Casting a Neocolonial Net
China’s Exploitative Fishing in the Gulf of Guinea

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China’s exploitation of fishing access and ports in the Gulf of Guinea creates an opportunity for the United States. China capitalizes on the weak bargaining power and enforcement capabilities of countries in the region, signing unequal contracts with local governments that enable unbridled resource extraction, illegal fishing, and military power projection. Chinese contracts mirror those enforced by Western countries during China’s Century of Humiliation. To combat these practices, the United States can employ tactics similar to those used by China between 1839 and 1949. The United States should provide legal support to local governments negotiating with China, while also conducting a public diplomacy campaign that highlights Beijing’s neocolonial behavior. Gulf of Guinea fisheries are a low-cost, low-risk setting where the United States can develop a model for mitigating Chinese predatory investment practices globally.

Introduction

Fishing is a vital source of employment and food security in the Gulf of Guinea, the body of water that abuts the twenty coastal countries of West and Central Africa from Mauritania to Angola. China increasingly concentrates its distant water fishing efforts in the Gulf of Guinea because of increased Chinese demand for fish and depleted fish stocks in the South China Sea.

Beijing capitalizes on the weak political and economic bargaining power of Gulf of Guinea countries to create exploitative contracts for fishing access and the development and use of ports. These unequal contracts mirror the unequal treaties signed at China’s expense during its Century of Humiliation. After the Opium War of 1839, Western powers forced China to open several ports to trade, in addition to demanding other concessions. Today, Beijing claims to share the experience of Western imperialism with African nations, presenting its partnership as an alternative to the West and an altruistic, “poor helping poor” approach. However, the unequal terms of fishing access and port contracts reveal the emptiness of China’s rhetoric. China is imposing a Century of Humiliation on Gulf of Guinea countries.

China’s exploitative fishing practices in the Gulf of Guinea create an opportunity for the United States. During the Century of Humiliation, China recruited lawyers who specialized in international law and foreign legal systems to persuade Western powers to renegotiate unequal treaties. China referred to this strategy as “self-strengthening.” The United States can coopt this strategy to bolster the negotiating power of Gulf of Guinea countries through legal capacity building. Such an approach will also create a model for helping allies and key states mitigate predatory Chinese investment practices globally.
China’s Neocolonial Fishing Practices in the Gulf of Guinea

In this way, for all of China’s denials that its overseas ambitions could be compared to those of Europeans or Americans, for all of its insistence that its actions are driven by fraternal solidarity with Africans... [h]ere were the beginnings of a new empire, a haphazard empire perhaps, but an empire nonetheless.

− Howard French, 2014

China takes advantage of Gulf of Guinea countries in three ways. First, China signs fishing access agreements that cover a fraction of the value of the fish the Chinese fleet extracts. Second, contracts do not reflect the volume of fish that the Chinese fleet extracts. Third, Chinese enterprises overestimate the cost of port construction and trap Gulf of Guinea countries in unfavorable lending terms.

China’s Pattern of Predation in Africa

The Belt and Road Initiative (BRI) allows Beijing to secure access to natural resources and markets and extend its influence abroad—reestablishing the commercial dominance it lost during the Century of Humiliation. The BRI encompasses a series of land and maritime infrastructure investments that connect China with foreign markets. Since the launch of the BRI in 2013, China has emphasized port construction, particularly in West Africa. Chinese companies also offer development finance and infrastructure in line with the “BRI spirit” in exchange for access to West and Central African fishing grounds.

The BRI poses three significant risks to Gulf of Guinea countries:

1. **Unsustainable and inflated debt.** African BRI partners often take on unsustainable levels of Chinese debt. Infrastructure projects fill a critical need in low and middle-income countries. However, critics raise concerns over China’s use of these countries’ strategic assets as collateral. The lack of transparency surrounding project contracts allows China to base their loans on inflated project costs. For example, the Chinese-built Entebbe-Kampala road in Uganda cost twice as much per kilometer as the Addis-Adama Expressway in Ethiopia, which was built by the same company.

2. **Greater Chinese leverage.** China has gained greater political and economic leverage over BRI partners through increasing debt burdens. For example, a 2014 slump in oil demand forced Angola to repay its debt to China with larger quantities of oil, sending Angola into economic distress. The economic impact of COVID-19 will likely heighten Africa’s debt burden, increasing the risk that China will influence states’ policies or gain control of key assets in exchange for debt restructuring or forgiveness.

3. **Reinforcing corruption.** China’s approach to development fuels corruption by rewarding senior African leaders who support Chinese interests. For example, Chinese businesses frequently pay bribes to obtain licenses. Corruption undermines fair bidding processes, increasing the likelihood that Chinese companies will overvalue project costs.
Across the continent, the majority of Africans perceive China’s development partnership positively. Chinese leaders promote the BRI as a “win-win” development blueprint that is devoid of any strategic goals and built instead on “sincere friendship, unity, and cooperation.” When pursuing agreements in Africa, China specifically emphasizes their common history of colonization by the West. African countries largely buy into this rhetoric. Even after China hacked computers and planted bugs in the Chinese-funded-and-built African Union, one African leader declared, “At least they never colonized us.” However, China’s exploitative fishing in the Gulf of Guinea belies this narrative.

China’s voracious appetite for fish has driven its fleet to African waters, where they extract most of their fish and engage in opaque and unfair practices. Contrary to Chinese rhetoric, the contracts for fishing access and ports are profoundly unequal.

**China’s Appetite for Fish in the Gulf of Guinea**

_They want us to come. They hope we come to set up processing and logistics and ports._

– Chen Ze Luan, 2018

Per capita fish consumption in China has risen more than 650 percent over the last 50 years. China also relies on fish and fishmeal in order to feed livestock and farmed fish. China has increased the size of its fishing fleet and catches a larger—often illegal—volume of fish to meet this growing demand.

