidditch, a characteristic of the management of fisheries that may encourage this form of corruption is that decisions on licensing are typically made by a single person, with very little involvement by others (2007, 9-10). This creates a situation where opportunities for fraud are high. In the Solomon Islands, public allegations of corruption prompted an investigation by

the Auditor-General that revealed the country had lost some US\$ 4 Million through the embezzlement of license fees by the Ministry of Fisheries.

Similarly, in 2008, growing pressure on the government of Guinea led to an official audit of the Ministry of Fisheries. In the previous year (2006-2007), the audit uncovered substantial irregularities that cost the country millions of euros in lost revenues. Among the long list of irregularities, the audit revealed a substantial number of licenses had been issued, while there was no record of the payments being deposited. 43 boats were classified as having cancelled their payments after being issued with licenses resulting in the loss of some € 727,000; two Spanish-owned boats had failed to pay for their fishing licenses, resulting in a loss of € 107,000; 28 boats received licenses but were not registered at the Ministry of Fisheries, resulting in a loss of € 493,000; and roughly 30 fishing boats were granted Guinean licenses rather than the more expensive licenses for foreign boats.<sup>9</sup>

Perhaps the most worrying example of embezzlement of license fees from commercial fishing is Somalia. Here, a chaotic situation exists where fishing licenses for Somalia's EEZ have been sold not only by warlords in the South, but at the same time by officials in the transitional government in Mogadishu and officials in the semi-autonomous state of Puntland. A United Nations Expert panel on Somalia investigating violations of the UN arms embargo claimed that "[a]ll the attempts at managing the Somali fisheries have resulted in a great deal of money - millions over the past 10 years - being paid into the private hands of the faction leaders, allowing for personal enrichment and to some extent the payment and re-supply of private militias" (UN 2003b, 44). The need to buy licenses in this environment is not entirely clear, some boat owners may require licenses to validate insurance claims in the case of being hijacked, whereas other reports suggest the payment of license fees equates to a protection racket - boats buying licenses for fishing in Somalia are known to be provided with heavy artillery weapons and Somali soldiers in an attempt to ward off pirates (UN 2003a, 34).

### 2.3 Corruption, bribe payments and illegal fishing

The above discussion has explained that one outcome of state capture and conflicts of interests is the weakening of law enforcement and marine inspections. Forms of political interference ensure that some boats are protected from prosecutions or investigations. However, there are numerous other forms of administrative corruption that can further undermine the ability of African states to limit illegal fishing. This is unremarkable as often the wages of inspectors and law enforcement officials are low, and the incentives to break laws by fishing boats may be high. Moreover, the prevalence of corruption in almost all forms of organised crime and illegal market activities has been ever-present in empirical studies. Leading scholars on the subject agree that corruption is one of the most important reasons why organised crime tends to flourish, despite the best efforts of governments and "honest" law enforcement agencies.<sup>10</sup>

Given the various dimensions of illegal fishing, there are several areas where corruption can manifest itself. For example, some, but not all, commercial fishing boats are requested to take on board observers. The job of these observers is to document where the fishing boat operates, what type of gear is being used, and how much fish has been landed or discarded. This is an arduous job. Boats can spend months away from land, refuelling and trans-shipping catches at sea, meaning observers may be on board for long periods. Their interactions on board ships may be highly stressful - they are expected to perform the function of an external regulator while also having to live and socialise among the crew. Frequently, observers may not speak the same language as the crew, nor be seasoned sailors.

In this environment, the potential for boat operators to illegally undermine the role of observers seems to be high. According to a source within an observer training program in Southern Africa, in addition to intimidation and threats, on board observers are offered cash to report dishonestly to the relevant

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<sup>9</sup> The Coalition of Fair Fisheries Agreements, Brussels, has supplied information on this audit for this paper. Further information will be published by the organisation.

<sup>10</sup> There is an extensive literature on corruption and organised crime. See Schlegel (2008) for a recent review, and also Naylor (2002) who discusses the role of corruption within several illegal markets.

authorities. Given low wages, such bribes need not be substantial. Allegedly in Kenya, an entire on board observer program in the shrimp sector was abandoned due to allegations that observers routinely accepted boxes of prawns from boat captains.

