



THE HUMAN COST OF OVERFISHING

HOW THE OVERUSE OF FISHERIES RESOURCES IN SANYANG
THREATENS HUMAN RIGHTS

AMNESTY
INTERNATIONAL



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Cover photo: Men getting surrounding a fishing boat at Sanyang beach, Gambia.
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GLOSSARY

WORD	DESCRIPTION
AFRICAN CHARTER	African Charter on Human and Peoples' Rights
BY-CATCH	Fish or other marine species unintentionally caught while fishing for other species
CONVENTION AGAINST TORTURE	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
COVID-19	Covid-19, covid, corona and coronavirus are used interchangeably in the report
DEMERSAL FISHES	Fish living and feeding near the bottom of the sea such as shrimps and snappers
EEZ	Exclusive Economic Zone
FAO	The Food and Agriculture Organization
FILA TOURNE	Wolof term for purse seiner. It refers to a way of fishing: fishermen circle the fish with the nets and pull them up to trap the fish
FLAG OF COVENIENCE	"the flag of a country a ship is registered under to avoid regulation and scrutiny" ¹
FMFO	Fishmeal and fish oil
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LANDING/LAND	"The unloading of any quantity of fisheries products from on board a fishing vessel to land" ²
PELAGIC FISHES	Fish living near the ocean's surface (mid or upper level) such as sardinellas round and flat) and bonga fish
IUU FISHING	Illegal, Unreported and Unregulated fishing

¹ China Dialogue, "Sea shepherd helps the Gambia tackle illegal fishing", 9 July 2020, chinadialogueocean.net/en/fisheries/14247-sea-shepherd-helps-the-gambia-tackle-illegal-fishing/

² Protocol on the Implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia, 31 July 2019, [eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:22019A0808\(01\)](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:22019A0808(01)), Article 1.

WORD	DESCRIPTION
TRAWLER	"A boat that pulls a large net behind it in order to catch fish" ³ ; they are often used for industrial fishing

³ Cambridge Dictionary, dictionary.cambridge.org/dictionary/english/trawler.

1. EXECUTIVE SUMMARY

Fish is an essential resource for Gambia and Gambians. The fishing industry plays an important part in the Gambian economy, as it is the case in West Africa in general. The communities in coastal towns in Gambia such as Sanyang rely heavily on pelagic fishes for their daily protein intake, as well as their economic activities. Sanyang is a tourism hub where various lodges and restaurant owners rely on the fish market to supply their businesses. However, the fishing industry in the country has been subjected to increasing competing demands over the past few years, prompting overfishing with adverse socio-economic and environmental impacts. Indeed, in addition to artisanal fishermen providing fish to the community, foreign industrial trawlers and fishmeal and fish oil factories have been adding pressure to the marine resources.

Amnesty International conducted desk research and field research in Sanyang and Banjul on 1-8 June 2021 and 20 March-1 April 2022 aiming at looking at the human rights impact of overfishing in Sanyang and the role of fishmeal factories. The delegates interviewed 63 people, including Sanyang village chief, fishermen, fish processors, people in the hospitality business, daily workers for the fishmeal and fish oil factory Nessim Fishing And Fish Processing Co., Ltd (Nessim), women working in the gardens nearby the factory, a microbiologist, journalists, representatives of the police, the National Environmental Agency (NEA) and Gambia Red Cross. Amnesty International requested meetings and sent letters requesting information to representatives of relevant ministries, including the Ministry of Environment, Climate Change and Natural Resources, the Ministry of Fisheries and Water Resources and the Ministry of Trade, Industry, Regional Integration, but was unable to get meetings or receive answers to the information requested. The delegation met with the manager of Nessim fishmeal factory in Sanyang, but he referred the delegates to the manager of Nessim Trading Company in Banjul, whom the delegates were unable to meet despite a request. On 27 January 2023, Amnesty International received a letter from Nessim partially responding to the request for information we sent. Amnesty International sent right to reply letters to relevant authorities and all fishmeal factories based in Gambia between 27 April and 13 May 2023. At the time of publication of this report, Amnesty International has only received a reply from Nessim.

The report highlights the multiple fishing actors in Gambia, in particular in Sanyang, who put pressure on the marine resources, in addition to traditional fishing. The Gambian government has fishing agreements with the European Union and several countries including Senegal, which allow boats from those countries to fish inside Gambian waters. In addition, the government has been struggling with illegal, unreported and unregulated (IUU) fishing. Indeed, it is estimated that Gambia, Mauritania, Senegal, Guinea Bissau, Guinea, and Sierra Leone lose USD 2.3 billion annually to illegal fishing. Boats conduct IUU fishing in several ways including by failing to have the proper fishing permit or registration, coming closer to the coast than authorized, or using nets with a smaller mesh size than allowed.

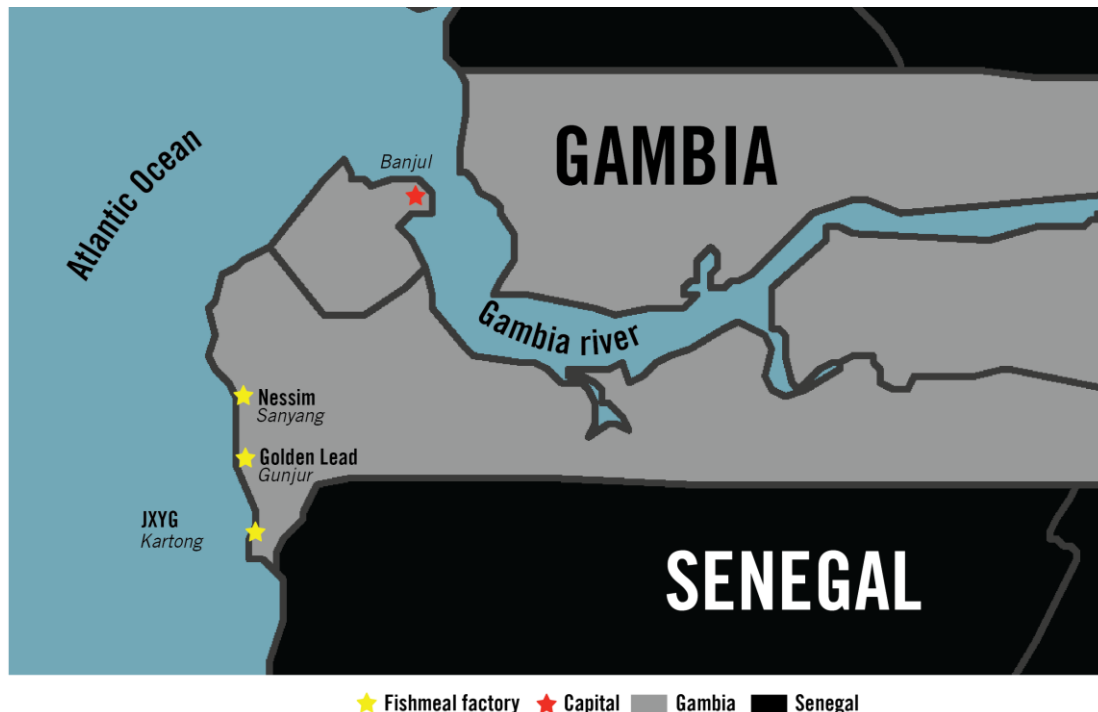
Between 2016 and 2018, three fishmeal and fish oil factories started operating in Gambia. Those factories turn pelagic fishes such as bonga and sardinella into fish oil or a powder called fishmeal that they then export to feed farm animals or voracious fishes in Asia, America and Europe. Fish oil is also used as food supplement in the form of pills.⁴ There is a lack of transparency as to the supply chain of the factories' products and the quantity of products exported. This is in contradiction with article 19 and article 25(a) of the ICCPR which recognize respectively the right of citizens to seek and receive information and the right "to take part in the conduct of public affairs, directly or through freely chosen representatives."⁵ The right to receive information also includes information on environmental related matters.⁶ In addition, fishmeal

⁴ Fish oil is often used to make omega-3 fish oil capsules/ supplements.

⁵ International Covenant on Civil and Political Rights (ICCPR), Article 19.2, article 25(a)

⁶ UN Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Report, 24 January 2018, Un Doc. A/HRC/37/59, Annex para. 17

factories benefit from several exemptions including sale taxes for imported products and turnover taxes, while adding only 2.9% to the national growth. In Sanyang, though the benefits for the locals in terms of employment is unclear, some people earn money from Nessim Fishing And Fish Processing Co., Ltd (Nessim), a fishmeal and fish oil company created by Nessim Trading Company and operating in the town since 2018, including fishermen mostly coming specifically from Senegal to work with the factory, West African men carrying baskets from the boats to the factory, those counting the baskets and those working inside the factory.



The state has a duty to ensure consultation with the population potentially affected by new development projects. However, information about most fishing agreements between Gambia and other countries, as well as data of boats fishing inside the country, are not easily accessible and some of these agreements were not even examined by the National Assembly in contradiction with national law. The Environmental Impact Assessment Study (EIAS) is overseen by the National Environmental Agency (NEA) and addresses the potential negative environmental impacts of a company. In the context of the EIAS, a company is required to demonstrate public consultation was done before working on a project,⁷ especially with members of the community which may be more impacted by the project.⁸ According to Nessim, the company performed community consultation before opening the factory, including a series of meetings with the community with whom they had a “cordial agreement”.⁹ However, many people Amnesty International interacted with who are directly impacted by the factory were not aware of its arrival. This points to a failure by the company to meaningfully consult people who were going to be affected by the activities of the factory. Nessim should have ensured a thorough consultation as part of a human rights due diligence process.

Besides the issue of thorough consultation, the economic and social rights of the local people of Sanyang, including the right to food and the right to work, are threatened as a consequence of the activities of all fishing actors.

Artisanal fishermen met by Amnesty International complain about their fishnets being cut down daily by foreign boats coming closer to the shore than authorized, thereby causing substantial economic loss. Moreover, according to these fishermen, those foreign industrial vessels fish regularly, emptying the water resources irrespective of regulations forbidding them to fish in a zone reserved for artisanal fishermen, thereby forcing them to go fish further and longer into the sea.

Artisanal fish processors and fish traders are also impacted by fish scarcity and the rising cost of fish. Fish driers are essentially women, buying and drying fishes before selling them. Fish smokers are men and

⁷ Interview in person with the National Environment Agency (NEA) in the Office of the NEA, 29 March 2022, Banjul.

⁸ Environmental Impact Assessment Regulations, 2014, Part II – Article 16

⁹ Nessim Fishing and Fish Processing Co., LTD, letter to Amnesty International dated 27/01/2023

women smoking fishes before selling them. Both groups have expressed frustration over the reduced availability of fish in the past five years. Those specializing in bigger fishes face the consequences of the presence of industrial trawlers in Gambian waters, while those smoking bonga and sardinella principally face tough competition from the fishmeal factory.

Overfishing contributes to the risk of food insecurity in the country. The activities of industrial boats (legal and illegal) as well as the fishmeal factories contributed to the reduction of marine resources over the years. Fish, especially bonga and sardinella, due to their affordability, represent the most important source of animal protein for the local population. However, according to the European Commission, about 19,300 tonnes of fish is exported annually through the activities of fishmeal factories, foreign industrial vessels and fish processors targeting foreign markets.¹⁰ Nessim fishmeal factory targets the pelagic fishes most consumed by the local population, thereby threatening the availability of those fishes in the local market.¹¹ In fact, the industry needs a significant amount of fish: it takes about 4.5kg of fish to make 1kg of fishmeal.¹²

Owners of restaurants are other actors affected by fish scarcity and the rising cost of fish. They claim that the fish they use such as ladyfishes and butterfishes are getting harder to find and prices are rising, in part because local fishermen supplying them are facing tough competition from industrial trawlers whose activities do not benefit the local market.

There are also specific community complaints about potential environmental, economic and social impact due to the activity of the Nessim fishmeal factory in Sanyang that the national authorities should investigate in the framework of its annual review of the EIAS. According to Nessim, they “respect and follow the laws as they relate to human rights to the best of [its] understanding of the said laws” and when the factory operates, “the town is always busy with different businesses at the fish landing site, [with] women busy selling at the site and working at the factory that also earn them a lot.”¹³ However, women working in the gardens behind the factory alleged that their productivity diminished since the factory opened due to an increase in pests infecting their vegetables, which they attribute to the odorous pollution coming from the factory. As a result, they are struggling to grow vegetables, especially tomatoes and have seen their profit decreased. Amnesty International asks the authorities to investigate the potential environmental and economic impact of the factory’s activities on the gardens and the gardeners. Another group that claims to be negatively impacted by the factory are owners of restaurants, lodges and juice bars. They took advantage of the increase in tourism in the region in general and along the beaches in particular to foster their business, but the arrival of the fishmeal factory and the start of the Covid-19 pandemic hampered their activities. According to them, the factory’s activities are more damaging in the long term. As one restaurant owner explained: “If the coronavirus has bankrupted businesses, the fishmeal factory is doing worse than that [...] We know corona would last a particular moment in time but the fishmeal factory we do not know when we are going to be out of the situation.” They say they lose clients due to the noxious smell coming from the factory when it is operating, which reaches the lodges and restaurants along the beach. Amnesty International delegates experienced the noxious smell coming from the factory, which can at times reach the village.

In addition, the fishmeal factory in Sanyang was sanctioned for violating environmental procedures and guidelines. In 2018, during the first year of its operations, Nessim factory was suspended by the NEA for almost six months for not having the proper discharging plant to treat their wastewater. There were news reports of the wastewater allegedly being dumped into the roads and the vegetable gardens. The company subsequently built a waste treatment plant according to the NEA and Nessim, as well as a wastepipe to discharge the wastewater into the ocean.¹⁴ In 2020, the company was fined twice by the NEA for not properly treating their wastewater.¹⁵

Moreover, on at least three occasions between 2019 and 2021, news outlets reported that Sanyang beach was crowded with dead fish¹⁶ and the Amnesty International delegation noted dead fish on the beach during

¹⁰ European Commission, *Fisheries value chain analysis in The Gambia*, June 2020, europea.eu/capacity4dev/value-chain-analysis-for-development-vca4d/wiki/226-gambia-fisheries (hereinafter: European Commission, *Fisheries value chain analysis*, 2020), p.11

¹¹ European Commission, *Fisheries value chain analysis*, 2020, p.107.

¹² Food and Agriculture Organization of the United Nations, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa*, 2022, fao.org/publications/card/fr/c/CB7990EN (FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa*), p.75

¹³ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

¹⁴ WordPress, “Battling Nassim Fish-meal Factory”, 23 May 2019, femrika.wordpress.com/2019/05/23/battling-nassim-fish-meal/; The Voice, “Residents In Sanyang Remove Nassim Fishmeal Wastepipe”, 11 December 2018, voicegambia.com/2018/12/11/residents-in-sanyang-remove-nassim-fishmeal-wastepipe/

¹⁵ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul.

¹⁶ Foroyaa, “Dead fish washed ashore on Gunjur, Sanyang beaches”, 10 May 2019, foroyaa.net/dead-fish-washed-ashore-on-gunjur-sanyang-beaches/; The Point, “Dead fishes inundate Sanyang beach after Nissim fails to purchase”, 29 July 2020, <https://thepoint.gm/africa/gambia/headlines/dead-fishes-inundate-sanyang-beach-after-nissim-fails-to-purchase#:~:text=Dead%20fishes%20inundate%20Sanyang%20beach%20after%20Nissim%20fails%20to%20purchase,->

its visits in 2021 and 2022. Fishermen working with Nessim told Amnesty International they dump dead fish back into the water when turned away by the factory. To make matters worse, the fishmeal factory targets at least one fish species that is already overexploited (sardinella) and, according to interviews with local fishermen and the fishnets observed by the Amnesty International delegation, fishermen working with the factory use nets with a very small mesh size, which means that at times they get juvenile fish. Fishing juvenile fish risks preventing the stock from replenishing itself hence why Gambia regulates mesh sizes.¹⁷

Finally, all fishing actors also contribute to environmental damage, notably by fishing some species that are already overexploited, according to FAO and regional bodies. Indeed, the FAO indicated that stocks of grouper, deepwater rose shrimp, cuttlefish, sardinella and bonga are overexploited while stocks of sardine are not fully exploited but still require precautionary measures. The socio-economic and environmental impacts of overfishing in Gambia are in contradiction with Gambia's obligations under the ICESCR and the African Charter on Human and Peoples' rights, specifically regarding the right to food, the right to work and the right to health. The government has a duty to protect against human rights abuses by all actors including companies. As such, the government should pass legislation requiring companies to conduct human rights due diligence in their operations and supply chains and ensure proper monitoring of Gambia waters against IUU. In addition, the government must show transparency and allow easy public access to information about fishmeal factories and foreign trawlers. Finally, an investigation into the potential socio-economic and environmental impacts associated with the activities of the factory must be conducted.

Nessim fishmeal factory has the responsibility to respect all human rights whenever they operate and this irrespective of the state's own human rights responsibilities as described in the UN Guiding Principles on Business and Human Rights. As such, the company should avoid contributing to human rights abuses through their activities and address impacts in which they are involved, including by remediating any actual impact. Nessim should be practising an ongoing and proactive human rights due diligence process to identify, prevent, mitigate and account for how to address the factory's impact on human rights. Where it identifies that its activities have a negative human rights impact, it needs to cease that activity. In addition, the company must be transparent about its due diligence practices. Given the potential high economic and environmental impact of its activities, it must phase out the catch of overexploited species as assessed by the FAO.

The international community must regulate the fish-based feed industry to limit the use of fishmeal and fish oil (FMFO) made from fish that are already overexploited and increase transparency as to the origins of the fish. All companies in the fishmeal supply chain should also be conducting human rights due diligence, which can include public reporting about the origins of their products. Companies purchasing fishmeal should map their supply chains and analyse the human rights risks that they may be directly linked to, through their relationship with suppliers.

On 15 March 2021, a protest that turned violent took place in Sanyang after a fisherman who worked for the factory allegedly killed a man from Sanyang. The local population directed its frustration towards the Senegalese fishermen and the fishmeal factory, burning substantial fishing equipment and part of the factory building. Subsequently, at least 50 people were arrested, some of them arbitrarily, and detained under poor conditions. While most were released, 14 men were charged with conspiracy to commit misdemeanour, unlawful assembly and riot, and five others were charged with going armed in public, shop breaking, theft, arson, damage to property, conspiracy to commit arson, unlawful assembly and riot. Several men alleged having been victims of torture and other ill-treatment while being arrested or while being detained at the anti-crime unit. According to testimonies collected, at least two men were forced to sign a document without knowing its content while in detention after being arrested. The case against the group of five men was dismissed by the court on 21 February 2022, while the case against the other group is still pending.

Gambia is a party to the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. As such, it has the obligation to ensure detainees are free from torture or cruel, inhuman or degrading treatment or punishment. Thus, the government must conduct prompt, thorough, impartial and effective investigations into allegations of torture and other ill-treatment. The authorities should also ensure the full respect of fair trial rights and due process, including a trial without undue delays and the right to a defence.

Jul%2029%2C%202020&text=The%20Beach%20of%20Sanyang%20over,failed%20to%20purchase%20those%20catches; All Africa, Foroyaa Newspaper, "Gambia: Numerous fish found on Sanyang beaches", 11 June 2021, allafrica.com/stories/202106140563.html

¹⁷ Schedule XXVII of Regulation 2008-6 of 9th June 2008, Fisheries Regulations, 2008; Stop Illegal Fishing, *The importance of juvenile fish*, 23 February 2009, stopillegalfishing.com/press-links/the-importance-of-juvenile-fish/#:~:text=The%20juvenile%20fish%20otherwise%20the,both%20national%20and%20foreign%20fishers.

2. METHODOLOGY

Amnesty International conducted desk research and field research in Sanyang and Banjul on 1-8 June 2021 and 20 March-1 April 2022. One of the objectives of the mission in 2021 was to gather information about potential human rights violations during and in the aftermath of a protest in Sanyang in March 2021 which led to violence, arrests and prosecutions. During this mission, we noted the complexity and the scope of the issues in Sanyang leading up to the protest and decided to expand the research. The second mission aimed at looking at the human rights impact of overfishing in Sanyang and the role of fishmeal factories.

Amnesty International interviewed seven people (a journalist, two NGOs' representatives, two representatives of the Directorate-General for Maritime Affairs and Fisheries of the European Commission and two government staff) over the phone and online before and after the missions, as well as 56 people in person mainly in Sanyang, but also in Banjul. The delegation composed of two staff conducted one focus group of fishermen and in person individual interviews with a wide range of people: Sanyang village chief, seven people in the hospitality business in Sanyang, three activists, eleven fishermen including three who work with Nessim fishmeal factory, two daily workers for Nessim, eight women working in the gardens, seven fish processors including fish seller, fish smokers and fish driers, five former detainees, four people close to the man from Sanyang murdered in 2021, a lawyer, a microbiologist, three journalists, the police, the National Environmental Agency (NEA) and Gambia Red Cross.

As women are particularly affected by overfishing given their activities (fish processing and gardening), the delegation also aimed to interview as many as possible (16 were interviewed).

Many interviewees in the fishing industry were picked directly on site, while others were referred to the delegation by other interviewees. An interpreter was used for the interviews that were not conducted in English or French.

For security reasons, some interviewees are referred to in the report anonymously.