- **Fleet subsidies.** China promotes overseas fishing by offering generous subsidies to Chinese vessels, averaging $5.9 billion a year. Official reports state that China’s distant water fishing fleet expanded to 2,571 vessels in 2016, increasing 46 percent from 2010. Unofficial estimates suggest that the Chinese fleet includes as many as 16,966 vessels. China’s annual catch also rose 78 percent over this same period.

- **IUU fishing.** China ranks as the worst offender in the world for illegal, unreported, and unregulated (IUU) fishing. Between 2000 and 2010, China caught 40 percent of its fish illegally. Chinese companies also repeatedly underreport the gross tonnage of their vessels, enabling them to underpay access fees. In addition, China’s fleet underreports its catch. The Chinese distant water fishing fleet’s catch is estimated at 4.6 million tons per year, while it only reports an annual average of 368,000.

Increased demand for fish has also led the Chinese fleet to target the Gulf of Guinea for its valuable marine resources. China is taking advantage of the region’s weak governance and need for foreign investment by implementing an exploitative strategy.

- **Opaque business operations.** China conceals its ownership of vessels to circumvent Gulf of Guinea countries’ laws. For example, although Ghana prohibits foreign-flagged trawlers from fishing in its Exclusive Economic Zone, it has had up to 107 industrial trawlers in its waters, 90 percent of which were Chinese-built. Chinese nationals captain
95 percent of the Ghanaian vessels with active licenses. Chinese enterprises conceal their ownership by paying off Ghanaian officials and keeping business operations opaque.

- **Strategic port investments.** China also leverages port investments in the Gulf of Guinea to expand its fishing capabilities and gain greater control over processing and distribution. The Gulf of Guinea hosts Chinese “fishing bases.” Chinese companies operate 75 percent of the ports they finance. For example, China-based Fuzhou Hong Dong Fishery Co. operates a fishing base in Nouadhibou, Mauritania that includes a fishing port, processing plants, and logistics facilities.

- **Unequal contracts.** China characterizes its fishing presence in the Gulf of Guinea as a mutually beneficial partnership. China established the China Africa Fisheries Union in 2012 to “develop African marine fisheries resources” as well as promote “cooperation” and “China-Africa trade of fisheries.” In reality, China compensates Gulf of Guinea countries only 4 percent of the value of the fish it extracts.

Chinese infrastructure investments are...
often overvalued and entail long-term lease agreements, tax exemptions, and other unfavorable terms.\textsuperscript{47}

As China’s need for fish increases, Chinese fleets have strategically selected the Gulf of Guinea as the site for fishing and ports because of its resource wealth. In addition, the Gulf of Guinea lacks strong bargaining power and governance, making it vulnerable to Chinese exploitation.

**The Gulf of Guinea’s Vulnerability to Chinese Exploitation**

Promise of money and new infrastructure has led Gulf of Guinea countries to strike unequal deals with China. Corruption and weak governance undermine the potential payoffs of development investment. With weak enforcement capabilities, the Gulf of Guinea is particularly susceptible to exploitation.

- **Need for investment.** The two large marine ecosystems in the Gulf of Guinea rank second and third most productive in the world.\textsuperscript{48} Most countries in the region, however, lack industrial fishing fleets.\textsuperscript{49} Gulf of Guinea countries fund their governments by selling fishing access rights. Such sales comprise, for example, 15 percent of the national budget in Mauritania and 30 percent in Guinea-Bissau.\textsuperscript{50} Additionally, a lack of port infrastructure contributes to shipping costs in the Gulf of Guinea that are 1.5 to 3.5 times higher than in other regions with high trade volumes.\textsuperscript{51}

  International fishing agreements allow countries in the region to profit from otherwise inaccessible marine resources.\textsuperscript{52} Gulf of Guinea countries thus accept Chinese investment because China seeks substantial profitable access rights and will help overcome their infrastructure deficit.

- **Weak fisheries management.** Ineffective national management of fisheries makes the Gulf of Guinea a prime target for IUU fishing.\textsuperscript{53} Forty percent of all catch in the Gulf of Guinea is illegal, which represents the highest level of illegal fishing in the world.\textsuperscript{54} IUU and overfishing leads to an annual loss of revenue for West Africa of between $1.3 billion and $2.3 billion.\textsuperscript{55} Gulf of Guinea governments prosecute less than 20 percent of IUU offenses, with many more offenses remaining undetected.\textsuperscript{56}

  Inaccurate reporting further deprives Gulf of Guinea countries of their marine resource wealth because coastal countries cannot collect critical taxes on unreported catch. For example, Guinea-Bissau relies on fishing taxes for 45 percent of its overall revenue—yet fishing fleets illegally capture an estimated 40,000 tons of fish from its waters annually.\textsuperscript{57}

- **Corrupt officials.** Corruption is pervasive in the fisheries sector, fueled by competition for scarce resources and the lack of transparency.\textsuperscript{58} For example, a 2008 official audit revealed that Guinea lost millions of euros through fraud and theft within the Ministry of Fisheries.\textsuperscript{59} Corruption and dependence on fisheries revenue also results in the uncontrolled issuance of fishing licenses.\textsuperscript{60} Ghana relicensed a Chinese-owned fishing trawler that has been caught for illegal fishing twice and has failed to pay its fines.\textsuperscript{61} The Senegalese
Fisheries Ministry granted licenses behind closed doors despite public assurance that 52 foreign applicants, of which 50 were Chinese vessels, had been rejected.\textsuperscript{62}

- **Limited port oversight.** In the Gulf of Guinea, China’s distant water fishing fleet takes advantage of ports of non-compliance—ports with lax regulations, tax exemptions, and inadequate inspections of vessels, gear, licenses, or catch.\textsuperscript{63} Ports of non-compliance enable IUU fishing boats to conceal their illegal catch. The Gulf of Guinea contains 14 such ports frequented by IUU vessels.\textsuperscript{64} Proximity to these ports of non-compliance made IUU fishing 3.45 times more likely in the Gulf of Guinea.\textsuperscript{65}

Chinese investment provides Gulf of Guinea countries with needed finance and infrastructure. However, Chinese companies take advantage of weaknesses in Gulf of Guinea fisheries to extract large volumes of fish without fair compensation. This exploitation has damaging environmental, humanitarian, and political consequences.