A more complex situation is described in a report published by Traffic International (Vaisman 2001, 64-65) on industrial fishing in the Russian part of the Bering Sea. Here onboard observers are paid directly by the fishing vessel. Because salaries vary between ships, observers compete for work, resulting in some observers paying commission fees to their managers for the more lucrative assignments. This has created a situation where those who try to prevent or report violations are excluded by their bosses from working on the better paying boats - Chinese boats are willing to pay only US\$ 20-25 per day for observers, Polish boats pay US\$ 40-50, and Japanese ship owners pay up to US\$ 120 per day. The author of the report writes:

The discovery in autumn 2000 of a Japanese vessel inside the Commander Islands prohibited zone with an observer on board, is testimony to the token nature common to this post and even to its detrimental potential in so far as it could provide a means to “legalise” catches with a signature from a corrupt observer (Vaisman 2001, 65).

Bribe payments may also occur in relation to land-based inspections, including those occurring in ports. There have been several notable occasions in Southern and Eastern Africa when boats suspected to have been fishing illegally, including those that are blacklisted by regional fisheries management bodies, have managed to dock in ports, trans-ship catches and set sail to the disbelief of civil society organisations and other fishing boats who are aware of their presence. In many of these instances, bribe payments are thought to have occurred, although due to the lack of transparency that typifies shipping ports, it may be difficult for outsiders to know whether a failure of port state authorities to detect and punish illegal fishing boats is the outcome of corruption, lack of capacity, inefficiency, or poor training of inspectors. A common complaint raised by experts is that inspectors in ports often do not have the ability to identify fish species or recognise prohibited fishing gear.

A number of ports globally have gained the status of being so-called ‘ports of convenience’. These are ports thought to be used disproportionately by boats engaged in illegal fishing and fish laundering. Whether these ports are targeted by illegal fishing boats due to lax law enforcement and the ability to bribe inspectors is uncertain. However, in a thorough review of illegal fishing undertaken by the High Seas Task Force, corruption in ports was noted as a significant concern (2006, 32). Moreover, it is possible that for some countries, the presence of illegal fishing boats has beneficial outcomes, not only for rent seeking inspectors and officials, but perhaps more importantly through related services, such as refuelling and ship-repairs, as well as trade. Such benefits may explain why some governments have not done more to tighten port control measures and why there are ports that seem indifferent about the presence of illegal fishing vessels. Particular controversy surrounds the Spanish port of Las Palmas, which is both a major entry point for fish products into the EU, including those originating from West Africa, as well as a centre for servicing fishing boats. NGOs researching illegal fishing in West Africa claim that a large number of boats blacklisted by regional fisheries management organisations pass through Las Palmas with the apparent complicity of the authorities based in the port (EJF 2005a).

In addition to corruption in ports and in observer programs, there are numerous other examples of inspectors, marine patrol officers and fisheries officials who are accused of taking bribes to allow illegal fishing to go unnoticed. In South Africa, an investigation by a specialised government organised crime unit - known as the Scorpions - into a large multinational fishing company, Hout Bay Fishing, discovered that the company was buying large quantities of poached fish and systematically fishing over its quota – during the 1999/2000 fishing season, Hout Bay Fishing traded over 660,000kg of illegal rock lobster. In 2001, a raid on the company led to the discovery of a container bound for the US comprising 2,844kg of Patagonian tooth fish, and roughly 18,000kg of lobster, for which the company did not have a permit. Another investigation found that in 2000 the company exceeded its quota for hake by over 9,000 tons, which had a market value of ZAR 12.805,568 (US\$ 1.6 million). It was also found that the company’s illegal fishing operations relied heavily on the complicity of at least

14 marine conservation inspectors, each of whom was receiving bribe payments in return for falsifying catch and export data. At the same time, another investigation into over-fishing of pilchards by 35 South African companies led to the arrest of a further 7 fisheries inspectors who assisted the companies and, again, falsified catch data.<sup>11</sup>

In such examples, bribe payments appear to be instigated by those engaged in illegal fishing. Yet bribe payments can easily blur into forms of predatory rent-seeking by inspectors and officials. Corrupt authorities may actively seek bribes and, in doing so, those fishing entirely legally can become victims. An anonymous source from a South African prawn company operating in East Africa explained:

A simple thing they do is say your paper work is not in order and we are asked to show them the prawns in our trucks. They know that the prawns are frozen and if we get the boxes out the prawns will be ruined. So you have no option to pay the bribe, even though you hate doing it. Some companies can't afford it so they have gone elsewhere while others seem never to get bothered by the authorities, even those who are known to fish illegally.<sup>12</sup>

As alluded to here, the payment of bribes provides a 'corruption rent' - those willing or able to pay bribes, even if they do so reluctantly, may gain a competitive advantage over those who can not afford bribes or who refuse to pay them. This, in turn, may have a corrosive effect on the fishery, ensuring less responsible fishing companies succeed at the expense of others. Corruption and illegal fishing therefore become self-reinforcing.