The delegation also intended to speak with all relevant authorities. Although Amnesty International was able to speak with an employee of the Gambian Navy, the Food Safety Quality Authority and the National Environmental Agency, the organization was unable to get meetings with the following entities despite numerous requests: the Ministry of Environment, Climate Change and Natural Resources; the Ministry of Fisheries and Water Resources (requests were sent to the Minister, the Director of Water Resources and the Director of Fisheries); the Ministry of Trade, Industry, Regional Integration and Employment; the Ministry of Tourism and Culture; the Ministry of Lands, Regional Government and Religious Affairs; the National Assembly Special Committee on Environment; the National Assembly Standing Committee on Human Rights and Constitutional Matters; Gambia Revenue Authority and Gambia Investment and Export Promotion Agency. Requests for information were sent electronically on 2 December 2022 to the following authorities: the Gambia Investment and Export Promotion Agency; the Ministry of Trade, Industry, Regional Integration and Employment; the Ministry of Environment, Climate Change and Natural Resources; the Ministry of Fisheries and Water Resources and the Gambian Navy. A follow-up request for information was sent by mail on 13 January 2023 to the Gambia Investment and Export Promotion Agency; the Ministry of Trade, Industry, Regional Integration and Employment; the Ministry of Environment, Climate Change and Natural Resources. At the time of publication, Amnesty International had not received an answer to the information requested.

Right to reply letters were sent by mail on 27 April 2023 and electronically between 27 and 28 April 2023 to the following authorities: the office of the Vice-President; the Ministry of Fisheries and Water Resources; the Ministry of Environment, Climate Change and Natural Resources; the Ministry of Trade, Industry, Regional Integration and Employment; the Ministry of Lands, Regional Government and Religious Affairs; Gambia

Investment and Export Promotion Agency; the Gambia Navy and the Ministry of Justice. At the time of publication, Amnesty International had not received an answer.

The delegation met with the manager of Nessim fishmeal factory in Sanyang but he referred us to the manager of Nessim Trading Company in Banjul for information. The delegation attempted to meet with the manager of Nessim Trading Company but was unable to despite several requests for a meeting. A request for information was also sent electronically to the company on 2 December 2022 and by mail on 13 January 2023. On 27 January 2023, Amnesty International received a letter from Nessim partially responding to the request for information. Amnesty International reviewed the response and took appropriate account of the information provided in updating findings. A right to reply was sent to Nessim by mail on 27 April 2023 and electronically on 28 April 2023. An updated version of the right to reply letter was sent to Nessim electronically on 8 May 2023. Nessim replied to the letter on 18 May 2023. Amnesty International took into consideration Nessim's response and integrated it into this report. Right to reply letters were also sent by mail on 27 April 2023 and delivered in person on 13 May 2023 to the other fishmeal factories based in Gambia, Golden Lead and JXYG. At the time of publication, Amnesty International had not received an answer.

Amnesty International desk research included review of national and international legal documents but was limited by the lack of publicly accessible information on fishmeal factories, foreign trawlers, foreign fishing agreements and export data. The research for fishing agreements involved open-source research including a review of the Gambian Ministry of Fisheries website.

Amnesty International is grateful to all the people who took the time to meet with us and discuss their views on the fishing industry in Gambia. We would like to thank the authorities who agreed to meet with us, the National Environmental Agency and the Food Safety Quality Authority. We would also like to thank the organizations, particularly Greenpeace and Changing Markets, and activists who have been working on this issue for a while and were willing to share their knowledge with us. We also would like to express our utmost gratitude to all the people directly affected by the situation in Sanyang who were willing to speak with us and share their experience.

3. CONTEXT

3.1 FISH EXPLOITATION ON THE COAST OF WEST AFRICA

The coastline of West Africa is 5,500km and contains one of the most varied fisheries in the world.¹⁸ Fisheries is an important part of the economy of African countries. Indeed, fisheries and aquaculture directly contribute \$24 billion to the economy in Africa,¹⁹ while fisheries generate about \$400 million annually in the West African Marine Ecoregion (Mauritania, Senegal, Cape Verde, Gambia, Guinea Bissau, Guinea, and Sierra Leone).²⁰ In addition, it provides the opportunity for millions of jobs in the fishing and processing sectors.²¹ Gambia is part of the Sub-Regional Fisheries Commission (SRFC), a regional fisheries cooperation organization whose mandate is to strengthen “regional cooperation to enhance the sustainable management of fisheries resources in maritime waters under the jurisdiction of member States” along with Cape Verde, Guinea, Guinea Bissau, Mauritania, Senegal and Sierra Leone.²² However, about 40% of West African fish is still caught illegally.²³

In the past decade, in addition to fishing for human consumption, there has been a proliferation of fishmeal and fish oil (FMFO) factories in West Africa. FMFO factories transform pelagic fishes into fish oil or a powder called fishmeal, which is then used to feed farm animals and voracious fishes in the aquaculture industry. Fish oil is also used in the form of pills for food supplement. Between 2010 and 2020, over 50 FMFO factories opened in the region (Mauritania, Senegal, Guinea Bissau, and Gambia).²⁴ Mauritania leads with nearly 40 of them operating while there are three in Gambia.²⁵ According to Greenpeace Africa, most FMFO factories in the region are Chinese, Turkish, Russian, Korean and European companies and the products are, for the most part, exported to Europe and Asia.²⁶ According to the non-governmental organization Greenpeace, the FMFO industry in West Africa potentially negatively impact 40 million of African consumers.²⁷

¹⁸ Financial Times, “*The fight for west Africa’s fish*”, 13 March 2020, ft.com/content/0eb523ca-5d41-11ea-8033-fa40a0d65a98

¹⁹ World Bank, *Africa program for fisheries*, worldbank.org/en/programs/africa-program-for-fisheries#1 (hereinafter: World Bank, *Africa program for fisheries*).

²⁰ World Wide Fund For Nature, “Local Fisheries - a US \$400 million annual business”, wwf.panda.org/discover/knowledge_hub/where_we_work/west_africa_marine/area/fisheries/#:~:text=Fisheries%20in%20the%20West%20African,for%20economic%20and%20social%20development.

²¹ World Bank, *Africa program for fisheries*.

²² Sub-Regional Fisheries Commission, *Presentation*, spcsrp.org/en/presentation#:~:text=The%20Sub%2DRegional%20Fisheries%20Commission,Mauritania%2C%20Senegal%20and%20Sierra%20Leone.

²³ The Borgen Project, *Addressing the issue of overfishing in West Africa*, 5 July 2021, borgenproject.org/overfishing-in-west-africa/#:~:text=Roughly%2040%25%20of%20the%20region's,threat%2C%20organizations%20are%20taking%20action

²⁴ Greenpeace Africa, *Seasick: As Covid locks down West Africa its waters remain open to plunder*, October 2020, greenpeace.org/static/planet4-africa-stateless/2020/10/7fef91ec-eng_report_1007.pdf (hereinafter: Greenpeace Africa, *Seasick*), p.17

²⁵ Greenpeace Africa, *Seasick*.

²⁶ Greenpeace Africa, *Seasick*, p.3

²⁷ Greenpeace, *A waste of fish: food security under threat from the fishmeal and fish oil industry in West Africa*, June 2019, greenpeace.org/international/publication/22489/waste-of-fish-report-west-africa/ (hereinafter: Greenpeace, *A waste of fish*), p.5.

3.2 THE FISHING SECTOR IN GAMBIA

Gambia has a coastline of 80km, a continental shelf area of about 4,000 km² and is located in a highly productive area.²⁸ As such, Gambia waters are rich in diversity, with over 500 species of fish.²⁹ The country has an Exclusive Economic fishing Zone (EEZ) of 10,500 km².³⁰

Gambia's sea is sought after for artisanal and industrial fishing. In 2018, the fisheries and aquaculture sector represented 6.2% of Gambian gross domestic product (GDP)³¹ and the livelihood of about 200,000 people over a total population of 2,280,092 people depended on fish and fisheries related activities.³² By 2019, the fisheries sector represented 12% of Gambian GDP.³³ According to a 2020 report by the European Commission, 193, 249 people's livelihood depend on artisanal processing and the distribution of fisheries products.³⁴ In March 2022, the then Minister of Fisheries declared that the fisheries sector contributed about 12% of the GDP and provided direct or indirect employment for more than 300,000 people.³⁵

According to the Ministry of Fisheries and Water Resources, artisanal activities represent 90% of all aquaculture and fisheries productions.³⁶ A 2020 European Commission report stated that there are fourteen fish processing and export companies active in the country, including three fishmeal factories, that employ about 1,500 workers.³⁷ There are currently three active fishmeal factories in coastal towns in Gambia: Nessim fishmeal factory in Sanyang, JXYG in Kartong and Golden Lead in Gunjur.

As far as the processing industries are concerned, Gambia does not seem to benefit greatly in terms of taxes because of the many advantages granted to investors to attract them to the country. "As it happens, in seeking to promote investment in the fisheries sector, the Government of the Gambia offers a set of incentives to potential high-value investors."³⁸ Factories processing fish are subject to direct (up to 27% of net profit) and indirect taxes (value added tax of 15%),³⁹ but Gambia does not benefit as much from the taxes as investors enjoy many advantages.⁴⁰ Indeed, they benefit from a foreign-investment promotion scheme for companies exporting more than 80% of their products.⁴¹ Among other advantages, they get exemptions for: custom duties on capital goods and materials used for setting up the project, sale taxes for imported products, and turnover tax.⁴² In addition, they get preferential treatment for the allocation of land and the setting up of the infrastructure.⁴³ The Gambia Investment and Export Promotion Agency (GIEPA) administers incentives packages and the GIEPA Act 2015 defines the fisheries sector as a priority sector to receive incentives.⁴⁴ Fishmeal factories in Gambia add only 2.9% to the national growth while falling short on community's expectations regarding roads construction and employment for the youth.⁴⁵ Almost all managerial positions (99%) at those fishmeal factories are held by foreigners, while Gambians have handling jobs (90% of them).⁴⁶ Nessim did not respond to Amnesty International request regarding how much taxes they pay yearly.

²⁸ Food and Agriculture Organization of the United Nations and the Ministry of Fisheries, Water Resources and National Assembly Matters, *Review of the fisheries sector, The Gambia*, 20 August 2019, mofwr.gm/downloads (hereinafter: Ministry of Fisheries, *Review of the fisheries sector*), pp.1-2;

²⁹ European Commission, *Fisheries value chain analysis in The Gambia*, January 2021, europea.eu/capacity4dev/file/109552/download?token=p0TKzZBR (hereinafter: European Commission, *Fisheries value chain analysis*, 2021), p.1.

³⁰ European Commission, *Fisheries value chain analysis*, 2021, p.1.

³¹ Ministry of Fisheries, *key fact about fisheries*.

³² Greenpeace, *A waste of fish* p.18 (citing World Bank and the Ministry of Fisheries, Water Resources and National Assembly Matters, *West Africa regional fisheries program – Phase II environmental and social management framework (ESMF)*, November 2018, documents.worldbank.org/curated/en/919521545373344581/pdf/ESMF-WARFP-GAMBIA-Final-for-Disclosure-docx.pdf); The World Bank, *DataBank, World Development Indicators*, databank.worldbank.org/reports.aspx?source=2&series=SP.POP.TOTL&country=WLD

³³ Ministry of Fisheries (previously cited), *Review of the fisheries sector* p.1.

³⁴ European Commission, *Fisheries value chain analysis* (previously cited), 2020, p.13

³⁵ The Point, "Fisheries sector contributes 12% GDP, provides 300,000 jobs", 22 March 2022, thepoint.gm/africa/gambia/headlines/fisheries-sector-contributes-12-gdp-provides-300-000-jobs

³⁶ Ministry of Fisheries and Water Resources, *Key fact about fisheries, Fishing in Gambia waters- Key facts*, mofwr.gm/key-fact-about-fisheries-in-the-gambia (hereinafter: Ministry of Fisheries, *key fact about fisheries*).

³⁷ European Commission, *Fisheries value chain analysis*, 2020, p.13.

³⁸ European Commission, *Fisheries value chain analysis*, 2020, p.89.

³⁹ European Commission, *Fisheries value chain analysis*, 2020, p.13.

⁴⁰ European Commission, *Fisheries value chain analysis*, 2020, p.87.

⁴¹ Changing Markets Foundation, *Fishing for catastrophe: How global aquaculture supply chains are leading to the destruction of wild fish stocks and depriving people of food in India, Vietnam and The Gambia*, October 2019, changingmarkets.org/wp-content/uploads/2019/10/CM-WEB-FINAL-FISHING-FOR-CATASTROPHE-2019.pdf (hereinafter: Changing Markets, *Fishing for catastrophe*), p.46.

⁴² European Commission, *Fisheries value chain analysis*, 2020, p.89.

⁴³ European Commission, *Fisheries value chain analysis*, 2020, p.89.

⁴⁴ Gambia Investment and Export Promotion Agency, "Incentives", giepa.gm/invest-in-gambia/incentives

⁴⁵ European Commission, *Fisheries value chain analysis*, 2020, p.21.

⁴⁶ European Commission, *Fisheries value chain analysis*, 2020, p.80.

According to the European Commission, about 19,300 tonnes of fish is exported annually through the activities of fishmeal factories, foreign industrial vessels and fish processors targeting foreign markets.⁴⁷

3.3 TOURISM IN THE SMILING COAST

Gambia is popularly known as the Smiling Coast of West Africa. After the agriculture and services sectors, tourism is the third-largest contributor to the country's GDP.⁴⁸ As of 2019, tourism represented more than 20% of Gambia's GDP.⁴⁹ That is roughly one fifth of Gambia's GDP. However, the Covid-19 pandemic drastically impacted the tourism industry, which lost \$108 million in 2020.⁵⁰ In addition, the fishmeal factories are based in the coastal towns, which are also highly touristic areas. As a result, there has been some tensions between Nessim fishmeal factory and local actors of tourism who partially blame the factory for a drop in tourism.

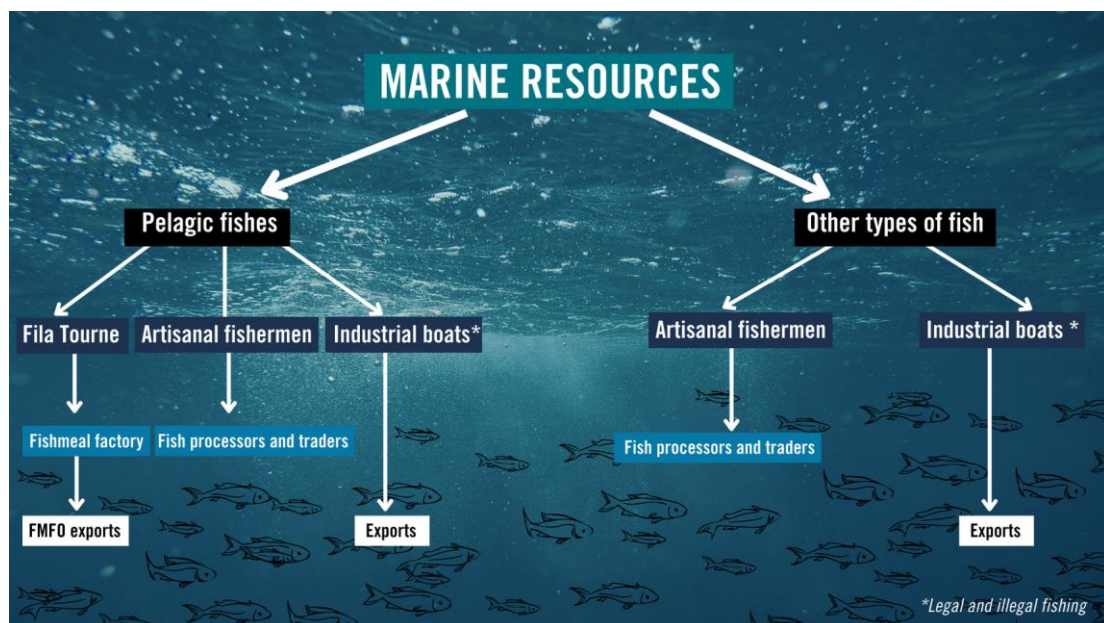
⁴⁷ European Commission, *Fisheries value chain analysis*, 2020, p. 11.

⁴⁸ Anadolu Agency, "Gambian tourism struggles with virus' impact: Pandemic soon after Thomas Cook collapse came as double whammy for economy of West African country known for sunny beaches", 28 November 2020, aa.com.tr/en/africa/gambian-tourism-struggles-with-virus-impact/2058853 (hereinafter: Anadolu Agency, *Gambian tourism struggles with virus' impact*).

⁴⁹ United Nations Conference on Trade and Development, "The Gambia targets African tourists for more sustainable growth", 24 May 2019, unctad.org/news/gambia-targets-african-tourists-more-sustainable-growth

⁵⁰ Anadolu Agency, *Gambian tourism struggles with virus' impact* (previously cited).

4. VARIOUS FISHING ACTORS IN THE SMILING COAST: THE CASE OF SANYANG



4.1 LOCAL FISHERMEN

Artisanal fishing is most prevalent in Gambia, it represents 90% of all fisheries and aquacultures products.⁵¹ There are about 155 artisanal fish landing sites.⁵² According to a 2019 government report, there are 6,104 fishermen in the artisanal sub-sector, 1,410 of whom are head fishermen. Gambians represent 805 of the 1,410 head fishermen, while the others are foreigners. Most fishermen inside the country are Gambians while in coastal areas, like Sanyang, over 50% of fishermen are foreigners, mainly Senegalese.⁵³ A lot of Senegalese fishermen in Sanyang have been working there for several decades and live within the community. It is a different group than Senegalese fishermen who arrived with the fishmeal factory in 2018. The main species landed in the artisanal sector are bonga, round and flat sardinella and other small pelagic fishes.⁵⁴

Gambians are less present in industrial fishing. The majority of trawlers operating are foreign-owned; as of 2019, there were only seven Gambian-owned vessels equipped for industrial fishing, with only four operational, although there are Gambians working on foreign-owned ships.⁵⁵ In fact, 90% of all boats operating legally in Gambia are foreign owned.⁵⁶

In addition to local fishermen who have been fishing for the community for decades, there are various actors using the ocean's resources and may contribute to the issue of overfishing in Gambia, and notably in Sanyang.

4.2 FOREIGN FISHING VESSELS

4.2.1 THE AGREEMENT BETWEEN GAMBIA AND THE EUROPEAN UNION

On 31 July 2019, the Gambian government and the European Union signed a Sustainable Fisheries Partnership Agreement (SFPA), which replaced a 1987 fisheries agreement and its 1993 protocol whose application was inactive since 1996.⁵⁷ The 1993 protocol allowed in Gambian waters the following vessels from the European Economic Community: 23 tuna seiners, seven pole-and-line tuna vessels, fresh fish trawlers of 410 GRT (Gross registered tonnes) for 1,000 fishing days per year, freezer trawlers of 2,000 GRT for shrimps for 4,000 fishing days per year and 750 GRT freezer trawlers for other species for 4,000 fishing days per year.⁵⁸ An investigation by the NGO Oceana revealed that vessels with flags from four European countries (Greece, Italy, Portugal and Spain) fished illegally in Gambian waters between April 2012 and August 2015 while the fishing agreement was dormant.⁵⁹

The 2019 SFPA is valid for a period of six years renewable.⁶⁰ Under this current agreement, the European Union has to pay the Gambian government EUR550,000 per year, 275,000 of which to be used for access to Gambian waters and 275,000 for sectorial support, in exchange for the possibility to fish 3,300 tonnes per year for highly migratory species, equipped with 28 tuna seiners, 10 pole-and-line vessels and three deep

⁵¹ Ministry of Fisheries and Water Resources, *Key fact about fisheries, Fishing in Gambia waters- Key facts*, www.mofwr.gm/key-fact-about-fisheries-in-the-gambia

⁵² Ministry of Fisheries and Water Resources, *Key fact about fisheries, Fishing in Gambia waters- Key facts*, www.mofwr.gm/key-fact-about-fisheries-in-the-gambia

⁵³ Food and Agriculture Organization of the United Nations and the Ministry of Fisheries, Water Resources and National Assembly Matters, Review of the fisheries sector, The Gambia, 20 August 2019, p.9, www.mofwr.gm/downloads (hereinafter: Ministry of Fisheries, Review of the fisheries sector)

⁵⁴ Ministry of Fisheries, Review of the fisheries sector, p. 10

⁵⁵ Ministry of Fisheries, Review of the fisheries sector, p. 11

⁵⁶ Ministry of Fisheries and Water Resources, *Key fact about fisheries, Fishing in Gambia waters- Key facts*, www.mofwr.gm/key-fact-about-fisheries-in-the-gambia

⁵⁷ European Commission, *Fisheries value chain analysis*, 2020, p.50.