### Consequences of Chinese Exploitation in the Gulf of Guinea

*Twenty years ago, we could not have imagined that people from Joal would be eating sardines and sardinella. There were much better fish to eat. Now it's all we catch.*  
− Respondent from a Senegalese fish market, 2012\textsuperscript{66}

Depleted fish stocks in the Gulf of Guinea heighten employment and food insecurity, destabilizing an already fragile region. Unequal contracts also enable Chinese influence to grow locally and internationally by cultivating loyal African leaders and enabling power projection.

### Regional Consequences: Declining Environmental and Humanitarian Conditions

Overfishing is exhausting the supply of marine resources in the Gulf of Guinea. Many people in this region depend on fish for food and employment. Depleted fish stocks thus erode environmental and humanitarian conditions.

- **Environmental damage.** Overfishing and harmful fishing practices deplete valuable fish stocks in the Gulf of Guinea. Of the 51 species caught by commercial and small-scale fishers, 39 were threatened—nearly to extinction.\textsuperscript{67} With Africa’s population set to surpass 2 billion by 2040 and coastal migration expected to spike, depleted fish stocks will compound food and employment insecurity.\textsuperscript{68}

- **Food insecurity.** Fish constitute up to 75 percent of animal protein consumption for West Africans, and 6.7 million West Africans depend on fishing activities for their food or livelihood.\textsuperscript{69} Countries in the Gulf of Guinea now have to import more than half of the fish consumed because of declining fish stocks.\textsuperscript{70} Scarcity has caused the price of fish to rise as much as five-fold.\textsuperscript{71}
• **Job loss.** Local fisheries in Gulf of Guinea countries provide more than 600,000 jobs. The overexploitation of fish stocks has eliminated jobs and reduced non-industrial fishers’ income by as much as 40 percent. The large capacity of bottom trawlers also cuts employment opportunities, with Chinese industrial fishing providing 40 percent less jobs than small-scale fisheries. In the absence of adequate legal catch, fishermen engage in illegal activity, including piracy and trafficking of drugs, arms, and humans. The increasing production of fishmeal and fish oil disproportionately affects women who often process and distribute fish.

The overcapacity of industrial fleets is decreasing available fish stocks, which reduces food supply and drives unemployment and illegal activity in the fisheries sector.

### Geopolitical Consequences: Expansion of China’s Political Influence in Africa

China’s involvement in Gulf of Guinea fisheries and ports creates opportunities for China to expand its political influence. China has increased its leverage over Gulf of Guinea countries by dominating trade and investment in the region. China now stands to increase its political ties in the region.

- **Naval power projection.** China’s military-civil fusion strategy and National Defense Mobilization Law of 2010 ensure that the military has the ability and authority to use overseas ports. The proliferation of dual-use ports in the Gulf of Guinea positions China to extend its power projection in the future.

- **Coopting elites to gain political loyalty.** China rewards African countries for their political loyalty, securing the support of leaders through investment and corruption. According to AidData, voting with China in the United Nations General Assembly is correlated with an increase in aid received by African countries: as African alignment with Chinese positions increased by 10 percent, Chinese aid rose by 86 percent. African countries also increasingly support Chinese policy and positions diplomatically. For example, all 54 African countries except Eswatini have abandoned diplomatic relations with Taiwan.

Chinese investment strengthens political ties with Gulf of Guinea countries, ensuring future support on the international stage and creating opportunities for future military power projection.

### Shortcomings of Existing Approaches to Address Chinese Exploitation

Gulf of Guinea countries cannot rely on existing strategies to counter China’s exploitation in the region—to improve Chinese fishing practices or prevent unfavorable contracts. Methods to reduce IUU fishing and fishing capacity have been slow and ineffective. Simply cancelling contracts is untenable, as Gulf of Guinea countries benefit from foreign investment. Renegotiation could help
countries secure more favorable terms, but Gulf of Guinea countries often lack the capacity to bargain successfully.

**Addressing Exploitative Fishing Practices**

Recommended responses to exploitative fishing focus on enforcing contracts and limiting fishing capacity. However, these efforts are costly and cumbersome. Enforcement alone also fails to address inequitable contract terms.

- **Improve monitoring, control, and surveillance.** Strengthening monitoring, control, and surveillance (MCS) capacity will not capture the full value of marine resources. MCS capacity in the Gulf of Guinea remains low due to corruption, weak governance, and high monitoring costs. Dismal prosecution rates, unpaid penalties, and low cost of fines remain challenges, even with improvements in MCS capacity. Similarly, the 2016 Port State Measures Agreement would ineffectively target IUU fishing because of implementation challenges, insufficient participation, and loopholes. Even proper enforcement of fishing access contracts shortchanges Gulf of Guinea countries because contracts undervalue marine resources.

- **Reinforce regional collaboration.** Regional organizations and agreements help govern fisheries in the Gulf of Guinea, but collaboration is often ineffective. For example, the 2013 Yaoundé Code of Conduct aims to leverage cooperation to repress illegal maritime activities, but deficient legislation, disputed legal authority, and unclear boundaries undermine its efficacy. The prevalence of illicit maritime activity has only increased since the Code’s implementation. This result is also true for cooperation more broadly.

- **Reduce fishing capacity.** Eliminating harmful fisheries subsidies would reduce fishing capacity, but an international ban may not be feasible or effective in the near-term. Negotiations over a World Trade Organization agreement to curb harmful fisheries subsidies have continued for over two decades. If passed, China may still be able to circumvent the ban by leveraging developing nation status or obscuring its ownership of vessels.

**Addressing Unfair Resource and Infrastructure Contracts**

Some BRI partners have simply cancelled Chinese-supported investment. Others want to receive Chinese investment, but do not have the expertise or political will to secure better deals by renegotiating contracts.