### 2.3.1 Gamekeepers and poachers

The abuse of public office in relation to illegal fishing can lead to a situation where officials and politicians become complicit in crimes on an ongoing basis. This has been revealed in South Africa in connection with the illegal trade in abalone where law enforcement agents have been implicated in poaching and smuggling activities. However, perhaps the most vivid example surfaced in Sierra Leone in September 2007 when the country's navy arrested eight individuals from Conakry/Guinea who were accused of conducting a "pirate" attack on two Chinese trawlers that were licensed to fish in Sierra Leone's waters (CFFA 2007). Among those arrested was a strange mix of military, police, and fisheries officers, armed with AK-47s. In their defence the officials claimed they were conducting legitimate patrols. However, others interpreted the event as evidence of organised criminal activities, whereby fish was being stolen by law enforcement officers from legitimately licensed boats to be laundered elsewhere. The two Chinese boats seemingly victimised by this corrupt group of poachers have been implicated in various forms of illegal fishing in the region themselves.

## 3 Conclusion - towards greater transparency and accountability in fisheries

The discussion of corruption in the commercial exploitation of marine resources offered in this paper is certainly not complete.<sup>13</sup> Rather, the intention has been to briefly sketch out some of the ways in which corruption manifests itself, and to show the potential consequences. The topic is a complex one,

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<sup>11</sup> The cases detailed here are based on information from the Department of Environmental Affairs and Tourism published in their annual report on monitoring and surveillance activities (2006).

<sup>12</sup> Interview with the author, May 2008.

<sup>13</sup> One area where forms of corruption may be apparent relates to the operation of regional fisheries management organisations that govern areas of the high seas. Reports have suggested these can lack transparency and are undermined by conflicts of interests. See for example Lodge et al (2007) and Willock et al (2006).

involving not only the obvious forms of administrative corruption, such as bribe payments between fishing boat captains and inspectors, but also issues of conflicts of interests and state capture - subjects that force us to consider how those with power and political influence can govern fisheries for their own interests, which in turn contributes to the marginalisation of the poor and the loss of marine wildlife and ecosystems. It is difficult to know where the boundaries of corruption lie, and it is perhaps even more difficult to know its relative significance in different countries and regions.

The challenge following from this analysis is to contemplate what should be done to reduce the different manifestations of corruption in order to improve the democratic governance of marine resources in Africa. As noted in the introduction to this paper, corruption in fisheries management has not received the same scrutiny or public awareness as corruption in other resource sectors. This remains a key obstacle for reform, and it is important that more is done to place corruption in fisheries on the international agenda. To some extent, this situation is changing. In 2007, the International Union for the Conservation of Nature, in partnership with the World Bank, organised the first expert consultation on corruption and fisheries, and it was stated in a public press release that both organisations will be doing more in the future on this topic.<sup>14</sup> The British Department for International Development (DFID), which has been at the forefront of tackling illegal fishing in developing countries and on the high seas, have argued that combating corruption may be of critical importance if illegal fishing is to be reduced. In one report commissioned by DFID, it was argued:

It is important to understand that providing support for improved MCS [monitoring, control and surveillance] resources may not necessarily deliver the result that is anticipated – i.e. a reduction in IUU [illegal, unreported and unregulated fishing] – unless some attention is paid to the associated governance factors, such as the level of corruption within the administrative system and the ability of the legal system to successfully prosecute illegal actions (MRAG 2005b, 15).

Nevertheless, research and publications on corruption in fisheries are scarce and, to date, it is difficult to find clear examples of specific anti-corruption policies applied to the sphere of fisheries and marine resource governance. As a result, a wide range of stakeholders feel unable to discuss corruption and it continues to be hidden. This is a particular problem for those working and living in African countries, as publishing on corruption can threaten job security, or worse.