⁵⁸ *Protocol establishing the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Republic of The Gambia on fishing off the coast of The Gambia for the period 1 July 1993 to 30 June 1996*, 10 March 1994, [eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:21994A0323\(01\)](http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:21994A0323(01))

⁵⁹ Oceana, *EU countries authorized their vessels to fish unlawfully in African waters*, 12 September 2017, <https://usa.oceana.org/press-releases/eu-countries-authorized-their-vessels-fish-unlawfully-african-waters/>

⁶⁰ European Commission, *The Gambia, Sustainable fisheries partnership agreement with The Gambia, oceans-and-fisheries.ec.europa.eu/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/gambia_en#:~:text=On%2031%20July%202019%2C%20the,the%20fishing%20sector%20of%20the*

sea-water trawlers.⁶¹ The Gambian government agreed not to provide fishing authorizations to European Union vessels outside this agreement.⁶² The European Union also agreed to help reinforce the sustainable management of fish as well as to develop the sector, including by combating IUU fishing.⁶³ Under the agreement, EU vessels “shall conduct all fishing activities in a manner which will not disrupt traditional, local-based fisheries” and “shall not interfere with the fishing gear of other fishing vessels.”⁶⁴ The master of each vessel has the duty to record the quantity of each fish species caught and transmit this information electronically to the Gambian government each day spent within Gambian waters.⁶⁵ In addition, EU vessels can fish only beyond 12 nautical miles from the baseline (the lowest-water line along the coast).⁶⁶ In other words, there are not allowed to fish closer to the shore. The trawlers fishing deep-water demersal species (fish living and feeding near the bottom of the sea such as shrimps and snappers) are not allowed to keep pelagic species even if they were by-catch.⁶⁷ Each EU vessel owner must also pay EUR315,000 to the Gambian government yearly and the Gambian government estimated getting GMD81,200,000 (about EUR1,465,793) yearly from the licensing fees of the EU vessels, observers and supporting vessels.⁶⁸

4.2.2 THE AGREEMENT BETWEEN GAMBIA AND SENEGAL

According to the European Commission, besides the European Union, Gambia has fishing agreements with other countries, including China, other West African countries including Senegal.⁶⁹ Except for the agreement between the government and the European Union, Amnesty International was unable to find and analyse fishing agreements between Gambia and other countries, which demonstrates a lack of transparency in fishing agreements.

The Senegal-Gambian agreement on maritime fisheries is a reciprocal agreement allowing fishermen from either country to fish in the waters of both countries under the same conditions as nationals.⁷⁰ Under the agreement, the fish caught in the waters of one country must be landed in that country.⁷¹ The agreement which was last renewed in 2017 covers both artisanal and industrial fishing.⁷² However, Senegal appears to have the advantage under the agreement. The majority of the canoes in Gambia EEZ are Senegalese-owned.⁷³ Although the 2017 protocol limits the amount of authorized Senegalese canoes in Gambian waters, it is not properly controlled, and the numbers of Senegalese-owned boats sometimes triple the limit, which is 250 canoes per year.⁷⁴ In addition, Senegalese fishermen do not always respect the agreement and land their catches in Senegal where the price is better.⁷⁵ Moreover, this allows other foreign fishing vessels to take advantage of the loopholes in Senegal and Gambia regarding the use of flags of convenience, and fish in both waters.⁷⁶ A flag of convenience is “the flag of a country a ship is registered under to avoid regulation and scrutiny”.⁷⁷ According to Greenpeace, “this creates more confusion, lack of transparency, surveillance and accountability, making it easier for bad practices such as IUU fishing.”⁷⁸

⁶¹ Protocol on the Implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Republic of the Gambia, 31 July 2019, [eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:22019A0808\(01\)](http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:22019A0808(01)), Articles 3 and 4.

⁶² Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia, 31 July 2019, Article 5.

⁶³ Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia, 31 July 2019, Article 10.

⁶⁴ Annex to Protocol on the Implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia: conditions for fishing activities by union vessels in the Gambian fishing zone, Chapter III of the Annex.

⁶⁵ Annex to the Protocol on the Implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia: conditions for fishing activities by union vessels in the Gambian fishing zone, Chapter IV, Section 1.

⁶⁶ Annex to the Protocol on the Implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia: conditions for fishing activities by union vessels in the Gambian fishing zone, Appendix 2(a) and 2(b).

⁶⁷ Annex to Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia: conditions for fishing activities by union vessels in the Gambian fishing zone, Appendix 2(a) and 2(b).

⁶⁸ European Commission, *Fisheries value chain analysis* (previously cited), 2020, pp.50-71.

⁶⁹ European Commission, *Fisheries value chain analysis*, 2020, pp.89-90.

⁷⁰ USAID and others, *Gambia-Senegal sustainable fisheries project (USAID/BaNafaa) report, Bilateral workshop for improved co-management of artisanal fisheries in The Gambia and Senegal*, 30-31 May 2012, crc.uri.edu/download/Bilateral_Workshop_Improved_CoMgmt_May_2013_508.pdf, p. 23.

⁷¹ USAID and others, *Gambia-Senegal sustainable fisheries project (USAID/BaNafaa) report, Bilateral workshop for improved co-management of artisanal fisheries in The Gambia and Senegal*, 30-31 May 2012, www.crc.uri.edu/download/Bilateral_Workshop_Improved_CoMgmt_May_2013_508.pdf, p. 23.

⁷² European Commission, *Fisheries value chain analysis* (previously cited), 2020, p.89.

⁷³ European Commission, *Fisheries value chain analysis*, 2020, p.89.

⁷⁴ European Commission, *Fisheries value chain analysis*, 2020, p.89.

⁷⁵ European Commission, *Fisheries value chain analysis*, 2020, p.89.

⁷⁶ Greenpeace Africa, *Seasick* (previously cited), p.28.

⁷⁷ China Dialogue Ocean, “Sea shepherd helps the Gambia tackle illegal fishing” (hereinafter: China Dialogue, Sea shepherd helps the Gambia tackle illegal fishing), 9 July 2020, chinadialogueocean.net/en/fisheries/14247-sea-shepherd-helps-the-gambia-tackle-illegal-fishing

⁷⁸ Greenpeace Africa, *Seasick*, p.28.

4.3 ILLEGAL, UNREPORTED AND UNREGULATED FISHING

Gambia waters are rich in biodiversity, which attracts industrial trawlers from various parts of the world. As such, Gambia reserves a nine nautical mile area from the lower water line for artisanal fishing thus prohibiting industrial boats from fishing within that specifically designated area. Gambian law also limits mesh size according to the species of fish in part to avoid juvenile fish being caught and allow the ocean to regenerate.⁷⁹

Nevertheless, the Gambian government has been struggling with illegal, unreported and unregulated (IUU) fishing.

THE FAO'S DEFINITION OF ILLEGAL, UNREPORTED AND UNREGULATED FISHING



“Illegal fishing:

- conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
- conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or
- in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

Unreported fishing:

- which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- are undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

Unregulated fishing:

- in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or
- in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.”⁸⁰

⁷⁹ Schedule XXVII of Regulation 2008-6 of 9th June 2008, Fisheries Regulations, 2008. (p.80 CSRP)

⁸⁰ Food and Agriculture Organization of the United Nations, *Illegal, unreported and unregulated (IUU) fishing, what is IUU fishing*, fao.org/iuu-fishing/background/what-is-iuu-fishing/en

According to the FAO, globally, there are between USD10 and 23 billion worth of fish caught by IUU methods annually.⁸¹ An estimate of USD2.3 billion is lost annually to illegal fishing in Mauritania, Senegal, Guinea Bissau, Guinea, Sierra Leone and Gambia.⁸²

In 2016, the Gambian National Assembly ratified the 2009 FAO Agreement on Port State Measures (PSMA),⁸³ which is the first binding international agreement regarding IUU.⁸⁴ The agreement aims to “prevent, deter and eliminate IUU fishing through the implementation of effective port State measures, and thereby to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems.”⁸⁵ Under the agreement, a state party must require a minimum of information before allowing vessels entry to its port, as well as inspect the vessels;⁸⁶ the agreement applies to vessels not authorized to fly the country of entry’s flag and that are seeking entry to that country’s port.⁸⁷ The issue of illegal fishing is complicated by flags of convenience. A lot of industrial trawlers fishing in Gambia are Chinese owned, but they partner with a local and register as Gambian fishing companies, thereby allowing them to use the Gambian flag.⁸⁸ Global fishing subsidies could also contribute to IUU as they provide public money for fuel and boats allowing fishing vessels to fish for a longer distance and a longer period than they would otherwise.⁸⁹

The Gambian Navy controls the sea, while the department of fisheries imposes fines to offenders. According to a Navy staff who has been working for the Navy for over 10 years, the navy does not have the capacity to control Gambian waters properly. As he explained: “we do not have the resources because we only have two boats that we are [currently] using. Two are operating, two have a problem.”⁹⁰ In addition to these four boats, he says that the navy has a dinky they use for patrol and back-up during operations at sea. A fisheries monitoring centre was bought with the sectorial support funds from the EU-Gambia Sustainable Fisheries Partnership Agreement.⁹¹ The monitor centre is equipped with a VMS system which allows maritime surveillance.⁹² The funds from the EU agreement were also used to buy equipment like computers and transponders.⁹³ In addition, the EU funded training for 20 Gambian fisheries inspectors on control techniques in 2019.⁹⁴

⁸¹ Food and Agriculture Organization of the United Nations, *Global record of fishing vessels, refrigerated transport vessels and supply vessels*, fao.org/global-record/en

⁸² Institute for security studies, *Illegal fishing: another target in West Africa’s maritime battleground*, 18 November 2021, issafrica.org/iss-today/illegal-fishing-another-target-in-west-africas-maritime-battleground

⁸³ Stop illegal fishing, *Gambia ratifies IUU agreement: deputies at the national assembly on Wednesday ratified the instrument of agreement on FAO for the Port State Measures to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU)*, 14 July 2016, stopillegalfishing.com/press-links/gambia-ratifies-iuu-agreement/

⁸⁴ Food and Agriculture Organization of the United Nations, *Agreement on Port State Measures (PSMA)* fao.org/port-state-measures/background/history/en/

⁸⁵ Article 2 of the Agreement on port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing, www.fao.org/port-state-measures/resources/detail/en/c/1111616/

⁸⁶ Article 8 and article 13 of the Agreement on port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing, www.fao.org/port-state-measures/resources/detail/en/c/1111616/

⁸⁷ Article 3 of the Agreement on port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing, www.fao.org/port-state-measures/resources/detail/en/c/1111616/

⁸⁸ China Dialogue, “Sea shepherd helps the Gambia tackle illegal fishing”

⁸⁹ China Dialogue, “Sea shepherd helps the Gambia tackle illegal fishing”

⁹⁰ Interview by voice call with a Gambian Navy staff, 30 June 2022

⁹¹ Coalition for Fair Fisheries Arrangements, *The Gambia-EU SFPA: transparency is necessary to make the fight against IUU efficient*, 8 June 2021, cffacape.org/news-blog/the-gambia-eu-sfpa-transparency-is-necessary-to-make-the-fight-against-iuu-efficient (hereinafter: Coalition for Fair Fisheries Arrangements, *The Gambia-EU SFPA: transparency is necessary to make the fight against IUU efficient*)

⁹² Coalition for Fair Fisheries Arrangements, *The Gambia-EU SFPA: transparency is necessary to make the fight against IUU efficient* (previously cited)

⁹³ Coalition for Fair Fisheries Arrangements, *The Gambia-EU SFPA: transparency is necessary to make the fight against IUU efficient*

⁹⁴ Coalition for Fair Fisheries Arrangements, *The Gambia-EU SFPA: transparency is necessary to make the fight against IUU efficient*



 Fishnets by pirogues on the beach. ©Julian Hahne/Amnesty International

According to the Navy staff, the most common offences are the use of the wrong mesh size and the absence or misuse of a permit. He said that most boats fishing illegally are Chinese-owned. According to him, all the fish caught illegally are exported. “They usually export in the outside world. They don’t sell it in Gambia. Out of 100 caught, 99 are foreigners; there are also a mix of Gambians and foreigners sometimes.”⁹⁵ However, according to local activists and an investigation by the organization China Dialogue, the fishmeal industry is the principal cause of IUU fishing in Gambia as sardinella is found on those boats, a pelagic fish commonly used to make fishmeal.⁹⁶ According to Sea Shepherd, an international organization defending ocean conservation, the population of sardinella fish in Gambia is declining due to those daily illegal fishing expeditions.⁹⁷ In response to the allegation that the fishmeal industry might contribute to IUU fishing, Nessim’s management responded: “our factory cannot confirm this, because we [do] everything legally and within the fishery guidelines.”⁹⁸

The Gambian government attempted to gain control over IUU by partnering with Sea Shepherd. In August 2019, Sea Shepherd Operation Gambian Coastal Defense began with members of the Gambian Navy and staff from the fisheries department in order to apprehend vessels fishing illegally on the Gambian coast.⁹⁹ The six-month operation ended with the arrest of 16 vessels suspected of IUU fishing activities, including fishing within the nine-nautical-mile special management area and using wrong mesh sizes.¹⁰⁰ Although the operation was deemed successful and worked as a powerful deterrent while ongoing, illegal fishing increased after the organization’s departure.¹⁰¹ The then-fisheries minister, James Gomez, stated that the government raised GMD10 million dalasi (about USD181, 823) from the fines collected from the 16 vessels: “Out of that 10 million, 30% went to the Gambian navy to strengthen their operation and protect our waters, the rest goes to a government account.”¹⁰² In November 2020, the operation resumed briefly, and several vessels were

⁹⁵ Interview by voice call with a Gambian Navy staff, 30 June 2022

⁹⁶ China Dialogue, “Sea shepherd helps the Gambia tackle illegal fishing” (previously cited)

⁹⁷ Sea Shepherd, “Ten trawlers arrested in covert nighttime sweeps along coast of The Gambia”, 17 October 2019, www.seashepherdglobal.org/latest-news/ten-trawlers-gambia/

⁹⁸ Nessim Fishing and Fish Processing Co.LTD, email to Amnesty International dated 18 May 2023

⁹⁹ China Dialogue, “Sea shepherd helps the Gambia tackle illegal fishing”

¹⁰⁰ China Dialogue, “Sea shepherd helps the Gambia tackle illegal fishing”

¹⁰¹ China Dialogue, “Sea shepherd helps the Gambia tackle illegal fishing”

¹⁰² China Dialogue, “Sea shepherd helps the Gambia tackle illegal fishing”

THE HUMAN COST OF FISHING

HOW THE OVERUSE OF FISHERIES RESOURCES IN SANYANG THREATENS THE SUBSISTENCE OF THE LOCAL POPULATION

arrested in part for fishing closer to the shore than they were supposed to and/or for fishing with smaller mesh size than authorized, making the total arrest twenty-two vessels.¹⁰³

However, the fact that the government does not have the means to properly control the sea and monitor all industrial vessels fishing illegally leads to an economic loss for the country.¹⁰⁴ In addition, each licensed vessel is supposed to land at least 10% of its annual catch in Gambia or pay the equivalent, but Gambia loses money due to under-reporting.¹⁰⁵

The extent of the impact of foreign boats fishing illegally in Gambian waters is obscured by the lack of transparency and access to data. There is no public access to information about licenses granted to vessels (unless a formal request to the government is made) and information about fishing agreements are not always accessible.¹⁰⁶

4.4 FISHMEAL AND FISH OIL FACTORIES

“It seems that the shortcomings of the system of control over access to the Gambian EEZ and the facilities granted to processing industries represent a loss factor for the Gambia.”¹⁰⁷

The European Commission, *Fisheries value chain analysis in The Gambia*, June 2020

4.4.1 THE ARRIVAL OF FISHMEAL FACTORIES IN GAMBIA

Fishmeal and fish oil factories use pelagic fishes and turn it into fish oil or a powder (fishmeal), which is then used to feed farm animals like pigs or in aquaculture to feed voracious fishes like salmon or trout. Fish oil is also marketed as dietary supplements.

There are currently three fishmeal factories on the coast of Gambia. The first one, Chinese-owned Golden Lead, started operating in early 2016 in Gunjur, then Mauritanian-Chinese JXYG in early 2017 in Kartong and finally Nessim in early 2018 in Sanyang.¹⁰⁸ All three factories are foreign owned.¹⁰⁹ Before they opened, the NEA had received 12 applications for fishmeal factories, but decided to start with three, as the industry was relatively unknown in the country at the time. There is currently no plan to open other fishmeal factories in the country, although the NEA continues to receive applications.¹¹⁰

The fishmeal factories export tonnes of fishmeal every year. For instance, in 2018, the fishmeal factories in Gambia produced 1969 tonnes of fishmeal and 823 tonnes of fish oil.¹¹¹ Considering that it takes about 4.5kg of fish to make 1kg of fishmeal, the actual quantity of fish taken from the ocean yearly is significantly higher. In fact, a single fishmeal factory represented 40% of Gambia total reported catches in 2016.¹¹²

SUPPLY CHAIN INFORMATION

There is a lack of transparency and clarity as to where exactly fishmeal and fish oil exported from Gambia end up. According to the Gambia Food Safety and Quality Authority, fishmeal factories in Gambia currently

¹⁰³ Sea Shepherd, “Another two trawlers arrested in The Gambia”, 9 December 2020, www.seashepherdglobal.org/latest-news/two-trawlers-arrested-gambia; for the list of the vessels caught IUU fishing, see Sea Shepherd, “The rogues gallery”, www.seashepherdglobal.org/our-campaigns/iuu-fishing/history/?flagged_in=&arrested_on=&arrested_in=GM&vessel=

¹⁰⁴ European Commission, *Fisheries value chain analysis* (previously cited), 2020, p.14

¹⁰⁵ European Commission, *Fisheries value chain analysis*, 2020, pp.89-90

¹⁰⁶ European Commission, *Fisheries value chain analysis*, 2020, p.101

¹⁰⁷ European Commission, *Fisheries value chain analysis*, 2020, p.14

¹⁰⁸ Changing Markets, *Fishing for catastrophe* (previously cited), p. 42

¹⁰⁹ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

¹¹⁰ Interview in person with staff member of the NEA in the Office of the NEA, 29 March 2022, Banjul

¹¹¹ FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa* (previously cited), p. 16

¹¹² Changing Markets, *Fishing for catastrophe* (previously cited), p.9

export their products mainly to Cambodia and Vietnam, and at times to Turkey.¹¹³ In 2020, an European Union Commission report stated that fishmeal and fish oil products from Gambia are exported to Vietnam (68.5%) and Tunisia (31.5%).¹¹⁴ According to a 2022 FAO report, fishmeal produced in Gambia is exported to China while 83% of the fish oil exported in 2019 went to Chile.¹¹⁵ An investigation by NGOs Greenpeace Africa and Changing Markets found that in 2019 fishmeal from Gambia was exported to Vietnam, Tunisia, Japan, Chile and Latvia while for the same year fish oil was exported to Chile, Vietnam, Malaysia, Tunisia and the United States of America.¹¹⁶ Another report by Changing Markets published in 2019 noted that export data from Gambia showed shipments to countries reputed for being hubs for aquafeed production, including Vietnam, Thailand, Saudi Arabia, Tunisia, Mauritania and Chile, with supply networks with Europe and North America.¹¹⁷ However, there is no confirmation that shipments to all those countries contain FMFO products. According to that report, in 2018 a Danish aquafeed company sourced from Gambia. This company provides aquafeed for seafood in the supply chains of several supermarkets in the UK and Germany. In addition, according to the same report, the main importer of Gambian fish oil is a Chilean company that frequently exports to the United States and the United Kingdom.¹¹⁸

All exported products must be accompanied with an exportation certificate provided by the Gambia Food Safety and Quality Authority (FSQA).¹¹⁹ The criteria to obtain an exportation certificate depends on the requirements of the destination countries. According to the FSQA, the European Union food safety requirements are stricter than some Asian countries, allowing companies to send products not meeting the European criteria to Asia instead.¹²⁰ One of the three Gambian fishmeal factories obtained a license to export to the European Union.¹²¹

4.4.2 THE CASE OF SANYANG

NESSIM COMPANY

Nessim Fishing and Fish Processing Co. Ltd is a fishmeal and fish oil company which was founded by Nessim Trading Company. The latter is a flour milling and processing company that produce animal feed, wheat flour and wheat bran.¹²² According to its director Ahmed El Mally Menane, it is a Mauritanian company funded by Mauritanian investors.¹²³ On its website, Nessim Trading Company Ltd states that: “the proprietor has been granted a special Investment Certificate (SIC) by the GIEPA for the manufacturing, processing and distribution of wheat flour and allied food products with capacity to create employment for more than 120 Gambians in the first five years of operation of the business.”¹²⁴

¹¹³ Interview by voice call with the Food Safety and Quality Authority, 11 August 2022

¹¹⁴ European Commission, *Fisheries value chain analysis* (previously cited), pp. 39-40

¹¹⁵ FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa* (previously cited), p.17

¹¹⁶ Changing Markets Foundation and Greenpeace Africa, *Feeding a monster: how European aquaculture and animal feed industries are stealing food from West African communities*, June 2021, greenpeace.org/static/planet4-africa-stateless/2021/05/47227297-feeding-a-monster-en-final-small.pdf (Changing Markets and Greenpeace Africa, *Feeding a monster*), p.54

¹¹⁷ Changing Markets, *Fishing for catastrophe* (previously cited), p.47

¹¹⁸ Changing Markets, *Fishing for catastrophe*, p.9

¹¹⁹ Interview by voice call with staff member of the Food Safety and Quality Authority, 11 August 2022

¹²⁰ Interview by voice call with staff member of the Food Safety and Quality Authority, 11 August 2022

¹²¹ Interview by voice call with staff member of the Food Safety and Quality Authority, 11 August 2022

¹²² Nessim Trading Company, About us, nessimtrading.com

¹²³ Nessim trading Company LTD, youtube channel, youtube.com/watch?v=Yc60J70VA8

¹²⁴ Nessim Trading Company, About us, nessimtrading.com/about



↑ *Nessim fishmeal factory ©Julian Hahne/Amnesty International*

Nessim's fishmeal factory opened in Sanyang in November 2017 and started operating early 2018. Nessim management told Amnesty International that in order to operate they obtained a fishery license, an environmental impact license, an export and processing zone license, and a food safety license.¹²⁵ Nessim management also claimed that the bill of specifications of the factory and the export data of the company were destroyed during the protests of March 2021.