- **Cancelling contracts.** Pushback is rare, but Sierra Leone notably cancelled a Chinese-funded and constructed airport in 2018, deeming it “uneconomical” and “a sham project.” Cancelling contracts successfully sidesteps debt, unfavorable terms, and unsustainable catches, but will cause countries to forego potentially valuable investment opportunities.
• **Renegotiating contracts.** Renegotiation of contracts could undo unfavorable terms, but many countries lack the necessary will and expertise. In 2019, the Tanzanian government renegotiated the terms of the agreement made between the former president and the Chinese construction company for the Bagamoyo Port and adjoining industrial zone. São Tomé and Príncipe also renegotiated a Chinese contract for a deep-water port, eventually pivoting to private sector investors. Although contract renegotiations can be effective, Gulf of Guinea countries often lack the financial resources, expertise, and governmental accountability to harness public discontent over unfair terms and counter demands made by a stronger negotiating partner.

China offers valuable investment to BRI partners, but many partners lack the capacity to prevent exploitation. The United States has an opportunity to support BRI partners by facilitating fair, productive investment.

### U.S. Aid to the Gulf of Guinea: An Opportunity to Shape the BRI

*It is important to draw a finer distinction between which Chinese activities threaten U.S. national security priorities and which Chinese engagements are neutral or complimentary to U.S. objectives.*

— Judd Devermont, 2018

The United States can work with Gulf of Guinea governments to prevent Chinese exploitation and shape the progress of the BRI. Unequal fisheries contracts in the Gulf of Guinea present a low-cost, low-risk opportunity for the United States to mitigate regional destabilization, promote equitable investment strategies, and benefit economically from China’s development finance.

A new approach is necessary because the United States:

• **Cannot outspend China.** The United States has been hostile to the BRI, yet it cannot crowd out Chinese development investment. The United States has increased its competitiveness by launching a new development institution, rivaling rates and terms of China’s state-owned banks, and promoting United States-Africa trade. However, the United States cannot match China’s level of development funding. The U.S. International Development Finance Corporation has $8.2 billion of active commitments in Africa, compared to the $60 billion China has pledged to the African continent.

• **Cannot stop Chinese investment.** The United States cannot reverse the appeal of Chinese investment. African countries continue to partner with China despite domestic discontent, even opposition. The history of U.S. imperialism and the conditionality and bureaucracy of U.S. development finance makes China an attractive partner for Gulf of Guinea countries. In addition, the nearly identical ratings of the economic and political influence of China and the United States demonstrate African countries’ greater concern for securing investment than selecting investors.
• **Cannot rely on BRI failure.** The United States cannot afford to stand by, expecting China to overextend and weaken its position in Africa.\(^{101}\) Despite China’s risky investments and increasing backlash among Africans, the BRI is not guaranteed to fail.\(^{102}\) Accepting China’s seizure of assets, such as ports, would also disrupt U.S. strategic access in the near and medium term. Likewise, non-intervention would force the United States to remain on the sidelines, waiting for a crisis, rather than strategically intervening to protect and promote its interests.\(^{103}\)

Unequal contracts for fishing access and ports in the Gulf of Guinea represent an opportunity for the United States to address weaknesses in Chinese investment.\(^{104}\) U.S. intervention can uphold the international rules-based order by promoting international maritime laws, contractual quality standards, and sustainable partnerships.\(^{105}\)

The United States will achieve more by engaging with China in the Gulf of Guinea.\(^{106}\) Chinese investment spurs global economic growth.\(^{107}\) In addition, the U.S. economy could benefit from improved port efficiency in sub-Saharan Africa, where unusually long dwell times in ports stall global supply chains.\(^{108}\) Chinese development finance also entails fewer conditions and delays than U.S. assistance, helping to fill the infrastructure deficit on a shorter timeline.\(^{109}\)

### Strengthening Bargaining Power through Legal Cooperation

* I want us to get a good deal out of this relationship, and you won’t get that by accident. China has a strategy, and we don’t, and they will take advantage of us, not because they are bad people, but because we haven’t been smart.*

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-Ghanaian National Kofi Bentil, 2014\(^{110}\)

The United States can coopt China’s own method of “self-strengthening” from its Century of Humiliation to help partners in the Gulf of Guinea overcome Chinese neocolonial practices. As combatting IUU fishing and overfishing has been slow and ineffective, Gulf of Guinea countries should target the unequal contracts signed for fishing access and ports. The United States can provide legal support to Gulf of Guinea countries, which often lack the capacity and expertise to design appropriate project goals or assess the requirements, risks, and long-term effects of projects. Adopting this low-cost strategy is an opportunity for the United States to counter China’s exploitation and advance U.S. interests.

This type of intervention has precedent—and has proven effective. The Myanmar government successfully renegotiated a Chinese-supported port contract with U.S. legal assistance. In 2015, the Myanmar government accepted Chinese funding for a $7.3 billion port project in Kyaukpyu.\(^{111}\) Following a regime transition, the new government worried the project exceeded the country’s needs and financial capacity, made it overly dependent on China, and led to a loss of sovereignty.\(^{112}\) The U.S. Agency for International Development dispatched a team of economists, diplomats, and lawyers who worked with local officials and technical experts to renegotiate this contract in 2018.\(^{113}\) The new terms raised the country’s ownership stake in the project from 15 to 30 percent, reduced the number of berths for the port, conditioned expansion plans on demonstrated feasibility, and slashed the cost to $1.3 billion.\(^{114}\)
Despite its efficacy, this intervention has yet to be replicated. However, the Gulf of Guinea is an ideal target for a legal cooperation intervention—and U.S. aid could enable the region to avoid its own Century of Humiliation.

Legal Cooperation Interventions in the Gulf of Guinea

There are five key steps to achieve a successful legal cooperation intervention in the Gulf of Guinea. Strategic involvement before, during, and after contract negotiations will bolster partners’ legal capacity to help secure more equal contract terms.