Raising awareness and acknowledging that corruption may be a key obstacle to effective management of fisheries represents a necessary first step. Yet beyond this, knowing how to combat corruption is an awkward task. Those countries where corruption is most problematic tend to be the least likely to actively address corruption and instigate reform. Nevertheless, taking inspiration from the broader literature on corruption and natural resource governance, there are a number of activities and policies that may work to reduce corruption, or perhaps limit the opportunities. Several of the following observations on reform point to the possibility of extending the EITI into marine resources.

### 3.1 Administrative changes to licensing and the negotiation of access agreements

It is clear that opportunities for corruption flourish where important decisions on fisheries management lack transparency. It would seem straightforward to remedy this situation through practical administrative reforms. In particular, governments should be encouraged to make key information on licensing public. This should include data on which boats are licensed to fish for what, where and when, as well as how much money boats have paid for their licenses. A system exists in

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<sup>14</sup> See: <http://cms.iucn.org/where/oceans/index.cfm?uNewsID=202>.

Papua New Guinea whereby data on fishing licenses is made available on the internet, and it would seem plausible that all African countries could do the same.<sup>15</sup>

Closely related to the public disclosure of information on licensing, states could be encouraged to reform the way in which licenses are decided upon. A suggestion made by Tsamenyi and Hanich, for example, is the establishment of committees that take licensing decisions, which would replace the typical situation whereby such decisions are made by a single senior official only (2007). This is a policy reform that would not only support transparency, but may also restrict opportunities for conflicts of interests and forms of embezzlement.

In addition to transparency on licensing, details of access agreements need to be disclosed. It is remarkable that so much detail on access agreements remains hidden and there is no understandable reason why those entering into access agreements have the right to confidentiality. The EU provides more information on its access agreements compared to those entered into with Asian countries. However, public disclosure of information on access agreements should not be limited to the agreements themselves, but also other documents such as evaluations and scientific reports that are commissioned by the EU, as well as minutes of the meetings of joint committees set up to oversee the spending of funds for 'sectoral reforms'. Unfortunately, calls for transparency relating to fisheries access agreements have been made for some time without success. Here, support from key intergovernmental organisations, such as the African Union, could be important.

There are also fundamental reforms that could be put in place in relation to the negotiation of access agreements. One idea raised by several commentators in the past is for access agreements to be negotiated regionally, bringing together several countries to negotiate with governments of DWF at the same time (Kaczynski et al 2002 and Mwikya 2006). In fact, regional negotiation of access agreements occurs among Caribbean and Central American countries, and the USA, and is considered to be a better approach than the type of bilateral agreements that exist in Africa and Asia-Pacific. This is a policy that seems to assist with improved management of fisheries, particularly where the fish being targeted migrates across national boundaries. It may also be an approach that reduces opportunities for bribes and state capture.

Regionalisation of access agreements would assist with ensuring the terms of access agreements conform to responsible fisheries, as set out in various international agreements of which most African states are signatories. This includes the UNCLOS as well as the more recent United Nations Agreement on Straddling Stocks and Highly Migratory Species. Drawing on the criteria for responsible fisheries set out in these agreements, the WWF produced a guide for African countries on better negotiating access agreements. However, the implementation of this guide appears to have lost momentum. The regionalisation of access agreements could therefore benefit from an African accord on fisheries agreements at ministerial level, again something that the African Union could possibly instigate and take forward.

### 3.2 A multi-stakeholder survey on governance indicators

The need to further raise awareness on the scope and impact of corruption suggests a regional survey that measures the problem. Others have agreed with this idea and have suggested replicating the CPI for fisheries (Sumalia et al 2006). However, the ranking of corruption in countries through single digit scores may be unsuccessful. Ranking countries tends to suggest that corruption is of the same type everywhere, whereas in fact the type of corruption that manifests itself in countries can be dissimilar. Single digit scores on corruption, based predominantly on perceptions, can also lack validity. For example, perceptions can be shaped by key media stories, prominent criminal cases or "scandals". In this respect, perceptions of corruption may worsen as countries become more successful at exposing it. Moreover, publishing single scores showing how "bad" a country is may not be the most appropriate

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<sup>15</sup> See: [www.pngonlie.gov.pg](http://www.pngonlie.gov.pg).

way of convincing governments of their need for reform, and it may only create a defensive or dismissive response.

It is unlikely, therefore, that an effective survey would aim at reducing the extent of corruption in fisheries management through rank-ordering countries or through a single statistical measurement. More appropriate would be a descriptive survey that attempted to capture key information on proxies of good governance. For example, whether key information on fisheries is available to the public, whether fisheries departments produce annual reports and to what extent there is civil society engagement in licensing and access agreements.