According to their website, they manufacture “[h]igh Quality Fish Meal and Omega-3 Fish Oil which is used to aqua feed, poultry feed, pet feed, EPA-DHA extraction, animal feed, soap manufacture, leather tanneries & Paint industries across globally.” Nessim prides itself for its “[s]trict adherence to Government norms, eco-conscious methodologies, transparent business practices, and on-time delivery[.]”¹²⁶ Incorporated in Gambia, the company is “dedicated to large scale fishing, processing and export of fish [...and] works in partnership with various local fishermen.”¹²⁷ In fact, most fishermen working for the company are not Gambian. In addition, Nessim does not publish information about its customers, but told Amnesty International that these were located in India, Vietnam and Chile.¹²⁸ The United States customs records show that in 2020, 31 containers of products originating from Nessim fishmeal factory were imported into the United States via two Chilean-based companies, Faro Sur Comercial Limitada and Comercializadora San Luis S.A.¹²⁹ An investigation by the Global Reporting Program in partnership with NBC News revealed that fishmeal produced by Nessim factory was also exported to China, Russia, Turkey and other countries in Europe.¹³⁰

¹²⁵ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

¹²⁶ Nessim Trading Company, About Nessim fishing and fish processing co.Ltd, nessimtrading.com/nessim-fisheries (accessed on 31 March 2023)

¹²⁷ Nessim Trading Company, Our brands, nessimtrading.com/brands (accessed on 31 March 2023)

¹²⁸ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International dated 27/01/2023

¹²⁹ Import Genius, *U.S. Customs records for Faro Sur Comercial Limitada*, 10 February 2020, importgenius.com/importers/faro-sur-comercial-limitada; Import Key, *Import/export data about: Nessim fishing and fish processing*, importkey.com/i/nessim-fishing-and-fish-processing

¹³⁰ Global Reporting Program and NBC News, “The fish you (don’t know you) eat”, 2020, globalreportingprogram.org/fishmeal

GROUPS WORKING WITH NESSIM FACTORY

“There are Gambians who work with them, who came to Senegal looking for us and to give us the money. Someone came to have a discussion with us; we told them we need a new fishboat and a motor, some fuel and some money to come here. Since we started fishing, they remove XOF1,000 from each basket, our pay, to finance the motor.”¹³¹

Senegalese fisherman from Saint Louis who has been working in Sanyang for 3 years

Fishermen working for Nessim factory

Nessim fishmeal factory works mainly with Senegalese fishermen to supply the factory as they have bigger canoes than the ones local fishermen usually have. They arrived in Sanyang after the factory opened and are a different group than the Senegalese fishermen who have been living in Sanyang for decades fishing for the community. They are usually recruited from Senegal and come with their canoe. The captain of the boat recruits a crew of 20 to 40 people, typically Senegalese men they came to Gambia with.



 [↑] Big canoe used for the fila tourne fishing method ©Marta Colomer/Amnesty International

The Senegalese fishermen and their large canoes are popularly known as “fila tourne” in Sanyang, a wolof phrase which loosely translate into purse seiners in English. This name comes from the way they fish; they circle the fish with the nets and pulled them up to trap the fish. According to those fishermen interviewed by the Amnesty International delegation, there are two types of nets they use: one with very small mesh sizes contrary to Gambia regulations (only 13 millimetres), and another one bigger that they put under the first

¹³¹ Interview in person with “Babacar” (Name has been changed to respect the interviewee’s anonymity), 23 March 2022, Sanyang beach

one. They tie multiple nets together; the nets can go to a length of 800-1000 meters. They use large canoes (18 to 22m) and long fishing nets.¹³²

They told Amnesty International that they fish sardinella, flat sardinella and bonga for the factory every day, and they sell their entire catch of pelagic fishes to the factory. The factory pays them XOF5,000 (about USD 8.34) for every basket of fish they bring in. One basket is roughly 50kg. As one of them explained: “the amount of fish the factory would take depends on the amount we catch; it could be 10 cases, the highest 80 cases when we have enough.”¹³³ Nessim only confirmed they use sardinella fish for their operation, both fresh and rotten, and that the quantity they use varies according to what the fishermen catch daily.¹³⁴

However, only boat owners are provided with a contract with the factory while the rest of the crew on the canoe are recruited by the boat owner. Some Senegalese who heard about this opportunity came to Sanyang on their own in the hope of being recruited on one of the boats.

Nessim provides pre-financing for items they need, such as motors for their boat. Nessim confirmed fishermen under contract get “facilities like fuel loan.”¹³⁵ According to the fishermen interviewed by Amnesty International, they repay the money advanced gradually with the fish they bring to the factory. The factory removes XOF1,000 (about USD1.66) per basket to gradually reimburse the money advanced to the fishermen for the materials. Thus, fishermen’s payment depends on the catch. On good days, they fish hundreds of baskets of 50kg for the factory. As a fisherman from Saint Louis, Senegal, explained: “If we have enough catch, we can pay back the loan in one season, but if we do not have enough, we can pay back the next season [...] In one day, we could catch 700-800 baskets last season but some days we have 300-400, sometimes we can go five days without anything.”¹³⁶ The fishermen work the first half of the year but starting in July, most of them go back to Senegal for the off season. According to Nessim, they usually start operating in February or March depending on the availability of fish.¹³⁷

Nessim told Amnesty International that they currently do not have any confirmed contracts with fishermen, but at the time of the March 2021 events, there were 30 boats under contract with the factory.¹³⁸

Non-contractual workers

Besides the fishermen, there are other people who get something from the factory, these include people counting the baskets of fish getting into the factory and men paid to carry those boxes. They do not have a contract with the factory and work during the high season from January to June. The men counting get GMD 35 (USD 0.56) for each set of five baskets they count.¹³⁹ This means that on days there are not many boats or the catch is poor, they do not necessarily work and get paid. Likewise, the men carrying the baskets of fish are paid daily and do not work every day, depending on the catch. They are paid GMD 35 for each basket they carry from the boat to the factory’s truck.¹⁴⁰ One of the people counting the baskets notes how many baskets each man carries. The people carrying the baskets are for the most part West Africans who came for the opportunity: from Senegal, Guinea, Guinea Bissau, Mali... There are also Gambian women and children who take the fish that fall onto the sand when the men carry the baskets to sell them. Nessim management stated that they hire about 100 daily workers both male and female on a seasonal basis when the factory is operational.¹⁴¹

Others

According to Nessim, during the consultation process with the community prior the opening of the factory, the community requested employment opportunities for the youth,¹⁴² however the employment benefits going to the Sanyang community is unclear. Nessim told Amnesty International that the factory currently has ten permanent workers of Chinese, Mauritanian and Gambian nationalities.¹⁴³ According to two employees who entered the factory, the workers inside the factory are Gambians and West Africans. Locals affirm that the Gambians working inside the factory are not from Sanyang, except one: the former Chairman of Sanyang Village Development Committee who supported the arrival of factory when he was Chairman. The lack of qualifications among Gambians means that they are more likely to be employed in handling services while

¹³² European Commission, *Fisheries value chain analysis* (previously cited), 2020, p. 45

¹³³ Interview in person with “Ousmane” (Name has been changed to respect the interviewee’s anonymity), 22 March 2022, Sanyang beach

¹³⁴ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

¹³⁵ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

¹³⁶ Interview in person with “Babacar”, 23 March 2022, Sanyang beach

¹³⁷ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

¹³⁸ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

¹³⁹ Interview in person with a man counting baskets, 31 March 2022, Sanyang beach

¹⁴⁰ Interview in person with a man carrying baskets, 31 March 2022, Sanyang beach

¹⁴¹ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

¹⁴² Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

¹⁴³ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

managerial positions are held by foreigners especially Mauritians.¹⁴⁴ There are also local Gambian fishermen who occasionally sell fish to the factory to make extra money or when they do not find a local buyer, although the Senegalese fishermen have the priority given their contractual relationship with the factory. A local fisherman with no contract told Amnesty International delegation that the factory pays him XOF4,500 per basket of fish.¹⁴⁵ Nessim claims they pay the same price regardless of contractual obligations, GMD500 (about XOF5,000) per basket.¹⁴⁶

SOCIAL ACTIONS BY FISHMEAL FACTORIES

Fishmeal factories occasionally provide money to the community, through the elders of the village or development committees. The village development committee is a committee in charge of making decisions about new development projects coming to Sanyang. The elders are the most seniors in the community and their opinions are also sought and respected. However, according to NGO Changing Markets, the contributions are usually minimal, such as a few thousand dollars a year.¹⁴⁷ According to the Alkalo of Sanyang (the village chief), Nessim fishmeal factory has provided donations at times but does not do enough for the community. He stated: “We are definitely not satisfied. They are claiming to give employment to the community, but all employments are given to the Senegalese and other people. They were to provide social services to the community [...] like development programs, like fixing the roads, but until today we did not see any benefits. We want more employment for our community and that a percentage of each operation be dedicated to social services for the community. We need development programmes, fixing the roads, schools, health centres.”¹⁴⁸ According to him, the community complains that the factory does not take care of the road leading to the beach where it is located, although it is in a poor state, leaving the community solely responsible for its upkeep. “Mohamed”, a restaurant owner located on Sanyang beach further explained: “three years ago, we fixed the road. [We] contributed to fix the road, the factory did not contribute [...] The company didn’t put a penny. The Village Development Committees (VDC) put 35,000 dalasi (USD561). In total the cost was of 140,000 dalasi (USD2,245).”¹⁴⁹ As Amnesty International was unable to review the meetings notes between the committee and the factory, it is unclear whether Nessim committed to fixing the road during the consultation process.

The factory management confirmed that the community requested job opportunities for the youth and social actions to give back to the community as part of their corporate social responsibility, which according to them they are providing. “The factory always gives back to the community, like renovating the Sanyang Health center and supply the center with hospital beds. We also give out Ramadan gifts, like sugar and rice etc.”¹⁵⁰

Amnesty International shared with Nessim its concerns included in this report on the negative socio-economic impact the fishmeal factory may have on the community including on the right to work and food. In response, Nessim’s management said that their operations do not have such an effect: “rather we support and enhance the social and economic empowerment of the local people either directly or indirectly whenever we are operational. Our factory does not operate throughout the year, even when the fishing season is reopen[ed], we don’t start operating. We sometimes only operate two months or three months in a season. For this season, we only partially start[ed] operating this May, and the fishing season will be close[d] soon.”¹⁵¹

¹⁴⁴ European Commission, *Fisheries value chain analysis* (previously cited), 2020, p.87

¹⁴⁵ Interview with “Idriss” (Name has been changed to respect the interviewee’s anonymity), a Gambian fisherman, 22 March 2022, Sanyang beach

¹⁴⁶ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

¹⁴⁷ Changing Markets, *Fishing for catastrophe* (previously cited), p.46

¹⁴⁸ Interview in person with Lamin Jabang, 21 March 2022, Sanyang

¹⁴⁹ Interview in person with “Mohammed” (Name has been changed to respect the interviewee’s anonymity), 21 March 2022, Sanyang beach

¹⁵⁰ Nessim Fishing and Fish Processing Co., LTD, letter to Amnesty International, 27 January 2023

¹⁵¹ Nessim Fishing and Fish Processing Co.LTD, email to Amnesty International dated 18 May 2023



↑ Sanyang residents attempting to repair the broken road ©Julian Hahne/Amnesty International

5. INTERNATIONAL HUMAN RIGHTS LAW

5.1 ECONOMIC AND SOCIAL RIGHTS

5.1.1 THE RIGHT TO FOOD AND HEALTH

Gambia acceded to the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1978, thereby agreeing to put in place domestic measures and legislation compatible to its content. Gambia must respect, protect and fulfil the rights enshrined in the treaty. As such, the government must not only refrain from interfering with those rights within and outside their territory, but it must also promote those rights and ensure that others (non-state actors) do not interfere with them.¹⁵² The lack of financial or human resources is not an excuse for a government not to fulfil its obligations.¹⁵³

Article 11 of the ICESCR protects the right to an adequate standard of living, including adequate food, which requires states to ensure:

- Availability: either by ensuring people can feed themselves using land and natural resources or through the functioning markets¹⁵⁴
- Accessibility: both economically and physically and¹⁵⁵
- Acceptability: the food must satisfy dietary needs, be free of harmful substances and be culturally acceptable.¹⁵⁶

Article 12 of the ICESCR recognizes the right to physical and mental health, steps undertaken by governments to fulfil this right must include steps for “the improvement of all aspects of environmental and industrial hygiene.”¹⁵⁷ The UN Committee on Economic, Social and Cultural Rights has clarified that the right to health includes “the underlying determinants of health, such as [...] an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions [...] A further important aspect is

¹⁵² UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 24: *State Obligations under the International Covenant on Economic, Social and Cultural Rights in the context of Business Activities*, 10 August 2017, UN Doc. E/C.12/GC/24

¹⁵³ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 3: *The nature of states parties' obligations*, (Article 2, para.1 of the International Covenant on Economic, Social and Cultural Rights), 14 December 1990, UN Doc. E/1991/23, paras.11-12

¹⁵⁴ UN Committee on Economic Social and Cultural Rights (CESCR), General Comment 12: *Substantive issues arising in the implementation of the international covenant on economic, social and cultural rights, The right to adequate food* (Article 11 of the International Covenant on Economic, Social and Cultural Rights), 12 May 1999, UN Doc. E/C.12/1999/5 (hereinafter CESCR, General Comment 12), para.12

¹⁵⁵ CESCR, General Comment 12 (previously cited), para.13

¹⁵⁶ CESCR, General Comment 12, para.11

¹⁵⁷ International Covenant on Economic, Social and Cultural Rights (ICESCR), 16 December 1966, Article 12(2)(b)

the participation of the population in all health-related decision-making at the community, national and international levels.”¹⁵⁸

Article 16 of the African charter on Human and Peoples’ Rights (The African Charter) which Gambia ratified recognizes the “right to enjoy the best attainable state of physical and mental health.”¹⁵⁹ Although the African Charter does not include a specific right to food, the African Commission has recognized the right to food into the Charter provisions guaranteeing the right to health and the right to life (Article 4).¹⁶⁰

5.1.2 THE RIGHT TO A HEALTHY ENVIRONMENT

Article 24 of the African Charter protects people’s right to “a general satisfactory environment favourable to their development.”¹⁶¹

The right to a clean, healthy and sustainable environment is now universally recognized, after the United Nations Human Rights Council and the United Nations General Assembly adopted resolutions to this effect respectively in October 2021¹⁶² and July 2022.¹⁶³

The UN Special Rapporteur on human rights and the environment noted that there are both procedural and substantive elements to the right to a healthy environment. “The procedural elements are access to information, public participation, and access to justice and effective remedies. The substantive elements include clean air, a safe climate, access to safe water and adequate sanitation, healthy and sustainably produced food, non-toxic environments in which to live, work, study and play, and healthy biodiversity and ecosystems.”¹⁶⁴ The Special Rapporteur stressed the importance of access to environmental information and public participation in environmental decision-making.

5.1.3 THE RIGHT TO WORK

Articles 6 and 7 of the ICESCR recognize the right to work and the right to just and favourable conditions of work. As such the Gambia must take steps to safeguard “the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts”¹⁶⁵ and ensure “safe and healthy working conditions”.¹⁶⁶ The African Charter also recognizes “the right to work under equitable and satisfactory conditions”.¹⁶⁷

5.2 THE RESPONSIBILITY OF COMPANIES TO RESPECT HUMAN RIGHTS

All companies have a responsibility to respect all human rights wherever they operate, whichever sector they operate in, and regardless of their nationality or size. This responsibility is laid out in the UN Guiding Principles on Business and Human Rights (UN Guiding Principles), an internationally endorsed standard of expected conduct.¹⁶⁸ The responsibility of companies to respect human rights is independent of a state’s

¹⁵⁸ UN Committee on Economic, Social and Cultural Rights, General Comment 14: *Substantive issues arising in the implementation of the international covenant on economic, social and cultural rights, The right to the highest attainable standard of health* (Article 12 of the International Covenant on Economic, Social and Cultural Rights), 11 August 2000, UN Doc. E/C.12/2000/4, para.11

¹⁵⁹ African Charter on Human and Peoples’ Rights, 27 June 1981, Article 16 (hereinafter ACHPR)

¹⁶⁰ African Commission on Human and Peoples’ Rights (ACHPR), *The Social and Economic Rights Action Centre (SERAC) and the Center for Economic and Social Rights (CESR) v. Nigeria*, Communication 155/96 (ACHPR/COMM/AO44/1), 2002, esr-net.org/sites/default/files/serac.pdf

¹⁶¹ ACHPR, Article 24

¹⁶² UN Human Rights Council, Resolution: *The Human Right to a Clean, Healthy and Sustainable Environment*, 18 October 2021, UN Doc. A/HRC/RES/48/13

¹⁶³ UN General Assembly (UNGA), Resolution: *The Human Right to a Clean, Healthy and Sustainable Environment*, 26 July 2022, UN Doc. A/76/L.75

¹⁶⁴ UN Special Rapporteur on the Issue of Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, Report: *Right to a healthy environment: good practices*, 30 December 2019, UN Doc. A/HRC/43/53, para.2

¹⁶⁵ International Covenant on Economic, Social and Cultural Rights (hereinafter ICESCR), Article 6(1)

¹⁶⁶ ICESCR, Article 7(b)

¹⁶⁷ ACHPR, Article 15

¹⁶⁸ This responsibility was expressly recognized by the UN Human Rights Council on 16 June 2011, when it endorsed the UN Guiding Principles on Business and Human Rights, and on 25 May 2011 when the 42 governments that had then adhered to the Declaration on International Investment and Multinational Enterprises of the OECD unanimously endorsed a revised version of the OECD Guidelines for Multinational Enterprises. See Human Rights Council, Human Rights and Transnational Corporations and other Business Enterprises, Resolution 17/4, UN Doc A/HRC/RES/17/4, 6 July 2011, daccess-ods.un.org/tmp/638279.914855957.html ; OECD Guidelines for Multinational Enterprises, 2011, OECD Publishing, oecd.org/corporate/mne/

own human rights responsibilities and exists over and above compliance with national laws and regulations protecting human rights.¹⁶⁹

This responsibility requires companies to avoid causing or contributing to human rights abuses through their own business activities and to address impacts with which they are involved, including by remediating any actual impacts.

An enterprise “contributes to” an impact if “its activities, in combination with the activities of other entities, cause the impact, or if the activities of the enterprise cause, facilitate or incentivise another entity to cause an adverse impact.”¹⁷⁰ The following factor may be taken into consideration: “the extent to which an enterprise could or should have known about the adverse impact or potential for adverse impact, i.e. the degree of foreseeability”.¹⁷¹

To meet its corporate responsibility, a company must take proactive and ongoing steps to identify and respond to its potential or actual human rights impacts. Primarily, businesses must implement a due diligence process to identify, prevent, mitigate and account for how they address their human rights impacts that the enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships.¹⁷²

There could be cases in which a company identifies through due diligence that it may cause or contribute to a human rights abuse. In those cases, the business enterprise must cease or prevent the impact, and where applicable, use its leverage to mitigate any remaining impact.¹⁷³

In the case of Nessim, the company should be practicing an ongoing due diligence process to identify whether any of its operations are having a negative human rights impact. If it identifies that this is indeed the case, then it needs to cease the harmful activity. It also needs to be transparent about its due diligence practices, providing information about the nature of its operations, any harms they are linked to, and the steps that the company takes to end or mitigate the harm, and provide remedy.

The requirement to conduct human rights due diligence extends to all companies in the fishmeal industry. Companies purchasing fishmeal should map their supply chains and understand the human rights risks that they may be directly linked to, through their relationship with suppliers, such as Nessim.