Before the Intervention

During the contract proposal stage, the United States can provide economic, diplomatic, legal, and technical support, mirroring its approach in Myanmar. The United States can increase the probability of future intervention success by strategically selecting target countries based on governance strength and transparency. Publicizing opposition to unequal contract terms and support for the intervention will increase buy-in. Conducting technical assessments will equip legal bodies with the data needed for the contract negotiations.

1. Select viable partners. Implementing this intervention first in countries with low corruption and high transparency ratings will demonstrate its effectiveness before expanding to less-ideal contexts. Corruption incentivizes government officials to accept unfavorable contracts and correlates with increased rates of IUU fishing and weak enforcement. Transparency of fishing access agreements, court cases, and government budgets protects against corruption. Based on these criteria, Cape Verde, São Tomé and Príncipe, and Senegal are suitable initial partners for this intervention.

Because Chinese investment is highest in Gulf of Guinea countries with high corruption ratings, the United States will need to partner with countries with greater propensities for corruption for the most impact. A two-pronged approach can help mitigate the potential consequences of corruption. First, the United States can engage local media in the Gulf of Guinea to spotlight corruption, similar to the work of the Global Anti-Corruption Consortium in the Gambia. Second, the United States can apply political pressure on corrupt leaders by tying foreign assistance to sustainable fisheries governance, similar to the United States’ Trafficking in Persons Report. Alternatively, the United States could pass Congress bill S1309, which institutes a similar tier system based on corruption ratings. Implementing this intervention first in countries with lower corruption ratings will generate evidence of effectiveness that can justify the addition of these conditions to U.S. foreign assistance.
The United States can also consider partnering with regional fisheries organizations to encourage contract negotiations at the regional level. Common contract terms and enforcement strategies can improve fisheries governance, especially due to the migratory nature of marine resources. Gulf of Guinea countries can work within existing frameworks like the Yaoundé Code of Conduct and Regional Fisheries Bodies.

2. **Generate public support.** The United States can conduct public relations campaigns to garner support for legal cooperation and improve the outcomes of negotiations. In Gulf of Guinea countries, the United States can foster domestic political climates ripe for coordination by exposing unequal Chinese contract terms. The United States can employ the rhetoric of the Century of Humiliation to undercut China’s claim to a benign, “win-win” approach to development. The U.S. Department of State can oversee these campaigns.

3. **Conduct technical assessments.** The presence of highly valued and increasingly scarce species in the Gulf of Guinea should make resource extraction lucrative. However, Gulf of Guinea countries often sell themselves short in negotiations because they lack the means to evaluate their marine resource wealth. Therefore, studies can be conducted to establish a baseline understanding of marine resources in the Gulf of Guinea. Organizations like the Food and Agriculture Organization have conducted such scientific assessments in the past and could provide similar analyses as part of this initiative.

### LEGAL COOPERATION INTERVENTION

**BEFORE THE INTERVENTION**

1. **Select Viable Partners**
   Identify viable countries on the basis of corruption and assessments of governance strength for highest success.

2. **Generate Public Support**
   Conduct campaigns to expose unequal contract terms, evoking rhetoric of the Century of Humiliation.

3. **Conduct Technical Assessments**
   Help countries acquire complete knowledge of available marine resources and their value.

**DURING THE INTERVENTION**

4. **Shape Contract Terms**
   Promote transparency of contract terms, include landing clauses, regulate transshipment, and encourage payments in assets over cash.

**AFTER THE INTERVENTION**

5. **Facilitate Legal Capacity Building**
   Partner with U.S. government and NGOs to disseminate information about contract terms, train legal authorities, and transfer knowledge and skills for continued impact.
Legal interventions by the United States can focus on renegotiating elements of unequal contracts—from pushing for transparency of contract terms and fishing data to guaranteeing payment in tangible assets.

4. **Shape contract terms.** Legal interventions can target four dimensions of existing contracts:

   First, legal advisors should encourage transparency of contracts and fishing data. Transparency encourages fairer terms by generating competition between companies. When contract details are made available, companies can be evaluated according to merit and competitive compensation rates. Publicly available information also allows civil society to scrutinize fisheries deals and data. In addition, coastal countries often lack the bargaining power to demand that vessels use monitoring systems and report catch totals. Countries can write these requirements into contracts to make transparent, accurate data available for fisheries management.

   Second, the inclusion of landing clauses—required amounts of catch to be brought to land—in contracts will enable Gulf of Guinea countries to capture greater profit from fisheries. Low and middle-income countries often control less than 50 percent of value-added processes, such as canning, smoking, and packing.¹²⁵ These processes can generate over 90 percent of profits for host countries.¹²⁶ Thus, landings would increase host countries’ income from fisheries.

   Third, contracts should be negotiated to regulate transshipments at sea and while boats are docked.¹²⁷ Transshipments refer to the transfer of catch from smaller vessels to reefers, which resupply smaller vessels, eliminating trips back to port and creating opportunities for IUU fishing.¹²⁸ Regulating transshipments will therefore help reduce exploitative practices.

   Finally, legal advisors should encourage payments to be made in tangible assets rather than cash in order to restrict corruption. Compensation should be primarily defined in tangible assets that strengthen countries’ MCS capacity and expand their participation in value-added processes. These tangible assets will thus serve a dual purpose: officials will not be able to misappropriate the payments, and the assets themselves will improve governance and profit in the fisheries sector.

After the initial intervention, the United States can help remedy the lack of legal expertise in the Gulf of Guinea and strengthen legal capacity. Together, these measures will help Gulf of Guinea countries hold Chinese fleets to contract terms and secure fair agreements with China in the future.
5. **Facilitate legal capacity building.** In general, transferring knowledge and skills necessary to upholding the rule of law will enable Gulf of Guinea countries to reap the greatest benefit from their maritime resources. Maritime legal officials lack adequate training in Gulf of Guinea countries. Disseminating information about contract terms is also crucial for adequate enforcement of agreements.

International nongovernmental organizations could spearhead the organization of educational workshops and creation of resources for legal officials, including lawyers, judges, and maritime police. Potential partners include Lawyers Without Borders and Greenpeace, which already work in the region and offer a broad range of legal support. To reduce corruption in legal systems, the United States can conduct this intervention alongside existing efforts with the Department of Justice’s Office of Overseas Prosecutorial Development, Assistance, and Training initiatives, which targets corruption.