However, surveys measuring corruption or proxies of good governance may not be sufficient in isolation. In the introduction to *A User's Guide to Measuring Corruption* published by the United Nations Development Programme (UNDP), it was stressed that:

users of corruption measurement tools (need) to employ multiple sources of quantitative and qualitative data, qualitative narrative analysis and real-life case studies to 'paint a picture' of corruption in a country, sub-national or regional context ... no single data source or tool will offer a definitive measurement (UNDP 2008, 3).

The governance of commercial fisheries in Africa is poorly researched and policy makers do not have access to this range of sources that can help 'paint a picture'. In comparison, international efforts to reduce corruption in both the extractive industries and the international timber trade has undoubtedly been improved by numerous in-depth research reports and articles, which in turn has helped refine policy and monitoring tools. Support for independent, in-depth research on fisheries corruption and the political economy of over-fishing is therefore an area that international development agencies and other donor organisations could support.

### 3.3 Strengthening civil society and the 'demand side of governance'

The importance of civil society organisations in reducing corruption and demanding better governance is widely accepted, although precisely how this is achieved and what forms of participatory governance lead to the greatest public accountability remains contested (see Andrews 2003 for a useful review). In fisheries, local civil society organisations should be playing a proactive role in scrutinising access agreements, tracking court cases and monitoring government budgets, for example. However, the ability of non-governmental organisations dealing directly with improving accountability in commercial fisheries varies considerably throughout Africa. In many West African countries there appear to be more civil society organisations that are proactively engaged in these issues, and in particular those organisations representing the interests of the small-scale fisheries sector. Yet in Southern and Eastern Africa, there are limited numbers of similar organisations and those that exist typically lack capacity and voice. One notable exception exists in Tanzania, where an informal network of NGOs, donors, and industry representatives exchange information and campaign on illegal dynamite fishing in the country. Referred to as the Tanga Dynamite Fishing Monitoring Network, members document cases of corruption in law enforcement and have helped raise public awareness, although to date progress seems to be modest.

The further development of African civil society organisations dealing with corruption and governance in fisheries therefore appears critical and without this, it is unlikely that 'deep democracy' in fisheries management will be forthcoming. International development organisations can play a critical role in this respect through funding and support for training and capacity building. Equally, greater work on fisheries could be undertaken by those international organisations that have developed expertise in other spheres of government accountability, such as Transparency International and the Open Society Institute. Indeed, the latter produced a notable guide on how civil society organisations can better monitor oil revenues and state budgets (Shultz 2005). A comparable resource could be provided for fisheries.



From the experience of other resource sectors it appears that a critical dimension of increasing the voice of local civil society is through strengthening international networks. Such networks are important for several reasons. They can share best practice, improve lobbying power and they also create a sense of camaraderie which can be critical for those groups or individuals that are isolated. Here, the work of Publish What You Pay (PWYP) is interesting to consider.<sup>16</sup> So far, the focus of PWYP has been primarily on the extractive industries and the coalition has been instrumental in demanding the progress of EITI. Many of its members are active participants on the joint oversight committees that form an important part of the EITI process (see below). One strength of PWYP has been its determined focus on transparency. Although the movement facilitates members to voice concern with broader issues relating to mining and oil, these appear not to have become divisive or have confused its objective and public message. PWYP has also developed a strong track record of facilitating training and capacity building among its partner organisations.

PWYP has identified the need to expand its work into both forestry and fisheries. This may prove to be an important development and the network, through its secretariat and governing board, already has both the experience and capacity to be effective. This may mean it could be successful where other new networks may not. However, a risk is that in including both forestry and fisheries, the coalition will become too broad and it may lose its focus. This is not inevitable, and it would seem a risk that could be mitigated. The important challenge for PWYP in going forward will be to develop a clear policy goal or set up governance benchmarks for commercial fisheries that a large number of civil society groups can agree on. This may be focused on governments publishing details on licensing, including access agreements, and better accountability on the management of government revenue from fisheries.

### 3.4 Independent financial and 'marine' audits

For improved transparency to lead to better governance, some form of independent audit also needs to occur. Public disclosure of information allows civil society organisations to better play the role of 'watchdogs'. However in reality, civil society organisations can lack capacity to continually check data and be in a position to respond when irregularities occur. Moreover, there may be ample opportunities for data to be manipulated or deliberately presented in such a way as to confuse outsiders. This seems to be a particular problem in the extractive industries, where payments and contracts for oil and mining operations can be extremely complex.