5.2.1 STATE OBLIGATIONS

Under international human rights law, all states – including Gambia – have a duty to protect against human rights abuses by all actors, including companies.¹⁷⁴ States are required to take appropriate measures to prevent human rights abuses by private actors and to respond to these abuses when they occur by investigating the facts, holding the perpetrators to account and ensuring effective remedy for the harm caused.¹⁷⁵ The pivotal principle of this duty is that states must protect individuals and communities from the harmful activities of corporate actors through “effective policies, legislation, regulation and adjudication”.¹⁷⁶

5.3 CIVIL AND POLITICAL RIGHTS

Gambia accessed to the International Covenant on Civil and Political Rights (ICCPR) in 1979. The ICCPR recognizes the right not to be arbitrarily arrested and tortured, as well as the rights of detainees.¹⁷⁷ In addition, Gambia ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment

¹⁶⁹ United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights, Implementing the United Nations “Protect, Respect and Remedy” Framework*, 2011, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf (hereinafter UN Guiding Principles), Principle 11 including Commentary

¹⁷⁰ OECD, “OECD Due Diligence Guidance for Responsible Business Conduct”, 2018, Question 29

¹⁷¹ OECD, “OECD Due Diligence Guidance for Responsible Business Conduct”, 2018, Question 29

¹⁷² UN Guiding Principles (previously cited), Principle 17

¹⁷³ UN Guiding Principles, Principle 17

¹⁷⁴ UN Guiding Principles, Principle 1

¹⁷⁵ UN Guiding Principles, Principle 1

¹⁷⁶ See generally, Amnesty International, *Injustice incorporated: Corporate abuses and the human right to remedy* (Index: POL/30/001/2014), 7 March 2014, <https://www.amnesty.org/en/documents/pol30/001/2014/en/>

¹⁷⁷ International Covenant on Civil and Political Rights (ICCPR), Articles 9, 7 and 10

or Punishment in 2018, which invites states to take measures to prevent torture and proscribes torture in any circumstances including to confess guilt.¹⁷⁸

The African Charter also recognizes the right not to be arbitrarily arrested and tortured.¹⁷⁹

¹⁷⁸ UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter UN Convention against torture), Articles 1 and 2

¹⁷⁹ ACHPR, Articles 6 and 5

6. LACK OF THOROUGH CONSULTATION AND TRANSPARENCY ON FISHING MANAGEMENT

There is a lack of thorough consultation and transparency regarding international agreements with other states on fishing. According to the Gambian Constitution, international agreements entered into by the government must be ratified by the National Assembly.¹⁸⁰ However, fishing agreements with foreign governments are not systematically approved by parliament as it should, which means foreign vessels fish in Gambian waters with no approval from people's representatives. In June 2021, some members of the National Assembly criticized the 2017 fishing agreement between Senegal and Gambia as illegal because it was not approved by the parliament; the then Minister of Fisheries promised to have it reviewed by parliament.¹⁸¹ In September 2022, the Gambian President announced that the government will present two agreements on fisheries, the one with the government of Senegal and the one with Ghana to the National Assembly for ratification.¹⁸² Those agreements have still not been ratified by the parliament. This lack of public consultation regarding fishing agreements is a violation of article 19 and article 25(a) of the ICCPR which recognize respectively the right of citizens to seek and receive information and the right "to take part in the conduct of public affairs, directly or through freely chosen representatives."¹⁸³ In addition, the right to receive information includes information on environmental related matters.¹⁸⁴

According to Amnesty International research, there is also a lack of community consultation when it comes to the establishment of fishmeal factories in Gambia and fisheries agreements.¹⁸⁵ The lack of information and transparency range from prior disclosure of investment to access to current data and regulations. Activities around the fishmeal factories are often shrouded in secrecy.¹⁸⁶

When major development projects and activities can have environmental implications such as fishmeal factories, the National Environment Agency (NEA) is in charge of ensuring "they are sustainable and environmentally friendly by ensuring that such projects and activities undergo an environmental & social impact assessment in order to determine the said sustainability and friendliness before they are

¹⁸⁰ Constitution of the Second Republic of The Gambia, 1997 (amended in 2001), Section 79(c)

¹⁸¹ The Standard, "Senegal-Gambia fishing agreement illegal- NA", 29 June 2021, standard.gm/senegal-gambia-fishing-agreement-illegal-na/

¹⁸² The Voice, "The government will table two agreements between Senegal, Ghana on fisheries- president Barrow", 16 September 2022, voicegambia.com/2022/09/16/the-government-will-table-two-agreements-between-senegal-ghana-on-fisheries-president-barrow/

¹⁸³ International Covenant on Civil and Political Rights (ICCPR), Article 19.2, article 25(a)

¹⁸⁴ UN Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Report, 24 January 2018, Un Doc. A/HRC/37/59, Annex para.17

¹⁸⁵ Also see European Commission, *Fisheries value chain analysis* (previously cited), 2020, pp.82; 90

¹⁸⁶ European Commission, *Fisheries value chain analysis*, 2020, pp.90-91

implemented”.¹⁸⁷ To do so, the NEA assigns to such project a working group to perform an environmental impact assessment study according to 2014 Environmental Impact Assessment Regulations, which details “the impact assessment process including the review of impact statements”, but also the “provisions for the issuance of environmental certificates for development project as well as for the violations of such provisions”.¹⁸⁸ Under these regulations, any developer is required to “take all measures necessary to seek the views and opinions of the people in the community which may be affected most by the project, and those of any other affected and interested parties during the process of conducting the study”.¹⁸⁹ To do so, the developer shall: “(a) hold meeting with the affected communities and parties to explain the project and its effects; (b) ensure that the venues and times of the meetings shall be convenient to the affected persons and shall be agreed with the leaders of the communities; (c) transcribe the proceedings of the meetings and attach it as an annex to the environmental impact statement.”¹⁹⁰ When reviewing the comments of the community, the working group can determine whether a general public hearing needs to be held.¹⁹¹ However, depending on the context, it is not always deemed necessary.¹⁹²

According to the NEA, in the case of the three fishmeal factories, a public hearing was not done because the Village Development Committees (VDCs) were already on board with the projects.¹⁹³ The VDCs are legally considered as an entry point to the community. Indeed, the Local Government Act states that: “A village Development Committee shall be responsible for all development planning at village level and shall serve as the local entry point for all development assistance to the village.”¹⁹⁴

When finalizing the assessment process, the NEA requires evidence of public consultation. As such developers have to submit a Memorandum of Understanding (MOU) if they have written one, or if they did not, according to the NEA, the agency includes a safeguard clause in a social corporate responsibility document asking them to be socially responsible and to consider locals for unskilled level jobs.¹⁹⁵ MOUs with local communities usually contain commitments from the developer for economic/social support to local communities. Regardless, as already indicated, the transcription of the proceedings of the meetings with the community during consultation must be attached to the environmental impact statement according to the 2014 Environmental Impact Assessment Regulations.

As an officer in the Environmental Impact Assessment department at the NEA explained: “We insist on the benefits for the community. Often, the agreement is reached with the VDC. Whatever is stated in an agreement, usually they have a MOU which is considered as final. When required, we insist that they provide it to us; sometimes they are verbal.”¹⁹⁶

The NEA did not confirm whether a MOU was actually done for the three fishmeal factories.

According to Nessim management, a MOU was not done in Sanyang but the factory did a series of meetings with the community, and they reached a “cordial agreement.”¹⁹⁷ In response to our right to reply letter, Nessim added: “We exhausted every process prior to establishing the factory. All those involve[d] in the negotiation have full authority to represent the community. Our negotiations start with the community and [we] got approval way before we start[ed] contacting central government for approval.”¹⁹⁸

However, more than a dozen of locals Amnesty International interviewed were not aware of any consultation concerning the establishment of Nessim fishmeal factory in their village, but instead learned about its existence when officials came to canvass the land. Even then, some still did not know what type of factory it would be.

Madi Koi Jitkeh, a fish smoker explained how he learned about the factory: “We were sitting one day and saw the council of elders, VDC and some government officials picking fence and measuring. I saw it myself. My boss, the president of the beach committee of Sanyang went and asked what they were doing, they told us that they were going to build a fishmeal factory there. My boss confronted them and asked why they were

¹⁸⁷ National Environment Agency, *Environmental Impact Assessment, The Environmental Impact Assessment (EIA) Programme*, nea.gm/environmental-impact-assessment/

¹⁸⁸ National Environment Agency, *Environmental Impact Assessment, The Environmental Impact Assessment (EIA) Programme*, nea.gm/environmental-impact-assessment/

¹⁸⁹ Environmental Impact Assessment Regulations, 2014, Part II – Article 16(1)

¹⁹⁰ Environmental Impact Assessment Regulations, 2014, Part II – Article 16(2)

¹⁹¹ Environmental Impact Assessment Regulations, 2014, Part II – Article 21

¹⁹² Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

¹⁹³ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

¹⁹⁴ The Gambia, Local Government Act, 2002, thegambiatimes.com/wp-content/uploads/2020/07/LOCAL-GOVERNMENT-ACT-2002.pdf, Part V- Article 98

¹⁹⁵ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

¹⁹⁶ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

¹⁹⁷ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International dated 27 January 2023

¹⁹⁸ Nessim Fishing and Fish Processing Co.LTD, email to Amnesty International dated 18 May 2023

doing this without telling us”.¹⁹⁹ The Alkalo (local chief) of Sanyang affirmed that a MOU was done but not shared; he explained: “The problem is that the right information was not coming to the Council of Elders. The MOU never went to the community. The MOU was between the former development Chairman [...] on behalf of the community and the company, but no one has ever seen the MOU. It is clear that the elders were not clearly informed.”²⁰⁰ The Alkalo said that he saw part of the MOU and it was very vague. He requested a copy but was never given one. Ecolodge owner Solomon Senghore explained: “When they first started, they never had a MOU; recently I have heard that they have one but I don’t believe it, I have never seen it.”²⁰¹ Another restaurant and lodge owner, Ibrahim Sanyang affirmed that a MOU was done with the former VDC chairman, currently an employee at Nessim, but was not shared with the community: “there was a MOU written by [the former VDC chairman] but the new VDC does not have the MOU. They contacted them but they do not want to see the community.”²⁰² The absence of proper consultation on the establishment of Nessim factory and notably the land that was allocated to it was illustrated by the direct negative economic impact for some locals and the absence of proper mitigating measures. As a garden lady “Khadidja” working in the field behind the factory recounted: “before the factory was built this is where we were making rice. We just saw boys cutting into the lands and [the former chairman of the Village Development Committee] told us that they will give us rice. They did this deliberately; they were not concerned. They cut all the rice and they burned it all. We did not receive what was promised. We lost rice as a result. It was a community land, a rice field for all people.”²⁰³ Farah, another garden lady added: “That land was given to us by the former president to the community, so we use it to cultivate rice for him [...] Two years before the coming of the factory, people were cultivating for themselves. One man managed to have 40 bags of rice for himself.”²⁰⁴ A journalist from Sanyang confirmed that the land was used by the community for rice production but was destroyed for the factory: “It was a community property. They gave compensation at the time, but it was not satisfactory for the women.”²⁰⁵

This all points to a failure by the company to meaningfully consult people who were going to be affected by the construction and operation of their new fishmeal factory. In order to meet its responsibility to respect human rights, Nessim should have launched such a consultation as part of a thorough human rights due diligence process. This would have helped them understand the likely impacts of their business and the steps they needed to take to mitigate these. Nessim told Amnesty International that “[they] respect and follow the laws as they relate to human rights to the best of [their] understanding of the said laws” and that “[they] also respect the rights of everyone working at the factory.”²⁰⁶

The lack of a thorough and transparent consultation of Sanyang locals who may be affected by Nessim’s activities by the relevant Gambian authorities before the establishment of the factory in Sanyang is also a violation of Gambia’s obligations under article 12 of the ICESCR (the right to physical and mental health)²⁰⁷, article 16 of the African Charter (the “right to enjoy the best attainable state of physical and mental health”) and article 19 of the ICCPR which recognizes the right to seek and receive information.²⁰⁸ In addition, as noted above access to information and public participation are key components of the right to a healthy environment as specified by the UN Special Rapporteur on human rights and the environment.²⁰⁹

¹⁹⁹ Interview in person with Madi Koi Jitkeh, 24 March 2022, Sanyang

²⁰⁰ Interview in person with Lamin Jabang, 21 March 2022, Sanyang

²⁰¹ Interview in person with Solomon Senghore, 23 March 2022, Sanyang

²⁰² Interview in person with Ibrahim Sanyang, 21 March 2022, Sanyang

²⁰³ Interview in person with “Khadidja” (Name has been changed to respect the interviewee’s anonymity), 24 March 2022, Sanyang gardens

²⁰⁴ Interview in person with “Farah” (Name has been changed to respect the interviewee’s anonymity), 24 March 2022, Sanyang gardens

²⁰⁵ Interview in person with “Aliou” (Name has been changed to respect the interviewee’s anonymity), 4 June 2021, Sanyang

²⁰⁶ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International dated 27/01/2023

²⁰⁷ International Covenant on Economic, Social and Cultural Rights (ICESCR), 16 December 1966, Article 12(2)(b); UN Committee on Economic, Social and Cultural Rights, General Comment 14: *Substantive issues arising in the implementation of the international covenant on economic, social and cultural rights, The right to the highest attainable standard of health* (Article 12 of the International Covenant on Economic, Social and Cultural Rights), 11 August 2000, UN Doc. E/C.12/2000/4, para.11

²⁰⁸ International Covenant on Civil and Political Rights (hereinafter ICCPR), Article 19.2

²⁰⁹ UN Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Report, 24 January 2018, UN Doc. A/HRC/37/59, Annex para.17

7. THE SOCIO-ECONOMIC IMPACT OF FISHING ACTORS IN SANYANG

7.1 IMPACT ON TRADITIONAL FISHING ACTIVITIES

“I started fishing professionally in 1994. They have been in the water, those big boats, for years now but they usually deep fishing. Things have changed drastically since [...] 2017 and I heard that the government signed a contract with all those big ships companies.”²¹⁰

Morro Camara, a fisherman from Sanyang

Popularly called “bateaux”, the locals noted an increase in the presence of foreign industrial trawlers in the past few years. This phenomenon had negative impacts on local artisanal fishermen infringing on their rights. Under Gambian regulations, nine nautical mile area from the shore (about 16.6km) is reserved for artisanal fishing.

Artisanal fishermen met by Amnesty International complain about their fishnets being cut down daily by foreign industrial boats coming closer to the shore than authorized, thereby causing substantial loss.

Morro Camara, a fisherman from Sanyang described: “The last time I went 10km to go fishing, even then you have those big industrial trawlers, they would come up to five miles. We have to give them signs that we are there to avoid accidents. Sometimes we would be sitting here and seeing them.”²¹¹ Morro is not the only one concerned. A Senegalese fisherman who has been fishing in Sanyang since 1997 complained: “the big boats cut the nets and we can't repair them. I lost at least 100 nets. Before 2016, I did not have this issue, but as soon as the government changed the trawlers increased.”²¹² The Tanji Community Fisheries Centre estimated he lost more than 40,000 dalasi (USD719) worth of materials one day in February 2022 due to a foreign trawler. Ibrahima Diatta, a Gambian fisherman who has been working in Sanyang for almost 22 years

²¹⁰ Interview in person with Morro Camara, 23 March 2022, Sanyang beach

²¹¹ Interview in person with Morro Camara, 23 March 2022, Sanyang beach

²¹² Interview in person with a Senegalese fisherman, 22 March 2022, Sanyang beach

weighed in: “Every month, they cut our nets. It is the big boats who do that, night and day. They used to fish at 20km previous years, now they are at 5km, 8km, 10km. It is difficult for us because we fish up to 10km. They are here day and night. They fish bonga, ladyfish, barracuda, emperor fish, cuttlefish, squid... they fish everything. They bring their fish to Dakar or China.”²¹³

Moreover, according to traditional fishermen, those foreign industrial vessels fish regularly, emptying the water resources irrespective of regulations, thereby forcing them to go fish further and longer into the sea. Morro said: “It is difficult now to find big group of fish together; you have to go deep sea.”²¹⁴ He added, referring to regulations forbidding fishing during part of the year to allow the sea to replenish itself: “They [the authorities] close the sea for us but not for the big ships. The trawlers fish all year long even at night.”²¹⁵ Ibrahima concurred: “The fish substantially diminished. Previous years, about five or six years ago, there was a lot of fish. If we went at 1-2km, we would catch fish then we would come back. It diminished because of the big boats, the Chinese, they are numerous.”²¹⁶ Keba Niang, a Senegalese fisherman who has been fishing in the community for the past 17 years, also complained about the competition with foreign boats: “We started seeing big trawlers in the past two years [...]. The people inside look [foreign] [...]. They use a very small net that does not let anything pass, it catches everything. Their mesh is like 36mm.”²¹⁷ Ndiaw Camara, a Senegalese fisherman who has been fishing in Gambia for 20 years, explained: “Fishing has become difficult since we see the big boats. It started around 2019. There are big boats, they are [foreigners]... They take all the fish, they leave nothing; they use 36mm mesh size.”²¹⁸

A staff from the Navy confirmed to Amnesty International that boats fishing with the wrong net sizes or illegally fishing closer to the shore than allowed is a frequent issue, especially in coastal areas as they do not have the capacity to control the whole coast. He explained: “Fishermen complain to the navy about their nets being cut [...] It is frequent. [...] Sanyang and Tanji they complain more frequently about those things, but in Banjul they see us, so it is not that frequent. It happens more frequently in the coastal areas. We catch them, those illegally fishing, at days but at night it is more common. We do not have the resources because we only have two boats that we are [currently] using. [...] We do not have enough personnel [...] we do not have strength to do all that.”²¹⁹

Thus, artisanal fishermen especially those in coastal areas work at an unfair disadvantage as they cannot prevent industrial boats from regularly cutting their nets and fishing closer to the shore than allowed. In addition to providing compensations for artisanal fishermen when this occurs, the Gambian government needs to take necessary steps, such as providing better resources to the navy, to prevent IUU fishing thereby safeguarding artisanal fishermen’s right to work under “safe and healthy working conditions” as specified under the ICESCR, and under “equitable and satisfactory conditions” as specified under the African Charter.

7.2 IMPACT ON ARTISANAL FISH PROCESSORS AND FISH TRADERS

Artisanal fish processors include fish smokers and fish driers. Fish smokers buy fish and smoke them before selling them. There are two groups of artisanal smokers in Gambia: one composed of men and women specialized in smoking bonga fishes, while the other is composed essentially of women who process catfish, skates and rays.²²⁰ Fish driers are mainly women. They sun-dry the fish they buy on racks. There are about 86 artisanal smokers and 259 artisanal driers in Gambia.²²¹ Women represent about 80% of fish processors and 50% of small-scale fish traders.²²²

Along the beach in Sanyang, there are many women sun-drying fish. They dry any fish they can find from bonga to catfish because, as they complain, fish is getting harder to find. They say fishermen supplying them complain about not being able to find fish or having their nets cut by industrial boats.

²¹³ Interview in person with Ibrahima Diatta, 22 March 2022, Sanyang beach

²¹⁴ Interview in person with Morro Camara, 23 March 2022, Sanyang beach

²¹⁵ Interview in person with Morro Camara, 23 March 2022, Sanyang beach

²¹⁶ Interview in person with Ibrahima Diatta, 22 March 2022, Sanyang beach

²¹⁷ Interview in person with Keba Niang, 22 March 2022, Sanyang beach

²¹⁸ Interview in person with Ndiaw Camara, 22 March 2022, Sanyang beach

²¹⁹ Interview by voice call with a Gambian Navy staff, 30 June 2022

²²⁰ European Commission, *Fisheries value chain analysis* (previously cited), 2020, p.37

²²¹ European Commission, *Fisheries value chain analysis*, 2020, p.37

²²² Changing Markets and Greenpeace Africa, *Feeding a monster* (previously cited), p.28

Fish smokers also complain about the lack of fish and the increase of price. According to a 2020 report from the European Commission, the net operating profit for fish smokers in Gambia is negative.²²³ The EU estimated the annual net operating profit for artisanal smoking processor is GMD87,800 (about USD1,400) taking into consideration all their expenses (fish, wood, salt and wages). They buy fish directly from the fishermen, but they have to compete with fishmongers supplying local markets and fishmeal factories.²²⁴

According to the FAO, the price of bonga fish in Gambia has significantly increased since the arrival of the fishmeal factories in 2017.²²⁵



ADAMA JATTA, FISH SMOKER

Adama Jatta is a 25-year-old fish smoker from Sanyang. She has three children and has been smoking fish since 2014 with her grandmother and continued after her death. She used to specialize in smoking catfish, guitarfish, and sharks. However, now she smokes any fish she can find. As she explained: Before it was not difficult to get fish, now it is difficult to get fish and there is a huge difference in prices. From 2014 to 2016, three catfish would be 25 dalasi now four is 100 dalasi, the bigger one is 100 dalasi for just one.” Back in 2014, she had fish almost every day, now she sometimes has to wait for a week before finding fish.