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**A Model for Fighting Chinese Predatory Practices: Additional Applications of Legal Cooperation**

U.S. legal cooperation with Gulf of Guinea countries is a model for fighting China’s predatory practices globally. After developing legal cooperation interventions in Gulf of Guinea fisheries—a low-cost and low-risk setting—the United States can apply this model in other regions and industries:

- **Other exploited coastal regions.** The United States can conduct legal interventions in other exploited coastal regions of strategic interest, such as East Africa and Southeast Asia. Advancements in fishing technology and a rise in global fishing have stressed coastal countries beyond the Gulf of Guinea, including in South America, Latin America, Southeast Asia, Oceania, and elsewhere in Africa. Compensation for fishing access in these regions is comparably low. Similar to the Gulf of Guinea, these coastal regions generally lack scientific evaluations of their fish stocks, which leads them to undervalue their resources in negotiations. These regions also have limited negotiating power, making them prime partners for legal intervention.

- **Other resource sectors.** Legal cooperation in the fisheries sector provides a lower-cost proof of concept for other industries where it may be more costly to engage China. Short-term profit interests often prevail over sustainability and competitive compensation in other resource sectors. For example, in 2017, China offered Guinea a 20-year loan for $20 billion in exchange for concessions on bauxite. The local population protested the lack of local profits from Chinese investment, as well as health and environmental issues associated with Chinese mining companies. In Chile, a Chinese trading corporation signed another unequal contract for copper that locked in lower-than-market prices. Legal cooperation could therefore increase the wealth captured domestically and improve resource governance in other sectors, such as minerals, energy, and agriculture.
Other infrastructure projects. In addition to ports, low and middle-income countries face a deficit of physical infrastructure like roads and railways. Africa would need to spend between 130 and 170 billion dollars per year to meet the continent’s infrastructure needs.\(^\text{136}\) China has helped meet this demand, funding 40 percent of the infrastructure boom in Africa since 2011.\(^\text{137}\) However, Chinese deals are susceptible to inflated costs and unsustainable debt.\(^\text{138}\) China practices predatory lending for infrastructure in other regions as well. For example, the $5.9 billion joint venture China-Laos railway project is putting Laos at “risk of external debt distress.”\(^\text{139}\) Providing economic and legal assessments of proposed projects can ensure that countries can capitalize on available foreign investment without risking financial instability or a loss of sovereignty.

Conclusion

China traps Gulf of Guinea countries in a Century of Humiliation through inadequate compensation for marine resources, exclusion from value-added processes, exaggerated costs for building infrastructure, and long-term leases. Insufficient legal capacity prevents Gulf of Guinea countries from striking fair investment deals and creates opportunities for China to engage in exploitative fishing practices and expand its political influence.

Without intervention, fisheries will be exhausted in the Gulf of Guinea just as Africa’s population growth peaks in 2050.\(^\text{140}\) Overfished stocks will cause food supply and employment opportunities to plummet. Failure to intervene upstream by ensuring fair contract terms will lead to economic loss, environmental harm, humanitarian crises, and the expansion of China’s political influence.

Through legal cooperation, the United States will help Gulf of Guinea countries maximize benefits from development investment, while also managing China’s expanding economic and political reach. This low-cost initiative inspired by China’s own historical tactics can also be applied in other key industries and regions. Addressing the weak negotiating power of low and middle-income countries mitigates Chinese neocolonial development practices.
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China has extended $2.1 billion worth of debt relief to low- and middle-income countries and has cancelled interest-free loans made to African partners to help mitigate the Covid-19 pandemic. However, the impact of these measures will be minimal since the majority of Africa’s debt burden remains. In total, however, low- and middle-income countries owe more than $110 billion to China, and interest-free loans represent only 5 percent of African’s debt to China. China will more likely restructure or refinance than forgive the bulk of African countries’ debt, which could jeopardize assets and debt levels down the road. See: John Campbell, “As Africa Faces COVID-19, Chinese Debt Relief Is a Welcome Development,” Council on Foreign Relations, June 30, 2020, https://www.cfr.org/blog/africa-faces-covid-19-chinese-debt-relief-welcome-development; Reuters Staff, “China Says Has given $2.1 Billion of Debt Relief to Poor Countries,” Reuters, November 20, 2020, https://www.reuters.com/article/us-china-debt-g20-idUSKBN28009A.

Infrastructure investments can help keep leaders in power by constructing tangible markers of leaders’ accomplishments. For example, the banner announcing the 2007 opening of a Chinese-built road in Republic of the Congo under President Sassou-Nguesso read, “A Dream Come True Thanks to Sassou.” As another example, China funded the construction of a $3 million “Friendship Building” that would house Sierra Leone’s APC party’s regional headquarters while claiming that “it was the policy of the Chinese Government not to interfere in the domestic affairs of any friendly country.” In Gulf of Guinea countries, evidence of this “palace diplomacy” has also been discovered in Benin, Guinea, and Liberia. See: Joshua Meservey, “China’s Palace Diplomacy in Africa,” War on the Rocks, June 25, 2020, https://warontherocks.com/2020/06/chinas-palace-diplomacy-in-africa/; Amadu Daramy, “Over APC US$3m Building… SLPP Meets Chinese Ambassador,” Global Times News, May 29, 2017, https://www.globaltimes-si.com/over-apc-us3m-building-sllp-meets-chinese-ambassador/.


Meservey, “Chinese Corruption in Africa.”


Godfrey, “China Rushing to Build Global Fishing Bases.”

The exponential increase in China’s fishing fleet raises international alarm. Chinese fishery officials pledged to cap the country’s distant water fishing fleet at 3,000 vessels. However, this seems to be an empty commitment, with unofficial estimates counting nearly 17,000 vessels. See: Godfrey, “China Rushing to Build Global Fishing Bases”; Pala, “China’s Monster Fishing Fleet”; Miren Gutiérrez et al., “China’s Distantwater Fishing Fleet: Scale, Impact and Governance” (ODI, June 2020), https://www.odi.org/sites/odi.org.uk/files/resourcedocuments/chinesedistantwaterfishing_web_1.pdf.