Those governments that are determined to reduce corruption may therefore need to undertake independent regular annual or biannual audits of fisheries departments. Already noted above was the recent audit of the Ministry of Fisheries instigated by the government of Guinea, which revealed the loss of millions of euros. Likewise, in South Africa, as a response to past allegations of corruption, the Department of Marine and Coastal Management employed a leading multinational auditing firm to evaluate the allocations of fishing rights and ensure government rules were adhered to.

For independent audits to be more widely supported, it may be necessary to link these financial audits with attempts to measure the potential value of well-managed marine resources, as well as the potential economic and social costs that are generated by their loss. This may be a powerful tool to influence political will to improve governance, for although vested interests are one important reason why marine resources are plundered, it is also the case that indifference to marine resources through a lack of awareness facilitates this situation.

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<sup>16</sup> <http://www.publishwhatyoupay.org/>

### 3.5 Regionalisation of efforts and multi-donor activities: Expanding EITI into fisheries?

That the PWYP-coalition has placed fishing on their agenda raises the question of whether the EITI could be extended to fisheries. This may offer an international mechanism to bring together several of the policy reforms mentioned already.

Here, it is not necessary to provide an in-depth review of EITI. However, the strength of this initiative lies with the ambition of creating a multi-stakeholder process to ensure information on the flow of revenues from mining and oil is made public and is subject to a rigorous independent audit. A critical feature of EITI is the establishment of multi-stakeholder committees that oversee the review of audits and comment on key reports. These committees are run by the government, but have to include civil society and industry representatives.

EITI has faced considerable challenges and it is not without its critics. While EITI aims at reducing the opportunities for embezzlement of revenues from mining and oil, it has a limited potential to address other forms of corruption, such as conflicts of interests and state capture. Furthermore, the ideal of including civil society organisations is difficult to achieve in practice - if poorly implemented civil society inclusion can be rendered tokenistic or it is undermined by governments ensuring the least critical organisations are favoured. Moreover, there have been those who feel the importance of transparency has been overstated in reforming the extractive industries to support pro-poor development, and in doing so, other issues have been crowded out (Shaxson 2007).

These reservations are important to consider if EITI is applied to marine fisheries. Nevertheless, a regional initiative inspired by EITI remains attractive as it potentially offers an international framework to bring together governments, industry representatives and civil society groups. It could lead to regular annual or bi-annual audits by accredited firms and it may lead to multi-stakeholder committees overseeing licensing decisions. Furthermore, because EITI has already gained a high profile, extending it to fisheries could assist in raising awareness of the importance of good governance in this sector. An often overlooked strength of EITI has been its ability to support dialogue on corruption in the extractive industries and it may have allowed international development agencies to explicitly engage on issues relating to governments of resource rich countries. However, it should be recognised that many of the important coastal states in Africa are not members of EITI or are not considered "candidate countries" - despite 10 countries being classified as candidates for EITI in West Africa, in the entire Southern and East African region, only Madagascar is involved in the EITI process. In fact, many key coastal states have denounced EITI and refuse to participate, such as South Africa, meaning associating an international transparency initiative for fisheries with EITI could be politically counterproductive in some situations.

The policy ideas noted above are offered as points of departure for further debates and policy discussions. There are no doubt many further ways in which corruption can be better understood, revealed and reduced. Yet until there is wider engagement in these debates, democratic governance in commercial fisheries in Africa may remain intangible for African citizens. Several stakeholders, including most importantly African governments and intergovernmental organisations, need to ensure that dialogue on accountability and transparency is mainstreamed in broader discussions of fisheries governance if progress is to be made.

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## Abstract

Africa's marine resources are increasingly in demand and are gaining in geo political importance. Competition between key fishing nations for access and control over marine resources is joined by competition between local communities and industrialised foreign fishing fleets. In this context, incentives for a range of illegal activities abound, to which African nations often have weak capacity to respond. The author describes key areas of concern relating to corruption and the exploitation of marine resources in African countries by foreign fishing fleets. Policy reforms that may reduce incentives and opportunities for corruption in fisheries management are also discussed. The paper is part of the project Corruption in Natural Resource Management at the U4 Anti Corruption Resource Centre: <http://www.u4.no/themes/natural-resources/main.cfm>