↑ Woman processing fish at a fish smoking facility ©Marta Colomer/Amnesty International

Fish smokers who specialize in bonga and sardinella also face tough competition. In fact, flat sardinella and round sardinella were two of the top 10 species most captured by industrial vessels between 2014 and 2018,²²⁶ a direct competition for local artisanal fishermen and fish traders. Madi Koi Jitkeh who has been smoking fish in Sanyang full time since 2002 said that his profits margin significantly reduced, which had a negative impact on his standard of living. He usually smokes bonga, but said he stopped doing it because the prices went up, now he makes only a profit of GMD260 (USD4) for a basket of smoked fish while before he was getting GMD300 (USD4.8). As a result, sometimes he spends a month without working because there is not enough fish. He noted that the way bonga fish are sold changed with the arrival of the first fishmeal factory in Gunjur. Fishermen went from informally selling all the fish that they had caught that day

²²³ European Commission, *Fisheries value chain analysis*, 2020, p.62

²²⁴ European Commission, *Fisheries value chain analysis*, 2020, p.62

²²⁵ FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa* (previously cited), p.49

²²⁶ European Commission, *Fisheries value chain analysis*, 2020, p.34

THE HUMAN COST OF FISHING

HOW THE OVERUSE OF FISHERIES RESOURCES IN SANYANG THREATENS THE SUBSISTENCE OF THE LOCAL POPULATION

through a negotiation, to selling them by baskets.²²⁷ The fact that fishmeal factories pay cash for the same type of fish and even accept spoiled fish makes them more attractive to fishermen than local fishmongers who often buy on credit.²²⁸ Madi explained: “For us, we think that’s the factory that makes prices go up because what the factory is encouraging is to take any kind of fish, more and more, even juvenile ones, even rotten ones so they encourage them to stay even more in the water to get fish.”²²⁹

Bakary Fatty, a fish seller from Brikama-Kombo, who comes once a week to Sanyang to buy smoked fish and sell it at Brikama-Ba, explained how the rise of the price of bonga impacted him. Five years ago, a basket (roughly 25kg) of smoked bonga fish would be between GMD1,000 and 1,300 (USD16 and USD20.85) but now prices can go up as much as GMD2,000. As a result, when he sells the smoked fish, he makes a profit of around GMD300 per box, as opposed to GMD400-500 five years ago, which has a negative impact on his standard of living.²³⁰ When we caught up with Bakary in September 2022, he said that a box of smoked bonga fish went up to GMD3,000.²³¹

Moreover, according to Greenpeace “Seasick” report released in 2020, the industrial fishing sector (which includes foreign boats and fishmeal factories) was allowed to continue business with less restrictions than the artisanal sector during the height of the Covid-19 pandemic, thereby worsening the competition for the locals.²³² Although the president ordered the temporarily closure of all three fishmeal factories from 23 March 2020, they quickly reopened the following month.²³³ Nessim resumed work on 6 April 2020,²³⁴ while fishmongers, artisanal fish smokers and fish driers, mostly women, were reportedly struggling even more during the pandemic due to restrictions.²³⁵ From March to September 2020, the government made successive declarations of state of emergency, which came with restrictions ranging from the total closure of nonessential businesses to the restriction of the trading of food items in the markets between the hours of 6am and 2pm.²³⁶ Due to the restrictions, there were less fishermen working and less fish on the market, thereby causing a hike in prices.²³⁷

Therefore, artisanal fish processors and fish traders are severely disadvantaged. They not only face the consequences of the prevalence of foreign industrial boats in Gambian waters, but also unfair competition with the fishmeal factory. As such, the Gambian government need to protect their right to work and make a living under just and favourable conditions as provided under the ICESCR and under “equitable and satisfactory conditions” as indicated under the African Charter by ensuring not only that the navy has enough resources to control illegal fishing, but also that the quantity of catch of bonga and sardinella allowed by foreign boats, including those working with the factory, is limited to avoid scarcity and a hike in price. Indeed, the presence of multiple actors using the sea resources in the country creates a risk of overfishing, which in turn can lead to fish scarcity and a risk of food insecurity.

²²⁷ Interview in person with Madi Koi Jitkeh, 24 March 2022, Sanyang

²²⁸ Changing Markets, *Fishing for catastrophe* (previously cited), p.43

²²⁹ Interview in person with Madi Koi Jitkeh, 24 March 2022, Sanyang

²³⁰ Interview in person with Bakary Fatty, 24 March 2022, Sanyang

²³¹ Interview by voice call with Bakary Fatty, 5 September 2022

²³² Greenpeace Africa, *Seasick* (previously cited), p.3

²³³ Greenpeace Africa, *Seasick*, p.19

²³⁴ Foroyaa, “Sanyang youth protest against resumption of Nessim fishmeal factory”, 15 April 2020, foroyaa.net/sanyang-youth-protest-against-resumption-of-nessim-fishmeal-factory

²³⁵ Foroyaa, “Women continue to struggle to get fish”, 5 May 2020, foroyaa.net/women-continue-to-struggle-to-get-fish; Greenpeace Africa, *Seasick*, p.19

²³⁶ The Chronicle, “The Use of Emergency Powers in Response to COVID-19 in The Gambia”, 7 May 2021, chronicle.gm/the-use-of-emergency-powers-in-response-to-covid-19-in-the-gambia/; The Chronicle, “Gambia Declares State of Emergency to Curb Coronavirus”, 27 May 2020, chronicle.gm/gambia-declares-state-of-emergency-to-curb-coronavirus/; Crisis 24, “Gambia: Authorities tighten restrictions August 4 /update 5”, 5 August 2020, crisis24.garda.com/alerts/2020/08/gambia-authorities-tighten-restrictions-august-4-update-5?origin=fr_riskalert; Panapress, “Coronavirus: President Barrow revises regulations governing markets”, panapress.com/Coronavirus-President-Barrow-rev-a-630655510-lang2-free_news.html; Kerr Fatou, “Re: Restrictions on Markets and Shopping Areas Emergency Powers (Amendment) Regulations, 2020”, kerrfatou.com/re-restrictions-on-markets-and-shopping-areas-emergency-powers-amendment-regulations-2020/; Crisis 24, “Gambia: COVID-19 restrictions eased from September 17 /update 8”, crisis24.garda.com/alerts/2020/09/gambia-covid-19-restrictions-eased-from-september-17-update-8

²³⁷ The Point, “Fish vendors decry hike in fish prices amid covid-19”, 20 August 2020, thepoint.gm/africa/gambia/headlines/fish-vendors-decry-hike-in-fish-prices-amid-covid-19

7.3 THE RISK OF FOOD INSECURITY



DEFINITION OF FOOD SECURITY

“Food security is the first condition for good nutrition. It exists ‘when all human beings have physical, social and economic access at all times to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life’”²³⁸

The UN Committee on Economic, Social and Cultural Rights detailed the right to adequate food in its general comment 12: “The notion of sustainability is intrinsically linked to the notion of adequate food or food security, implying food being accessible for both present and future generations. The precise meaning of “adequacy” is to a large extent determined by prevailing social, economic, cultural, climatic, ecological and other conditions, while “sustainability” incorporates the notion of long-term availability and accessibility.”²³⁹

Fish is the most important source of animal protein for the local population. Indeed, Gambians consume fish to fulfil between 50 and 60% of their animal protein intake.²⁴⁰ However, the quantity of fish in the local market is diminishing while its price is rising, a combined consequence of the increase of fish captured by a growing number of foreign trawlers and the significant amount of fish exported every year (see part 8.4); about 19,300 tonnes of fish is exported annually through the activities of fishmeal factories, foreign industrial vessels and fish processors targeting foreign markets.²⁴¹ In 2019, fish and crustaceans, molluscs and other aquatic invertebrates represented 26.6% of domestic exports compared to 11.4% in 2015.²⁴²

Similarly to the foreign trawlers, the fishmeal and fish oil industry can contribute to food insecurity in two ways: either by reducing access to quality food (physically and economically) or by affecting the income of the local population thereby reducing their purchasing power.²⁴³ Regarding the first risk, fishmeal factories target pelagic fishes (bonga, sardinella), which are the main source of protein for locals due to their affordability. In fact, more than 80% of Gambians rely on them, in particular bonga fish, for their daily protein intake.²⁴⁴ As a result, there is not only less fish reaching local markets for local consumption, but the increasing demand also raises prices.²⁴⁵ Concerning the second risk, there is not enough data to evaluate the extent of the impact of the fishmeal industry on local employment, but the competition with the factory for the same fish represents a risk for the availability of those fish, thus for local employment relying on fish processing.²⁴⁶

According to the FAO, within five years (2015-2020), the proportion of people deemed food insecure in Gambia has increased from 5 to 8%, partly due to the fluctuating bonga fish population that is heavily targeted by fishmeal factories.²⁴⁷ Moreover, Gambia is estimated to have a gap of about 15,000 tonnes of extra fish demand to be fulfilled every year in this decade.²⁴⁸

The Amnesty International delegation talked to artisanal fishermen, gardeners, restaurant owners, fish processors and traders who reported difficulties making ends meet. Madi Koi Jitkeh, who has two wives and eleven children transitioned from fishing to fish smoking to spend more time with his family in 2002. However, now he says he is struggling feeding his family because of the competition with the factory for fish:

²³⁸ European Commission, *Fisheries value chain analysis* (previously cited), 2020, p.97

²³⁹ Committee on Economic, Social and Cultural Rights, General Comment 12, Substantive issues arising in the implementation of the international covenant on economic, social and cultural rights, The right to adequate food (Article 11 of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/1999/5, para.7

²⁴⁰ European Commission, *Fisheries value chain analysis* (previously cited), 2020, p.39

²⁴¹ European Commission, *Fisheries value chain analysis*, 2020, p.11

²⁴² The Gambia Bureau of Statistics, Republic of Gambia The Directorate of Economic Statistics, *International Merchandise Trade Statistics Annual Report for 2019*, p.5, gbosdata.org/downloads/trade-statistics-5; The Gambia Bureau of Statistics, Republic of Gambia The Directorate of Economic Statistics, *International Merchandise Trade Statistics Annual Report for 2015*, p.9-10, gbosdata.org/downloads/trade-statistics-5

²⁴³ FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa* (previously cited), p. 20

²⁴⁴ European Commission, *Fisheries value chain analysis* (previously cited), 2020, p.107

²⁴⁵ FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa*, p.21

²⁴⁶ FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa*, p.19

²⁴⁷ FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa*, p.50; European Commission, *Fisheries value chain analysis*, p.15.

²⁴⁸ FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa*, p.50

“I would tell them [the government] that the amount of support I would get before the factory was different. Before I had money to support my family, but now I can’t.”²⁴⁹

“Abi”, a fish dryer with five children, has been smoking catfish, white fish, snapper, snails, bongas and sardinellas for the past 25 years. She explained how fish has become scarce: “Work is difficult now because there is no fish [...] I work with Senegalese boats, the small ones not the fila tourne. We work for them and in turn they pay us in fish; we clean the fish for them; we wash it for them, and we put some salt on them and they would give us fish in return. They give us fish as payment. Sometimes we would get half a pan of fish if there are a lot of fish, sometimes we work for a whole boat without having fish because there are not many fish. Sometimes they give us fish that we sell and don’t even get GMD50 (USD0.80) for it. We would use any kind of fish they have that day.”²⁵⁰

Ibrahim Sanyang, owner of bar/restaurant Santana Beach Club, has also struggled to keep his business afloat. “In 2019 I made enough money to live. I was paying staff. Now it is not good, I am not making enough money. This is not what I was expecting.” He complained about the rising cost of fish: “prices are increasing because there is no fish in the sea because there are those big boats in the sea taking all that fish. It is because of luck, some days you can find them, other days you can’t.”²⁵¹

The current situation is in direct contradiction with the government’s policy objectives. The Fisheries and Aquaculture Sector Strategy 2017-2021 states as objectives:

- “To use fish as a means to increase food security and livelihoods in rural areas, and improve the nutritional standards of the population;”
- “To increase employment opportunities, and increase the participation of Gambians, especially women and young men, in all aspects and at all levels of the fisheries sector;”
- “To strengthen regional and international collaboration in the sustainable exploitation, management and conservation of shared stocks and shared water bodies, promote bio-diversity maintenance and enhancement and prevent environmental degradation.”²⁵²

By failing not only to ensure that the navy has enough resources to control illegal fishing, but also to properly limit fishing of bonga and sardinella by foreign industrial trawlers and fishermen working with the factory so as to avoid scarcity and a hike in price of species the local population relies on for their daily intake, the Gambian government infringes on its legal obligations to protect locals’ accessibility to food (both physically and economically) under the ICESCR and their right to food engrained into the rights to health and life under the African Charter on Human and Peoples’ Rights.

7.4 IMPACT ON ACTORS OF TOURISM

“If corona [the Covid-19 pandemic] has bankrupted businesses, the fishmeal factory is doing worse than corona as far as my business is concerned. We know corona will last a particular moment in time, but the fishmeal factory we do not know when we are going to be out of the situation.”²⁵³

“Mohammed”, a lodge owner in Sanyang

²⁴⁹ Interview with Madi Koi Jitteh, 24 March 2022, Sanyang

²⁵⁰ Interview with “Abi” (Name has been changed to respect the interviewee’s anonymity), 24 March 2022, Sanyang beach

²⁵¹ Interview with Ibrahim Sanyang, 21 March 2022, Sanyang

²⁵² Ministry of Environment, Climate Change and Natural Resources, Department of Fisheries, *Fisheries and aquaculture sector strategy 2017-2021*, mofwr.gm/downloads, p.25

²⁵³ Interview in person with “Mohammed” (Name has been changed to respect the interviewee’s anonymity), 21 March 2022, Sanyang beach

THE DECLINE OF TOURISM

While the Covid-19 pandemic negatively affected tourism nationwide, actors of tourism in Sanyang claim they have also been impacted and continue to be impacted by the fishmeal factory.

Gambians in coastal towns had taken advantage of the fast-growing tourism sector to start a business. Along the beach in Sanyang, there are restaurants, juice bars and lodges designed to attract tourists. However, according to locals, the arrival of the fishmeal factory and the Covid-19 pandemic had a negative impact on tourism. As Ibrahim Sanyang explained: “2020 was not good at all, the factory was operating, and we started entering the Covid pandemic. The two things combined gave us big problem.”²⁵⁴

In 2020, Gambia estimated losing about \$108 million in the hospitality sector due to the Covid-19 pandemic.²⁵⁵ The number of tourists dropped from over 235,000 in 2019 to under 90,000 in 2020.²⁵⁶

“Mohammed”, a restaurant and lodge owner in Sanyang, explained that Covid-19 had a negative impact on his business. He said that the area was not touristic until 2006 when tourists started coming, 2010 being the turning point. Because of the pandemic and government restrictions, tourism however significantly decreased in 2020. “During corona, we were required to close, [law enforcement] were coming to the beach to arrest the youths that were not respecting the confinement [...] That lasted about eight months. During Covid I had to borrow money to keep the infrastructure [restaurant and lodge] in order to avoid going bankrupt. I had to close down, borrow money, and keep some staff for infrastructure, that is bankruptcy!”²⁵⁷

Besides the pandemic, according to local restaurant and lodge owners, the factory is a contributing factor in keeping tourists away. According to them, the strong smell coming from the factory discourage tourists from staying and coming back. “Mohammed” described the impact of the smell from the factory: “It has very negatively affected our income, our health, our vegetable, land, our air [...] We lost our repeaters, people that would have come regularly. One time, we had people packing up at 3:00am, 4am crying and leaving [...] because of the smell.”²⁵⁸

Solomon Senghore, owner of the ecolodge Bees Mouth in Sanyang, also blames the factory for the reduction of tourism even before the Covid-19 pandemic: “When we started, business was good; the second year, it was bad, before corona, because the factory was working every day. Tourists fled, it smelled bad. Afterwards, there was corona so people did not come.”²⁵⁹ He said that he had at least four guests leaving because of the smell coming from the factory. High tourism season in Sanyang is from October/ November to May, which overlaps with the factory’s activities (the first half of the year).

Amnesty International delegation experienced the foul odour coming from the factory during its mission there, which sometimes propagated beyond the beach area.

THE COST OF FISH

Restaurant owners have also been negatively affected by the scarcity and the rising cost of fish. They buy fish and seafood such as butterflyfish, ladyfish, barracuda, calamari and prawns for their restaurants, but they claim it is becoming harder to find, in part because local fishermen compete with foreign industrial boats. Ibrahim Sanyang, owner of the Santana beach club, complained that he used to buy ladyfish, barracuda and butterflyfish for GMD75 (USD1,29) per kilo in 2015/2016, and now pays GMD135 (USD2,33).²⁶⁰ Solomon Senghore also complained about the rising cost of fish “butterfish was GMD100 for 1Kg a month ago, it is GMD130 now; it goes up because they are overfishing. It scares us. Butterflyfish cannot feed themselves. Big fish eat bonga fish, if they do not have anything to eat, they will go away.”²⁶¹

Therefore, people in the hospitality’s sector have faced multiple obstacles, namely the rising cost of fish due to overfishing, as well as the negative impact the Covid-19 pandemic and the bad smell generated by the activity of the factory had on tourism. This has had a negative impact on their standard of living. As such, the Gambian government failed to take the necessary steps to ensure adequate standard of living and just and favourable conditions of work for them as provided under the ICESCR and to protect their “right to work under equitable and satisfactory conditions” as provided under the African Charter on Human and Peoples’

²⁵⁴ Interview in person with Ibrahim Sanyang, 21 March 2022, Sanyang

²⁵⁵ UNDP, *The tourism sector in the context of Covid-19 outbreak in the Gambia*, Police brief 2, 3 April 2020; Anadolu Agency, “Gambia tourism struggles with virus’ impact”, 28 November 2020, www.aa.com.tr/en/africa/gambian-tourism-struggles-with-virus-impact/2058853

²⁵⁶ Africanews, “Gambia’s tourism struggles with impact of Covid-19 as it seeks to diversify”, 22 December 2021, africanews.com/2021/12/22/gambia-s-tourism-struggles-with-impact-of-covid-19-as-it-seeks-to-diversify/

²⁵⁷ Interview in person with “Mohammed”, 21 March 2022, Sanyang beach

²⁵⁸ Interview in person with “Mohammed”, 21 March 2022, Sanyang beach

²⁵⁹ Interview in person with Solomon Senghore at the Bees Mouth, 23 March 2022, Sanyang

²⁶⁰ Interview in person with Ibrahim Sanyang, 21 March 2022, Sanyang beach

²⁶¹ Interview in person with Solomon Senghore at the Bees Mouth, 23 March 2022, Sanyang

THE HUMAN COST OF FISHING

HOW THE OVERUSE OF FISHERIES RESOURCES IN SANYANG THREATENS THE SUBSISTENCE OF THE LOCAL POPULATION

Rights by establishing for instance enough social protection to support the community, providing enough resource to the navy to fight illegal fishing or/and better considering the location of the factory before granting permission. Indeed, by the time Nessim was implemented in Sanyang, two other fishmeal factories were already active and similar complaints from the communities about the smell there had been raised.²⁶²

Moreover, as part of its human rights diligence process under the UNGP, Nessim fishmeal factory should have considered the impact odorous pollution would have on local population and put in place steps to mitigate it. It is unclear whether the issue of the bad smell was taken into consideration in the EIAS as it was not made public. The smell the factory produces would have been predictable given the type of activity of the factory. The government should investigate the impact of the factory on the community, and Nessim should cooperate and explore ways to mitigate the smell. In case the smell cannot be mitigated, then the government and the company should compensate the affected community, help relocate affected businesses or relocate the factory.

7.5 THE VEGETABLE GARDENS IN SANYANG

Right behind Nessim factory, there are fields of vegetable tended to mostly by local women. They worked there decades before the factory came to Sanyang. All the garden ladies Amnesty International interviewed said they were not consulted before the factory was established. Some reported learning about it when factory staff came to measure the land for the factory with government agents, while others reported just seeing it being built.

²⁶² Forayaa, ““Golden Leaf Factory is an Environmental Hazard” – Gunjur Native Complains to Foroyaa”, 19 May 2017, foroyaa.net/golden-leaf-factory-is-an-environmental-hazard-gunjur-native-complains-to-foroyaa/; Gunjur Online, “BREAKING NEWS: NEA indicts Golden Lead Company, 13 June 2017, gunjuronline.com/post/2017/06/13/breaking-news-nea-indicts-golden-lead-company/; The Standard, “Dumped Fish Controversy Rages”, 22 May 2017, standard.gm/dumped-fish-controversy-rages/; The Fatu Network, “Stop The Chinese Company Destroying Our Future in Gunjur!”, 15 May 2017, fatunetwork.net/stop-chinese-company-destroying-future-gunjur/



↑ TOP: The women's gardens in the vicinity of the fishmeal factory captured from the ground ©Amnesty International BOTTOM: bird's eye view showing the proximity of the women's gardens to the fishmeal factory ©Julian Hahne/Amnesty International

The women reported having more difficulties since the factory opened due to an increase in two types of insects. According to them, they see more black flies in their gardens that deposit eggs on their vegetables, which they blame on the smell coming from the factory processing fish. They also observed white/greenish pests that attack their vegetables, especially tomatoes. The Amnesty International delegation was able to observe a pest in a tomato. A woman who has been gardening for more than 10 years in Sanyang explained: "When the flies come, they stand on tomatoes and they put something in the tomatoes we don't know what; our tomatoes have holes in them, we think it's eggs. When the holes are in the tomatoes, other insects would penetrate; they are white in colour."²⁶³

In addition, they have to use more pesticides to be able to keep their productivity. Amie Manneh, a gardener, said: "Before it was very rare to use chemicals now you have to do it very often. They cost 100 dalasi for a small bottle that you use just once. You have to repeat it every week if you want to get something out of your products. Before we didn't do it [use chemicals] very often [...] [The pests] are quick to damage; they are especially very bad for tomatoes and bitter tomatoes, they get quickly damaged. In less than a week, it destroys vegetables."²⁶⁴ The extra cost for the use of chemicals adds to the increasing cost of fertilizers; it cost around GMD1800 (about USD30) in 2022 while in 2021 it was around GMD1,500 (about USD24.5).