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28 Godfrey, “China Rushing to Build Global Fishing Bases.”  
29 The exponential increase in China’s fishing fleet raises international alarm. Chinese fishery officials pledged to cap the country’s distant water fishing fleet at 3,000 vessels. However, this seems to be an empty commitment, with unofficial estimates counting nearly 17,000 vessels. See: Godfrey, “China Rushing to Build Global Fishing Bases”; Pala, “China’s Monster Fishing Fleet”; Miren Gutiérrez et al., “China’s Distantwater Fishing Fleet: Scale, Impact and Governance” (ODI, June 2020), https://www.odi.org/sites/odi.org.uk/files/resourcedocuments/chinesedistantwaterfishing_web_1.pdf.


Pauly et al., “China’s Distant-Water Fisheries in the 21st Century.”

Environmental Justice Foundation, “China’s Hidden Fleet in West Africa.”


See: Tabitha Mallory and Ian Ralby, “Evolution of the Fleet: A Closer Look at the Chinese Fishing Vessels off the Galapagos,” Center for International Maritime Security, October 19, 2020, https://cimsec.org/evolution-of-the-fleet-a-closer-look-at-the-chinese-fishing-vessels-off-the-galapagos/. The most common form of port investment is Engineering Procurement Construction + Finance + Invest, which accounts for a third of Chinese port investment in Africa and gives Chinese entities considerable influence in port development and operation. The second most prominent model of port investment is public-private partnership. This model entails leasing the publicly-owned port to private companies and is deemed most appropriate for resource-rich countries in West Africa. For more on the types of port investment and the frequency of each model: Zhongzheng Yang et al., “China’s Investment in African Ports.”

Godfrey, “China Rushing to Build Global Fishing Bases.”

Devermont, “Assessing the Risks of Chinese Investments.”


Estimates of China’s total catch include both legal and illegal quantities. In addition to direct payments, China secures fishing access through infrastructure investments, including port infrastructure in Mauritania, a dam and stadium in Cape Verde, and a national assembly and senate in Gabon. See: Belhabib et al., “Euro vs Yuan.”


Of the Gulf of Guinea countries, only Ghana uses industrial units to harvest tuna, the most sought-after resource in these waters. See: Failier, “Review of previous and current fisheries agreements.”


Fishing agreements involve financial compensation for the right to access living marine resources (defined as ‘fish’) take three forms: bilateral or multilateral agreements between (1) the host government and foreign governments, (2), the host government and foreign companies, and (3) private agreements between companies in the host country and foreign nation, including joint ventures and vessel chartering. See: Pierre Failler, “Consultancy to Conduct a Review of Previous and Current Fisheries Agreements Concluded by Some African Union Member States,” August 2015, https://doi.org/10.13140/RG.2.1.4500.9045; Belhabib et al., “Euro vs Yuan.”


56 Underreported catches and incursions by trawlers into the zones reserved for artisanal fishers represent the most recurrent offenses. The frequency of underreporting can be explained by the formula for calculating fishing access fees: fees are paid on the basis of the total gross registered tonnage—a measure of the cargo-carrying capacity of a vessel. Thus, underreporting capacity and fishing effort reduces fishing fees. Vessels from Asia are known to underreport their gross registered tonnage. See: Doumbouya et al., “Assessing the Effectiveness.” National legislation in 19 of the 20 Gulf of Guinea countries considered here (all except the Democratic Republic of the Congo) designate artisanal fishing zones in which artisanal fisherman have exclusive fishing access. Of the 4.2 million industrial fishing hours industrial fleets spend an estimated 3-6 percent of the time fishing within inshore areas reserved for small-scale fisheries. African flagged vessels accounted for 43 percent of the total number of these estimated hours, with Ghanaian flagged vessels constituting nearly a quarter of fishing by all large-scale fishing fleets in restricted areas. Chinese flagged vessels ranked forth. See: Dyhia Belhabib et al., “Catching Industrial Fishing Incursions into Inshore Waters of Africa from Space,” Fish and Fisheries 21, no. 2 (2020): 379–92.; Doumbouya et al., “Assessing the Effectiveness.”


58 Standing, “Corruption and Commercial Fisheries in Africa.”

59 Ibid.

60 Okafor-Yarwood, “Illegal, unreported, and unregulated fishing.” Countries that encourage the establishment of joint ventures between foreign and domestic companies – such as Ghana, Angola, and Senegal – are particularly vulnerable to conflicts of interest in fisheries management. Fishing boats owned in part by senior officials are able to engage in illegal activity under protection from arrest and investigations. For example, inspectors in Angola often failed to report irregularities when boats were co-owned by politicians and public officials. See: Standing, “Corruption and Commercial Fisheries in Africa.”


70 Environmental Justice Foundation, “China’s Hidden Fleet in West Africa.”

71 Pala, “China’s Monster Fishing Fleet”; Nwoye, “The EU Subsidies.”

72 Nwoye, “The EU Subsidies.”


74 Aldred, “Saiko Fishing.”


By contrast, some have argued that the cancellation of fishing agreements with distant water fishing nations in conjunction with effective fisheries management plans will increase domestic harvest and, therefore, secure greater domestic benefit and sustainable catches. However, Gulf of Guinea countries will not capture this economic benefit of contract cancellation without simultaneous large-scale improvements in fisheries management. Such improvement is unlikely in the near-term without significant intervention. See: Gagern and van den Bergh, “A Critical Review of Fishing Agreements.”