According to gardeners, this increase in pests reduces their productivity and by extension their profit. A 60-year-old gardener recalled that things started changing about five years ago, although she is unsure why: "Last year [2021] I was expecting 10 baskets of tomatoes but because of the flies I was not even able to get one basket. Those are things that worry us. Sometimes the hard work is all ruined. All this hard work, we see

²⁶³ Interview in person with Habibatu (Name has been changed to respect the interviewee's anonymity), 31 March 2022, Sanyang gardens

²⁶⁴ Interview in person with Amie Manneh, 26 March 2022, Sanyang

everything getting destroyed; we go home with pain in our body [...] If one tomato is affected, all are affected, it affects the whole plant.”²⁶⁵

A mother-of-9 who has been gardening for over 20 years confirmed productivity has been reduced: “We could get 10 baskets weekly of tomatoes last year [2021]. Before the factory we would get sometimes 20 baskets per week, sometimes 15.”²⁶⁶ Another gardener complained: “Last year [2021], I was unable to cultivate tomatoes because the year before last all were destroyed so I did not want to. Before, I used to have a lot of tomatoes, every four days I had 10 baskets. I would get up to 30,000 dalasi (USD481) for tomatoes in the whole season.”²⁶⁷

Ahmed Manjang, a Gambian microbiologist explained that flies would feed on rotten fish in the factory, then feed on the tomatoes, thereby destroying them: “Even if those flies were there before, they would not have transferred bacteria of dead fish to vegetables [...] Once the needles of the flies go into the tomatoes, bacteria are left behind and it grows into worms. Maggots are from the flies’ eggs.”²⁶⁸

In addition, gardeners complain about the smell of the factory and are concerned the smoke coming from the factory is detrimental to their health as they are working for long hours right next to the factory. As “Khadidja” explained: “When they started operating, if you see the smoke you would think there is a bush fire. It is not good for our health because we inhale that smoke with no masks.”²⁶⁹ Manneh concurred: “It is the smoke that is disturbing us; it gives problem with our chest; it is very dark.”²⁷⁰ “Habibatou” also complained that the smoke interferes with their work: “This factory is not good. The smell affects our health and then we will not be able to work.”²⁷¹

Amnesty International asks the authorities to investigate potential violations of the right to food and health as recognized under the ICESCR and the African Charter, as well as compliance with Gambia environmental laws and regulations. While the government investigates the potential impact of the factory’s activities on the gardens and the gardeners, Nessim should cooperate fully in the investigation. If found to be responsible, it should take immediate steps to cease activity which is resulting in this, and provide appropriate remedy to the women, which could include compensation or relocation of the factory.



 ↑ Pest inside a tomato harvested in the garden near Nessim factory ©Marta Colomer/Amnesty International

²⁶⁵ Interview in person with “Jamila” (Name has been changed to respect the interviewee’s anonymity), 25 March 2022, Sanyang gardens

²⁶⁶ Interview in person with “Khadidja” (Name has been changed to respect the interviewee’s anonymity), 24 March 2022, Sanyang gardens

²⁶⁷ Interview in person with “Farah” (Name has been changed to respect the interviewee’s anonymity), 24 March 2022, Sanyang gardens

²⁶⁸ Interview in person with Ahmed Manjang, 28 March 2022, Bakau.

²⁶⁹ Interview in person with “Khadidja” (Name has been changed to respect the interviewee’s anonymity), 24 March 2022, Sanyang gardens

²⁷⁰ Interview in person with Amie Manneh, 26 March 2022, Sanyang

²⁷¹ Interview in person with “Habibatou” (Name has been changed to respect the interviewee’s anonymity), 31 March 2022, Sanyang gardens

8. THE ENVIRONMENTAL IMPACT OF FISHING ACTORS IN SANYANG

8.1 FISHMEAL FACTORY UNDER EIAS

Fishmeal factories have to go through an assessment by the NEA. They submit a screening form to the NEA which then decides into which category of business the factory falls, and the extent of the environmental impact assessment needed. As part of the screening phase, factories have to show that they have acquired land properly and are registered companies. Because the NEA considers that fishmeal factories can have serious environmental implications, fishmeal factories fall into a category requiring a detailed environmental impact assessment study (EIAS) with terms of references. When necessary, the NEA invites almost 15 technical groups to review the EIAS. The factory is allowed to start operations if the EIAS is adequate enough and subjected to recommendations and inputs from the agency. The NEA also performs monitoring visits periodically to verify compliance from the construction to the operational phase.²⁷²

The developers are the ones responsible for the EIAS. They pick the consultant who will perform the EIAS subjected to the NEA prior approval of the consultant. The NEA reviews the EIAS and decide whether it is adequate or needs further information. Shareholders have the opportunity to submit comments, which the NEA submits to the developer. The NEA environmental impact assessment working group can also make recommendations for a public hearing. In other instances, public consultation can be shown by reaching an agreement with the Alkalo (local chief) or the village development committee, who are considered to represent the views of the community. This was the case for the three fishmeal factories that did not undergo a public hearing.²⁷³

Licenses are renewed annually, and the NEA has the power to suspend or revoke licenses for non-compliance with the terms of reference. The factories are expected to do self-audits and the agency performs confirmation site visits. If the NEA finds discrepancies, they do an agency audit. The NEA did not confirm when they last visited Nessim.²⁷⁴

The NEA confirmed that all three fishmeal factories went through an EIAS, but Amnesty International delegation was unable to review it as copies of the EIAS are not publicly available and the NEA did not provide Amnesty International a copy despite a request for it. Nessim management also confirmed that an

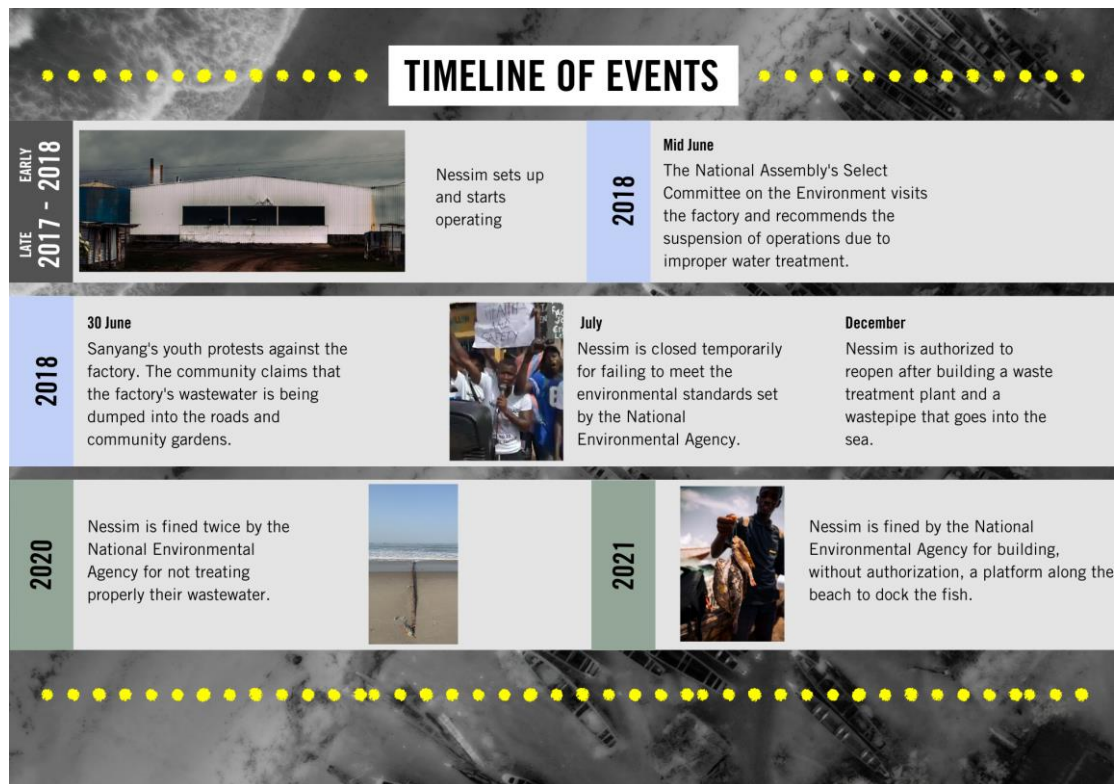
²⁷² Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

²⁷³ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

²⁷⁴ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

EIAS was done and that they did not make it public. Amnesty International requested a copy of the EIAS, but the company claimed that it was destroyed during the events of March 2021.²⁷⁵

8.2 WASTEWATER AND NOXIOUS SMELL



Timeline of key events since the arrival of Nessim factory in Sanyang ©Amnesty International

The issue of wastewater

According to the NEA in charge of monitoring compliance with the EIAS, at some point or another, the three fishmeal factories had an issue with their wastewater treatment. They are required to have an environmental discharge permit and a treatment plant for their wastewater within the facility.²⁷⁶

Nessim fishmeal factory was reprimanded several times by the agency.

In 2018, the NEA suspended Nessim's license because the discharging plant they claimed they had was not there. In June 2018, the National Assembly Select Committee on the Environment visited the factory and recommended suspension of operations due to improper water treatment.²⁷⁷ A member of the committee was reported stating that the factory was operating without a treatment plant and discharging waste onto the road.²⁷⁸ On 30 June 2018, the youth of Sanyang protested against Nessim factory claiming that the factory polluted the environment and the vegetable gardens.²⁷⁹ They claimed that the wastewater from the factory

²⁷⁵ Nessim Fishing and Fish Processing Co., LTD, letter to Amnesty International, 27 January 2023

²⁷⁶ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

²⁷⁷ Foroyaa, "NA environment select committee : recommends forfeiture of Nessim license to operate", 18 June 2018, foroyaa.net/na-environment-select-committee-recommends-forfeiture-of-nessim-license-to-operate

²⁷⁸ Gunjur online, "NESSIM fish meal company in Sanyang banned for a further six months", 9 July 2018, gunjuronline.com/post/2018/07/08/nessim-fish-meal-company-in-sanyang-banned-for-a-further-six-months

²⁷⁹ Foroyaa, "Sanyang community applaud the temporal closure of fishmeal factory", 18 July 2018, foroyaa.net/sanyang-community-applaud-the-temporal-closure-of-fishmeal-factory

was dumped into the vegetable gardens causing damages.²⁸⁰ The factory was closed in July 2018 for almost six months during which time they constructed a wastepipe going into the sea.²⁸¹ After they complied with the NEA directives, they were allowed to reopen the same year.²⁸² The company confirmed that they implemented a waste treatment plant after the temporary closure.²⁸³ According to microbiologist Ahmed Manjang, who was able to get a sample of the wastewater from Nessim tested in 2018, it contained an excess of phosphate, which is not toxic in itself but can cause eutrophication, a process occurring when there are increasing levels of nutrients in the water, which in turn foster the production of bacteria and algae. According to him, phosphate is a usual by-product of fish waste, but the water tested also showed high levels of arsenic, which is unusual and cancerogenic.¹⁹²

An investigation by the organization Changing Markets in 2019 alleged that the pipe was dumping waste 50m into the sea as opposed to at least 350m as required by wastewater regulation.²⁸⁴ Nessim management did not confirm how long the pipe is but stated that the length of the pipe is in line with the NEA recommendations.²⁸⁵ According to Manjang, even if the waste pipe goes 350m into the sea, it will cause damages to the ecosystem: "It causes the same damages whether it is at 350m or not, the seagrass will grow, and it will make the fish filthy and smelly."²⁸⁶

In 2020, Nessim factory was fined twice by the NEA for failure to properly treat their water.²⁸⁷

In 2021, they were fined for building a platform along the beach without authorization to access more easily the fish landed by their boats.

According to the NEA, the factory now has an in-built water treatment facility where most impurities are evaporated from the water before it is discharged.²⁸⁸ The factory must undergo a quarterly water analysis by a lab within the Department of Water Resources that then submits a copy of the results to the NEA.²⁸⁹

Amnesty International was not able during its mission to verify the quality of the water near the Nessim factory nor the distance at which the pipe discharges the waste into the sea, but applauds the NEA for taking steps to ensure the wastewater of the factory is free of toxins before being discharged. However, Amnesty International recalls that the right to be informed is included in article 19 of the ICCPR and in the right to a healthy environment as specified by the UN Special Rapporteur on human rights and the environment and thus calls on the authorities to be transparent and publish results of any investigation into potential violations by the factory. We also call on the NEA to ensure that the factory's wastewater treatment and disposal respect environmental laws and regulations during regular inspections.

²⁸⁰ Foroyaa, "NA environment select committee : recommends forfeiture of Nessim license to operate", 18 June 2018, foroyaa.net/na-environment-select-committee-recommends-forfeiture-of-nessim-license-to-operate; Global Reporting Program and NBC News, "The fish you (don't know you) eat", 2020, globalreportingprogram.org/fishmeal

²⁸¹ Global Reporting Program and NBC News, "The fish you (don't know you) eat", 2020, globalreportingprogram.org/fishmeal

²⁸² Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

²⁸³ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

²⁸⁴ Changing Markets, *Fishing for catastrophe* (previously cited), p. 45

²⁸⁵ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

²⁸⁶ Interview in person with Ahmed Manjang, 28 March 2022, Bakau

²⁸⁷ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

²⁸⁸ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul

²⁸⁹ Interview in person with the NEA in the Office of the NEA, 29 March 2022, Banjul



👁️ ↑ *Nessim factory's waste pipe that goes into the sea ©Marta Colomer/Amnesty International*

The issue of noxious smell

The situation is upsetting to local activists considering the stench coming from the factory. Communities consistently complain that the smell emanating from the factory when they start operating is unbearable. Ladies tending to gardens right behind the factory and restaurants owners by the beach suffer the most the consequences. The latter claim that they have lost clients because of it, and local ecotourism is threatened as a result. However, the foul odour, which the Amnesty International delegation experienced, can even reach the village depending on the wind. As ecolodge owner Solomon Senghore explained: “We are about 700m from the factory, and we can smell it; there are two types of smell: at night (around 10 or 11pm), they

pump waste into the sea through the pipe, it is the worst one and then there is the smell of the smoke [...] Even with the pipe it smells.”²⁹⁰

The state should investigate the issue of the noxious smell and potential violations of the right to health and the right to a healthy environment, as well as compliance with Gambia environmental laws and regulations.

In addition, as part of their due diligence process Nessim should have “processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.”²⁹¹ This is simultaneous with community consultation to assess any issues. The company did not confirm whether they have a safeguard policy, but stated that they “respect and follow the laws as they related to human rights to the best of [their] understanding of the said laws.”²⁹² Amnesty International saw no evidence that the company tried to address this particular issue, which would have been predictable given the nature of the industry as previously mentioned.



 ↑ Dark smoke emanating from Nessim fishmeal factory while in activity. ©Marta Colomer/Amnesty International

8.3 DEAD FISH ON SAND

“Last year, [Nessim factory] did not buy the fish because there were too many fish but the contract states that [the factory] has to take them. It caused a lot of issues. We throw fish into the sea if they don’t take it. The factory takes rotten fish; if they don’t take it and it is not good for the market, we throw it into the sea.”²⁹³

“Tapha”, a fisherman working with the factory

²⁹⁰ Interview in person with Solomon Senghore at the Bees Mouth, 23 March 2022, Sanyang

²⁹¹ UN Guiding Principles, p.16

²⁹² Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

²⁹³ Interview in person with “Tapha” (Name has been changed to respect the interviewee’s anonymity), 23 March 2022, Sanyang beach

Between 2019 and 2021, media reported the presence of a large quantity of dead fish along Sanyang beach on three separate occasions.²⁹⁴ Amnesty International delegation could observe dead fish on Sanyang beach both times they were there in 2021 and in 2022. This phenomenon has happened at other sites where there are fishmeal factories.²⁹⁵ According to locals, this happens when fishermen working with the fishmeal factory dump dead fish back into the water when they are unable to sell them to the factory and they are not good enough for the market. Three fishermen working with Nessim factory and interviewed by an Amnesty International delegation confirmed this theory. As “Babacar” explained: “The factory would take everything; when it has too many fish, the factory would not give us anything[...]. We would then go into the water and dump it there, but that is not frequent.”²⁹⁶

The government must put in place steps to prevent this recurring phenomenon as it is in contradiction with the right to a healthy environment and the right to food, for instance by restricting the amount of catch allowed for pelagic fishes and monitoring compliance. As part of its due diligence process, Nessim could take steps to understand how its activities might cause this issue and adjust its operational process accordingly after consultation with relevant stakeholders.

²⁹⁴ Foroyaa, “Dead fish washed ashore on Gunjur, Sanyang beaches”, 10 May 2019, foroyaa.net/dead-fish-washed-ashore-on-gunjur-sanyang-beaches; The Point, “Dead fishes inundate Sanyang beach after Nissim fails to purchase”, 29 July 2020, [allafrica.com/stories/202106140563.html](https://thepoint.gm/africa/gambia/headlines/dead-fishes-inundate-sanyang-beach-after-nissim-fails-to-purchase#:~:text=Dead%20fishes%20inundate%20Sanyang%20beach%20after%20Nissim%20fails%20to%20purchase,-Jul%2029%2C%202020&text=The%20Beach%20of%20Sanyang%20over,failed%20to%20purchase%20those%20catches; All Africa, Foroyaa Newspaper, “Gambia: Numerous fish found on Sanyang beaches”, 11 June 2021, <a href=)

²⁹⁵ The Guardian, “Chinese fishmeal plants leave fishermen in the Gambia all at sea”, 20 March 2019, www.theguardian.com/global-development/2019/mar/20/chinese-fishmeal-plants-leave-fishermen-gambia-all-at-sea

²⁹⁶ Interview in person with “Babacar”, 23 March 2022, Sanyang beach



↑ Dead fish on Sanyang beach. ©Marta Colomer/Amnesty International

8.4 OVEREXPLOITED SPECIES

The overexploitation of some fish species is due to the activities of all fishing actors combined, including the fishmeal factories.

The fish species fishmeal factories use, such as bonga (*Ethmalosa fimbriata*), sardine (*Sardina pilchardus*), round and flat sardinellas (*sardinella aurita* and *sardinella maderensis*), migrate across borders. Thus, the

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stock assessment needs to be done at the sub-regional scale. The most recent assessment, which was done in 2020 by the FAO Working Group on the Assessment of Small Pelagic Fish Off Northwest Africa indicated that sardinella and bonga are overexploited while stocks of sardine are not fully exploited but still require precautionary measures.²⁹⁷ In fact, in 2016 the FAO had already cautioned that stocks of sardinellas (round and flat) and bonga were overexploited before at least two of the three fishmeal factories, including Nessim, opened in Gambia.²⁹⁸ At the time, the FAO recommended to decrease fishing efforts in the region.²⁹⁹ Therefore, the fishmeal factories targeted species that were already overexploited.

The Fishery Committee for the Eastern Central Atlantic (CECAF) was established by the FAO Council “to promote the sustainable utilization of the living marine resources of the area [...] by the proper management and development of the fisheries and fishing operations.”³⁰⁰ In 2020, the CECAF expressed concerns that the proliferation of fish-based feed (including fishmeal and fish oil) worsen the situation by increasing the intensity of fishing and changing fishing patterns.³⁰¹

There is no public access to official statistics regarding the production of fishmeal and fish oil in Gambia. However, the FAO estimated the export of fishmeal taking the International Trade Center data as a proxy. Thus in 2017, about 1,555 tonnes of fishmeal were produced in Gambia, 1,969 tonnes in 2018 and in 2019, production dropped to a quarter of its level the previous year. For fish oil, production went from 1,378 tonnes in 2017 to 823 tonnes in 2018.³⁰² The number of fish processed to produce this quantity of fishmeal is even more substantial. Indeed, it takes about 4 to 5kg of fish to produce 1kg of fishmeal.³⁰³ From their start of operations to 2018, the three fishmeal factories in Gambia produced 3, 698 tonnes of fishmeal (roughly 1,233 tonnes per factory) and therefore processed about 16, 642 tonnes of small pelagic fishes.³⁰⁴ Nessim management told Amnesty International that they do not get fish often, but did not confirm the quantity of FMFO they export yearly stating that the data was destroyed during the events of March 2021.³⁰⁵

According to a report by the NGO Changing Markets, the reliance of the aquaculture industry on FMFO is ecologically and economically unsustainable as demands will eventually surpass supply.³⁰⁶

To make matters worse, local activists claim that because the factory takes any kind of fish, fishermen are tempted to get juvenile fish and sell them to the factory, something that was confirmed by three fishermen working with the factory, as one explained: “I don’t catch juvenile fish frequently but when we go fishing and we don’t get enough fish, we would catch the juvenile fish to repay the amount of the fuel.”³⁰⁷ Taking juvenile fish prevents the ocean from replenish itself and contributes to the issue of fish scarcity.

In response to the claim that the fishmeal factory contributes to environmental damage, Nessim’s management responded that they do not overfish or overexploit any species, that the factory only operates during the peak season for a limited time period when there is enough fish to catch.³⁰⁸

Moreover, some species targeted by foreign industrial fleets other than pelagic fishes are also fully exploited or overexploited. The FAO Working Group on the Assessment of Demersal Resources of Northwest Africa noted in 2019 that several types of demersal stocks were overexploited, including grouper in Mauritania, Senegal and Gambia, deepwater rose shrimp in Senegal and Gambia and cuttlefish in Senegal and Gambia.³⁰⁹ In addition, red pandora was already fully exploited in Mauritania, Senegal and Gambia, as well as Southern pink shrimp and octopus in Senegal and Gambia.³¹⁰

²⁹⁷ FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa* (previously cited), p.25

²⁹⁸ Food and Agriculture Organization of the United Nations, Report: *FAO working group on the assessment of small pelagic fish off Northwest Africa, Casablanca, Morocco, 20-25 July 2015*, 2016, [fao.org/publications/card/fr/c/f2c917ae-7ab6-499a-805d-466045025f68](https://www.fao.org/publications/card/fr/c/f2c917ae-7ab6-499a-805d-466045025f68), (hereinafter FAO, *Report of the FAO working group on the assessment of small pelagic fish off Northwest Africa*), p.57

²⁹⁹ FAO, *Report of the FAO working group on the assessment of small pelagic fish off Northwest Africa*, p.57

³⁰⁰ Food and Agriculture Organization of the United Nations, Amendments of the statutes of the fishery committee for the eastern central Atlantic, Appendix E: Revised terms of reference of the fishery committee for the eastern central Atlantic (CECAF), 2003, [fao.org/cecaf/overview/ru](https://www.fao.org/cecaf/overview/ru)

³⁰¹ FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa* (previously cited), p.25

³⁰² FAO, *Socio-economic and biological impacts of the fish-based feed industry for sub-Saharan Africa*, p.49

³⁰³ Greenpeace, *A waste of fish* (previously cited), p.9

³⁰⁴ European Commission, *Fisheries value chain analysis* (previously cited), 2020, p. 11

³⁰⁵ Nessim Fishing and Fish Processing Co.LTD, letter to Amnesty International, 27 January 2023

³⁰⁶ Changing Markets, *Fishing for catastrophe* (previously cited), pp.13, 50-53

³⁰⁷ Interview in person with “Babacar”, 23 March 2022, Sanyang beach

³⁰⁸ Nessim Fishing and Fish Processing Co.LTD, email to Amnesty International dated 18 May 2023

³⁰⁹ Food and Agriculture Organization of the United Nations, Fishery Committee for the Eastern Central Atlantic, *Summary Report: FAO working group on the assessment of demersal resources off Northwest Africa 2019*, www.fao.org/3/cb0865en/CB0865EN.pdf

³¹⁰ Food and Agriculture Organization of the United Nations, Fishery Committee for the Eastern Central Atlantic, *Summary Report: FAO working group on the assessment of demersal resources off Northwest Africa 2019*, www.fao.org/3/cb0865en/CB0865EN.pdf

The impact of climate change on fisheries in West Africa adds to the issue. It is estimated that by 2050, catches in Senegal, Gambia and Mauritania will be reduced by 10-15% compared to 2000 due to climate change.³¹¹

All the above elements threaten the right to a clean, healthy and sustainable environment, which the government has the duty to protect under the African Charter and international law. The government should have considered the status of stocks of pelagic fishes before granting licenses to fishmeal factories. Moreover, Nessim did not publicly share any procedure put in place to remediate human rights impacts they could contribute to. As part of their due diligence under the UN Guiding Principles, the company should have taken into consideration that they were going to use species that were already overexploited and identify the human rights impact their activities would have on the population. As the EIAS has not been made public, it is unclear whether the company identified and took steps to mitigate potential impact on the right to a healthy environment. The fact that the community do not have access to EIAS however clearly demonstrates a lack of transparency with the community.

³¹¹ Greenpeace, *A waste of fish* (previously cited), p.33

9. CIVIL AND POLITICAL RIGHTS VIOLATIONS IN SANYANG

9.1 MOUNTING DISCONTENT

“They don’t listen to us because they said that if they move out the factory the government is going to be the one responsible for the money the factory spent. They don’t want to see us [...] They don’t care about us.”³¹²

Ibrahim Sanyang, activist and restaurant owner

The establishment of the FMFO factory generated tensions in Sanyang.

Before the factory even opened its doors, the youth of Sanyang expressed its discontent for the project because they were aware of the negative impact of other fishmeal factories on other coastal communities in Gambia. According to the locals, when the company and government officials arrived in Sanyang to survey the area, a group of youth got into an argument with them.

The tensions intensified since the factory started operating in 2018. A group of youth activists organized several protests, including on 30 June 2018, which was followed by the factory’s suspension in July (cf. Part 8.2). Among other issues, the protesters complained about lack of consultation, the factory’s impact on tourism and the environment including the disposal of the factory’s waste and the waste of fish. Activist Muhammed Jabang from Sanyang explained that they decided to protest after their complaints fell into deaf ears: “Before we did the protest in 2018, we tried to see several official people: Ministries of Fisheries, Tourism, Environment, Education, NEA. No one received us. We dropped off a letter formally to tell them our problem and that they take action, or we will protest.”³¹³ Jabang claims some officials of the Ministry of Fisheries and the Office of the President tried to convince them to abandon the plans to organize a protest. He is not the only activist who became frustrated after several attempts to express their concerns to the government. Solomon Senghore described his experience: We’ve met with NEA, we tried to talk to them, sometimes we have appointments they don’t come; we even met with the Ministry of Fisheries [...] in 2020, he said there is nothing wrong with the factory, that women can use the water for their gardens, and we can

³¹² Interview in person with Ibrahim Sanyang, 21 March 2022, Sanyang beach

³¹³ Interview in person with Muhammed Jabang, 21 March 2022, Sanyang

even drink it.”³¹⁴ After the factory reopened in December 2018, a group of youth uprooted the waste pipe going into the water early 2019.³¹⁵ The pipe was subsequently replaced.

Local activists claim criminality increased since the arrival of the fishermen working for the factory, and they feel like the local police does not take action to prevent it. In the evening of 14 March 2021, a young man from Sanyang named Gibril Ceesay was allegedly killed by a Senegalese fisherman providing fish to the factory and living with other fishermen in a compound near the scene of the attack. According to a witness, the man entered the house of Gibril’s neighbour with a knife, who fled to get help. Gibril and his brother went to their neighbour’s house to help. During the altercation the man stabbed Gibril and his brother; Gibril subsequently died. The incident prompted a protest the following day.

9.2 THE 15 MARCH 2021 VIOLENT PROTEST

“If there wasn’t a fishmeal factory here, then our equipment wouldn’t have been burned down” “the fight wasn’t even our fight, it was with the factory.”³¹⁶

Biram Diouf, a Senegalese fisherman who lost 150 nets during the events of March 2021. He does not work with the factory and has been fishing in the community for years.

In the morning of 15 March 2021, a group of youth in Sanyang who blamed the recently arrived Senegalese fishermen and the factory for the death of Gibril, burned down the police station and went to the beach to destroy the fishing equipment of Senegalese fishermen. They indiscriminately targeted recently arrived fishermen working with the factory and Senegalese fishermen who had been living in Sanyang for over 20 years providing fish to the community. The youth also burned part of Nessim fishmeal factory. The police came to the scene and used tear gas while the youth were throwing stones at the police.

³¹⁴ Interview in person with Solomon Senghore at the Bees Mouth, 23 March 2022, Sanyang

³¹⁵ Global Reporting Program and NBC News, “The fish you (don’t know you) eat”, 2020, globalreportingprogram.org/fishmeal

³¹⁶ Interview in person with Biram Diouf, 22 March 2022, Sanyang beach



 ↑ Burned police station being rebuilt in June 2021 ©Marta Colomer/Amnesty International

According to the Gambian Red Cross, 105 Senegalese families representing a total of 276 persons fled to the village of Batokunku, about 5km away from Sanyang. In total, 5,616 fishing nets, 10 fishing boats and 15 boat engines were burned.³¹⁷ Most of the Senegalese families who were established in Sanyang came back after three to four weeks, but many feel things have not been the same since the incident; as one Senegalese fisherman who has been working in Sanyang for over 30 years said: “This is the first time it is happening. We have been living here for more than 30 years and we never had any issues [...] the relationship with the community changed clearly, the attitudes have changed, the behaviours have changed as well”.³¹⁸

9.3 ARBITRARY DETENTIONS AND THE PROCEEDINGS AGAINST THE 19

“You should investigate first before you violate people’s rights. It is not fair to keep us in a place for a month, have our families cry. Today I’m still suffering those consequences. It is clear that they have violated our rights.”

³¹⁷ Interview in person with Gambia Red Cross in Gambia Red Cross office, 2 June 2021, Banjul

³¹⁸ Interview in person with a Senegalese fisherman, 4 June 2021, Sanyang beach

Without human rights this would be a jungle of no law. It is human rights that makes this world move now [...] it is for all of us.”³¹⁹

“Samba”, a former detainee from Sanyang

After the protest, the police arrested at least 50 people, some of them arbitrarily, over the course of the following eight days.³²⁰ Most were released without charge, but 22 were initially charged in Brikama magistrates court with criminal offences including arson, rioters demolishing buildings, unlawful assembly and conspiracy to commit felony.

The charges were dropped by the magistrates court, but 14 men were then charged again before the High Court, with conspiracy to commit misdemeanor, unlawful assembly and riot. Five others were charged with going armed in public, shop breaking, theft, arson, damage to property, conspiracy to commit arson, unlawful assembly and riot.

Amnesty International interviewed five former detainees, two of which are still on trial. After they were arrested, they were initially taken to the anti-crime unit in Bijilo. Their rights as detainees were not respected, including the right to be informed of the reasons for their arrest or detention, and the conditions of detention could amount to inhuman or degrading treatment, as one described: “For three days, they didn’t say anything to us or tell us why we were charged. We slept on concrete floor. We had a bucket for toilet, and we had to clean it ourselves.”³²¹ Another one said: “the cell was crowded [...] Some people slept where people urinated [...] Sometimes you get food, sometimes you don’t get food, but it is usually one meal per day. One day, we had three plates of food for more than 69 people.”³²² They were not allowed to shower for over a week.

Most of them stayed in the anti-crime unit for about 10 days, then were transferred to Mile II prison in Banjul, where they remained for about a month. The conditions of detention there were also very poor. As one explained: “it was very crowded. You could not sleep or straighten your legs. The toilet in the cell was a bucket.”³²³

Two men interviewed by Amnesty International told the delegation they were coerced to sign statements after being interrogated. One said: “I don’t know what I signed [...] I signed it because I was scared that they would beat me like they had beaten the others.”³²⁴ At least three of those interrogated by Amnesty International delegation alleged being beaten while being arrested and/or during their detention in the anti-crime unit, including being slapped, kicked, hung and beaten with electric cables all over the body.

The group of the 14 men was granted bail on 15 April 2021, while the group of five was granted bail on 19 April 2021.

On 21 February 2022, the case against the group of the five men was dismissed by the court. The case against the other group is still pending.

The government must carry out prompt, thorough, impartial, and effective investigations of all allegations of coerced confessions, torture, and other ill-treatment during arrests and detention according to their obligations under the Convention against Torture and the ICCPR, as well as take concrete steps to ameliorate the conditions of detainees in conformity with international standards, including the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (the Luanda Guidelines) adopted by the African Commission on Human and Peoples’ Rights in 2014. Moreover, the government must ensure the right to a fair trial, including prompt proceedings, for those still standing trial.

³¹⁹ Interview in person with “Samba” (Name has been changed to respect the interviewee’s anonymity), 25 March 2022, Sanyang

³²⁰ Foroyaa, “Police arrest 50 people following riot in Sanyang”, 23 March 2021, foroyaa.net/police-arrest-50-people-following-riot-in-sanyang

³²¹ Interview in person with “Diallo” (Name has been changed to respect the interviewee’s anonymity), 5 June 2021, Sanyang

³²² Interview in person with “Abdoulaye” (Name has been changed to respect the interviewee’s anonymity), 5 June 2021, Sanyang

³²³ Interview in person with “Abdoulaye”, 5 June 2021, Sanyang

³²⁴ Interview in person with “Abdoulaye”, 5 June 2021, Sanyang



↑ Photos of a former detainee's injuries that were sustained during the course of his detention ©Private

10. CONCLUSION

The diversity of marine resources in Gambian waters creates an opportunity for job creations and development for the country. However, the multitude of fishing actors present in Sanyang (local artisanal fishermen, fishermen working for the fishmeal factory, and industrial boats) also poses a risk of several human rights abuses and violations.

The lack of thorough consultation and transparency on fishing management infringes on the right to access to information and public participation. International fishing agreements are not systematically reviewed by parliament before they are put into practice, and communities were not properly consulted ahead of the establishment of the fishmeal factory.

In addition, the prevalence of illegal, unreported and unregulated (IUU) fishing by foreign industrial boats infringes on the right to work of local artisanal fishermen who have more and more difficulties finding fish and whose nets are regularly damaged by the foreign industrial boats fishing illegally. As a result, the work and standard of living of artisanal fish processors and traders, which include fish driers and fish smokers, is also impacted by IUU fishing as they buy their fish from artisanal fishermen. Fish processors selling pelagic fishes (sardinella for example) are also in direct competition with the fishmeal factory targeting the same species. Tonnes of fish is getting exported annually through the activities of fishmeal factories, foreign vessels and fish processors targeting foreign markets. Fish being the most important source of animal protein for the local population, there is a serious risk of food insecurity. Actors of tourism have also been negatively impacted by the presence of multiple fishing actors. On one hand, restaurant owners, similarly to fish processors, face the hike in fish prices due to fish scarcity and the high presence of foreign industrial trawlers. On the other hand, they claim tourism has declined due to the noxious smell coming from the fishmeal factory, which started before Covid-19 restrictions and persisted afterwards. Women working in gardens right behind the factory also complain that their productivity reduced since the factory started operating due to an increase in pests.

The potential environmental impact of the fishmeal factory needs to be further investigated especially as it relates to waste disposal, the noxious smell and the recurrence of dead fish on the beach as a direct consequence of overfishing by fishermen working for the factory. The factory needs to work in collaboration with the community to evaluate its impact on them and establish accordingly ways to mitigate or stop negative effects. Moreover, foreign industrial vessels and the fishmeal factory target species that are already fully exploited or even overexploited; this is the case of bonga, sardinella, grouper, deepwater rose shrimp and cuttlefish. The government needs to regulate the production of fishmeal factories and licenses to foreign vessels according to the status of the fish stocks and the need for local human consumption.

Tension between the community and the fishmeal factory exploded in 2021 when a group of local youths burned part of the factory and fishing equipment. In the aftermath, the police arrested at least 50 people, in some instances arbitrarily. At least two men claimed to have been coerced to sign a statement while in detention, while three claimed to have been beaten. The government must investigate any claims of coerced confessions and torture or other ill-treatment and ensure that the human rights of those who are still on trial are respected.

11. RECOMMENDATIONS

FOR THE GOVERNMENT OF GAMBIA

On socio-economic and environmental rights:

- Ratify relevant international instruments including: the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (The 1995 UN Fish Stocks Agreement); the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (the FAO Compliance Agreement);
- Implement relevant international instruments including: the FAO International Plan of Action for the Management of Fishing Capacity; the FAO 1995 Code of Conduct for Responsible Fisheries; the FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing;
- Commit to the Fisheries Transparency Initiative (FiTI) and its standard, a recognized guideline for information that should be made public regarding fisheries management, fishermen's activities, and fishing companies;
- Ensure all current and future agreements on fishing with foreign states are examined by the National Assembly and are made public;
- Ensure businesses act responsibly, comply with their human rights obligations, including properly consulting local communities before any project affecting them is initiated;
- Pass legislation requiring companies to conduct human rights due diligence in their operations and supply chains;
- Ensure enough budget for monitoring IUU fishing or seek international assistance, including enough trained staff, boats and monitoring tools;
- Ensure those engaging in IUU fishing are properly brought to justice and subject to appropriate sanctions;
- Ensure transparency for all activities with an environmental impact, including by ensuring all environmental impact assessments of businesses are published and easily accessible;
- Ensure public access to the list of fishing vessels authorized to fish in Gambia's waters with full information about the vessels and the type of fish caught;
- Pass national legislation recognizing and defining the right to a clean, healthy and sustainable environment in addition to right already set in the Constitution;

- Investigate potential harms caused by the factory to the community and the environment including waste disposal into the sea, the bad odour and the impact on vegetable gardens during the annual review of Nessim EIAS, and ensure effective remedies are put in place;
- Conduct an impartial, thorough and independent investigation into potential socio-economic and environmental impacts associated with the activities of the factory, and if found to be in breach provide remedies accordingly, including for instance compensation for affected communities and restrictions of the factory's activities including suspension of the factory's license until remedial steps are put in place;
- Implement the FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication;
- Regulate the production of fishmeal factories according to the status of the fish stocks and the need for local human consumption;
- Limit licenses provided to foreign trawlers according to the status of the fish stocks and the need for local human consumption;
- Adjust regional management plan and policies with other countries fishing in the region to ensure catches of shared stocks such as pelagic fishes remain within a safe limit and take this into consideration in the review of fishing agreements with foreign countries;
- Provide appropriate financial and other forms of social protection support to artisanal fishermen and those engaged in fish processing based on genuine consultation with them.

On civil and political rights:

- Ensure the right to a fair trial in the case of those prosecuted in relation to the events in March 2021, including a prompt procedure without undue delays and the right to a defence, in conformity with the rights of due process and in line with international law and standards;
- Carry out prompt, impartial, thorough and effective investigation of all allegations of torture and other ill-treatment and bring all those suspected of criminal responsibility to justice in fair trials and without recourse to death penalty;
- Take concrete steps to ameliorate the conditions of detainees in conformity with international standards, including the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (the Luanda Guidelines) adopted by the African Commission on Human and Peoples' Rights in 2014.

FOR NESSIM FISHMEAL FACTORY

In line with the UN Guiding Principles on Business and Human Rights, the company must put in place an ongoing and proactive human rights due diligence process to identify, prevent, mitigate and account for all potential and actual risks associated with the factory's operations. This process must include the following:

- Meaningful consultations with a representative section of the community directly impacted by Nessim's activities, ensuring gender balance;
- Publication of the EIAS and other relevant information;
- Undertaking an audit to assess the potential impact of the factory's activities on economic and social rights of the locals including, fishermen, fish processors, actors of tourism and people working in the garden nearby the factory; Make the results public; And depending on the results of the audit, take appropriate measures to remedy damages by compensating potential victims and take mitigating measures to avoid further damages;
- Undertake an audit to assess potential environmental impact of the factory's activities on the locals including the foul smell, the quantity and quality of fish taken and the impact of its activity on the gardens nearby; Make the results public; And depending on the results of the audit, take

appropriate measures to repair potential environmental damage, to mitigate further damage and to compensate potential victims;

- Conduct a study of the risks of the wastewater being discharged into the sea, publish it and adjust factory's activities accordingly;
- Ensure fishermen working with the factory use nets with the correct mesh size to avoid bycatch;
- Ensure fishermen working for the factory do not throw back into the sea fish not caught by the factory;
- Refrain from using juvenile fish and phase out the catch of species overexploited as assessed by the FAO;
- Ensure transparency by publishing information about the quantity and destination of products exported.

The company should also establish and publish a MOU with the community that outlines all social projects that the company commits to supporting and respect its commitment to the community to employ Sanyang residents.

FOR THE INTERNATIONAL COMMUNITY OPERATING IN GAMBIA

- Sign the Declaration on International Investment and Multinational Enterprises of the Organization for Economic Co-operation and Development (OECD) which recognizes that companies should respect all internationally recognized human rights wherever they operate;
- Pass legislation requiring companies to conduct human rights due diligence in their operations and supply chains;
- Regulate the feed industry to limit the use of fishmeal and fish oil (FMFO) made from fish that are already overexploited and increase transparency as to the origins of the fish used;
- Strengthen monitoring of IUU fishing by own citizens and support Gambia in its fight against IUU fishing;
- Ensure all fishing agreements with foreign states are ratified by the parliament;
- Require an environmental impact assessment for all fishing agreements and monitor compliance;
- Ratify relevant international instruments including FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing and the 1995 UN Fish Stocks Agreement.

FOR THE EUROPEAN UNION

- Further assist Gambia in monitoring the sea against IUU fishing.

FOR THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

- Take into account the issue of overfishing and its impact on human rights in Africa in the review of state reports and human right monitoring.

FOR COMPANIES IN THE SUPPLY CHAIN OF FMFO

- Conduct supply chain due diligence and publicly disclose due diligence policies and practices in accordance with international standards;
- If they find that human rights are at risk of being abused or have been abused at any point in the supply chain, these companies should take action, in cooperation with other relevant actors, to mitigate or remediate the harm.

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THE HUMAN COST OF OVERFISHING

HOW THE OVERUSE OF FISHERIES RESOURCES IN SANYANG THREATENS HUMAN RIGHTS

In Sanyang, people rely heavily on the fishing and the tourism sectors for their livelihood. However, in recent years, multiple fishing actors have sought after the rich biodiversity off the coast of Gambia, exporting their catch to external markets. Local fishermen compete with foreign industrial trawlers who, for some, fish illegally. As a result, fish processors are also impacted as fish is becoming harder to find and is more expensive. Those who specialized in pelagic fish also compete with fishermen exclusively working with a fishmeal factory. Considering that fish is an essential source of protein for the population, there is a risk of increasing food insecurity.

Those new fishing actors also negatively impact the environment as they are targeting species already deemed overexploited. In addition, the community raised several concerns about the factory: the treatment of its wastewater, the noxious smell coming from the factory and the occasional appearance of dead fish on the beach. We ask the authorities to conduct an investigation into the potential socio-economic and environmental impacts associated with the activities of the factory and provide remedies accordingly, as well as limit the factory's catch and licenses to foreign trawlers according to the status of the fish stocks and the need for local human consumption.

In this context, a violent protest erupted in Sanyang in March 2021. At least 50 men were arrested, more than 10 are still in proceedings. The authorities should investigate all allegations of forced confessions and torture and other ill-treatment while in detention.