China planned investment for a Deep-Sea Trans-Shipment Port in São Tomé and Principe that its fishing companies could use to unload small and medium-sized boats. However, São Tomé and Principe officials believed the project was impractical due to its financial capacity, small domestic market, and few maritime trading partnerships. After two years of negotiations over the deepwater port, the minimum cost of the project dropped from $800 million. Disagreements over the scale of the project with Chinese authorities also led the São Tomé and Principe government to pivot to private sector investors. See: “São Toméan and Chinese Governments Leave São Tomé Port Project to Private Sector,” CLBrief, January 15, 2020, https://www.clbrief.com/sao-tomean-and-chinese-governments-leave-sao-tome-port-project-to-private-sector/. The port may not be profitable because few countries would use it. São Tomé and Principe trades primarily with three countries: Portugal (53.75 percent), Angola (23.20 percent), and China (5.82 percent). See: WITS Data, “Sao Tome and Principe Trade,” accessed March 25, 2021, https://wits.worldbank.org/countrysnapshot/en/STP.


An article in a Nigerian newspaper stated that the United States “represents another imperialist interest.” See: Nwabufo, “Nigeria’s abusive marriage.”


104 Shortcomings of Chinese development include environmental damage, uncompetitive or inflated prices, low feasibility, military and intelligence objectives, and dismal long-term economic assessments. See: Russel and Berger, “Navigating the Belt and Road Initiative”; Slayton, “Africa: The First US Casualty”; Russel and Berger, “Weaponizing the Belt and Road Initiative.”


109 French, China’s Second Continent, 137-138, 152; Wong et al. “China’s Development Model.”

110 French, China’s Second Continent, 206.


São Tomé and Príncipe carried out its last assessment of fish stocks in 1984. See: Failler, “Review of previous and current fisheries agreements.” Technical assessments tend to be dated, such as the 1962 resource survey in Nigeria and the 1999 resources survey in Benin, Togo, Ghana, and Côte d’Ivoire. These assessments also tend to be conducted by foreign nations or international organizations, including the Food and Agriculture Organization. See: J.C. Ogbonna, “Tropical Shrimp Fisheries and Their Impact on Living Resources,” accessed March 25, 2021, http://www.fao.org/3/y2859e/y2859e07.htm; Sigbjørn Mehl et al., “Surveys of the Fish Resources of the Western Gulf of Guinea (Benin, Togo, Ghana & Cote d’Ivoire): Survey of the Pelagic and Demersal Resources 19 April - 6 May 1999” (Institute of Marine Research (IMR), 2002), https://core.ac.uk/download/pdf/52046719.pdf. Countries have identified the need for bolstered scientific research capacity to conduct stock assessments. See: Aliou Sall and Immeuble Fahd, “Regional Action Plan: Western Africa RFU Dakar, Senegal” (ACP Fish, September 2010), 18.

Maritime wealth blindness causes Gulf of Guinea countries to undervalue their resources when negotiating with most distant water fishing nations. The European Union, Russia, Japan, and South Korea all fish in the Gulf of Guinea, offering compensation from as low as 3 to as high as 13 percent of landed value. The European Union (EU) frequently underreports its gross tonnage and catch totals, only pays a fraction of the value of its catch, and participates in IUU fishing. The EU’s average annual illegal catch was 224,000 between 2000 and 2010, while China’s was 761,000 tons during the same period. Illegal catch represented 4 percent of the total value of $3.7 billion taken by the EU over the decade. In comparison, 40 percent of China’s catch—$1.7 billion of the total $4.7 billion—was deemed illegal. The EU reports 29 percent of its estimated total catch, while China reports only 8 percent. See: Euro vs Yuan: Comparing European and Chinese Fishing Access in West Africa; Neil Munshi, “The Fight for West Africa’s Fish,” Financial Times, March 13, 2020, https://www.ft.com/content/0eb523ca-5d41-11ea-8033-fa40a0d65a98. Also see: Gagern and van den Bergh, “A Critical Review of Fishing Agreements”; Failler, “Consultancy to Conduct a Review.” Implementing legal cooperation interventions during fisheries negotiations with these distant water fishing nations would therefore help Gulf of Guinea countries capture greater overall value for their marine resources. In addition, the maritime wealth awareness acquired through these assessments can influence legislation at the state and regional level. Knowledge of maritime wealth and activity can shape Fisheries Acts, Ministerial Decrees, Executive Orders, and Regional Fisheries Management Organizations.

Gagern and van den Bergh, “A Critical Review of Fishing Agreements.”

Fisheries would contribute a landed value of $20 billion to national economies in the Gulf of Guinea if all catches were landed in the Gulf of Guinea, with an additional $3.6 billion that would be generated across value-added processes. See: Belhabib et al. “The fisheries of Africa.” Cape Verde has uniquely succeeded in improving conditions for the landing of tuna, building new processing plants, and increasing international maritime routes in...

127 Gambia, Guinea-Bissau, Sierra Leone, Liberia, Ghana, and Gabon all allow transmissions at-sea, often because their ports cannot accommodate large fishing vessels. Guinea authorizes transshipments at-sea with special authorization. These countries can require that transshipments take place at deepwater ports or near ports in order to ensure easy access for port inspectors. The Environmental Justice Foundation suggests transshipments happen within one nautical mile of a port. See: “Transhipment at Sea: The Need for a Ban in West Africa” (Environmental Justice Foundation, 2013), https://ejfoundation.org/resources/downloads/ejf_transhipments_at_sea_web_0.pdf.

128 Specialized catcher vessels—such as bottom trawlers, purse seiners, and longliners—are another crucial component of the Chinese distant water fishing fleet, as these vessels transship catch to reefer. See: China’s distant-water fisheries in the 21st century; Boerder et al., “Global Hot Spots of Transshipment of Fish Catch at Sea.”


130 The 2016 capture of the MAXIMUS—a vessel seized by pirates—by the Nigerian Navy revealed the need for improvement of legal competency. After the Nigerian Navy apprehended the vessel, the pirates challenged the Nigerian officers’ legal authority, claiming they were in international waters. The legal argument was baseless, yet it delayed the legal process because the officers questioned their own authority. See: Ralby, “Learning From Success.”


133 Ibid.


137 Ibid.


140 French, China’s Second Continent, 93.