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Legal report on the ecosystem approach to fisheries in Ghana

An analysis of the ecosystem approach to fisheries in selected
national policy and legal instruments of Ghana

FAO EAF-Nansen Programme Report No. 44
EAF-N/PR/44 (En)



PROGRAMME REPORT

THE EAF-NANSEN PROGRAMME

The EAF-Nansen Programme “Supporting the Application of the Ecosystem Approach to Fisheries Management considering Climate and Pollution Impacts” supports partner countries and regional organizations in Africa and the Bay of Bengal improving their capacity for the sustainable management of their fisheries and other uses of marine and coastal resources through the implementation of the Ecosystem Approach to Fisheries (EAF), taking into consideration the impacts of the climate and pollution.

The EAF-Nansen Programme is executed by the Food and Agriculture Organization of the United Nations (FAO) in close collaboration with the Institute of Marine Research (IMR) of Bergen, Norway, and funded by the Norwegian Agency for Development Cooperation (Norad). This Programme, which started in 2017, represents the current phase of the Nansen Programme which started in 1975.

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By Julia N. Nakamura & Teresa Amador

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Abstract

Legislating for an ecosystem approach to fisheries (EAF) is complex, due to the holistic nature of EAF involving multiple factors that underpin the social, economic, environmental, and institutional aspects of fisheries sustainability. These factors include ecosystems integration, risks, inter-sectoral collaboration, research, participatory processes, monitoring, control, surveillance, and enforcement, among others. To assess how an EAF is being implemented through national policy and legal frameworks, FAO developed [A diagnostic tool for implementing an ecosystem approach to fisheries through national policy and legal frameworks](#).

The present legal report on the EAF used the diagnostic tool to assess the alignment of selected policy and legal instruments of Ghana with an EAF. This assessment analysed the extent to which 82 EAF legal requirements, which are considered the minimum standards in legislating for an EAF, are reflected in Ghana's policies and legislation relevant to the fisheries sector of the country and other relevant sectors (such as environment, wildlife, ecosystems, and maritime affairs). Based on this preliminary diagnosis, gaps were identified in the assessed instruments, and recommendations were made for improving the implementation of an EAF.

This report was elaborated following a participatory approach with the involvement of the national competent authorities of Ghana. Drafted in July 2021, the report was submitted to the national authorities of Ghana in October 2021. The Ministry of Fisheries and Aquaculture Development of Ghana and the Fisheries Commission endorsed this EAF Legal Report of Ghana in December 2021.

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The initial draft of this EAF Legal Report was prepared by Julia Nakamura, under the supervision, counsel and technical input of Pio Manoa, and extensively reviewed by Teresa Amador. Further improvements were made through the inputs and comments collected from participants in an FAO internal online mock-training in April 2020, in which the methodology and scope were clarified. Appreciation is extended to Blaise Kuemlangan, Buba Bojang and Minmin Lei of LEGN, Merete Tandstad of NFIFM, the participants of the mock-training, and all other FAO colleagues who supported the development of this EAF Legal Report.

This EAF Legal Report also benefitted from the contributions of the Fisheries Commission of Ghana, which provided additional relevant information. We are also grateful to the delegates of Ghana who, following the *First Online regional workshop on the use of the Diagnostic Toll on Implementing an EAF through policy and legal frameworks* (15–17 September 2020), have conducted their own assessment, applying the EAF Legal Checklist against selected policies and legislation of Ghana. The findings of this country assessment were incorporated into the present EAF Legal Report, improving the overall information reported.

Abbreviations and acronyms

| | |
|--------|---|
| CECAF | Fishery Committee for the Eastern Central Atlantic |
| EAF | ecosystem approach to fisheries |
| EIA | environmental impact assessment |
| FAO | Food and Agriculture Organization of the United Nations |
| FC | Fisheries Commission (of Ghana) |
| FCWC | Fisheries Commission for the West Central Gulf of Guinea |
| FMP | fishery management plan |
| IMO | International Maritime Organization |
| IUU | illegal, unreported and unregulated (fishing) |
| MCSE | monitoring, control, surveillance and enforcement |
| MPA | marine protected area |
| NGO | non-governmental organization |
| RFMO/A | regional fisheries management organization and/or arrangement |
| TAC | total allowable catch |
| VMS | vessel monitoring system |

1. Introduction: legislating for an ecosystem approach to fisheries

The Food and Agriculture Organization of the United Nations (FAO) has promoted the implementation of the ecosystem approach to fisheries (EAF) through various activities conducted over the last decades (FAO, 2018), many of which under the EAF-Nansen Programme (FAO, n.d). Among the many ways or processes through which the EAF can be implemented is the review of national policies and/or legislation, which provides a country the opportunity to reassess its respective policy and legal frameworks, identify the gaps and/or needs for improvement, and present recommendations for enacting new policy and/or legal instruments for an EAF, and/or amending the existing ones so that they are appropriately aligned with an EAF.

FAO's initiative to promote legislating for an EAF has been undertaken through the development of studies, guidance materials and tools (Skonhoft, 2011; FAO, n.d-b; FAO, 2016; FAO, 2020; FAO, 2021a; FAO, 2021b; FAO, 2021c; FAO, 2021d; FAO, 2021e).

1.1 A diagnostic tool for implementing an ecosystem approach to fisheries through national policy and legal frameworks

The latest material developed by FAO for the implementation of an EAF through national policy and legal frameworks, published in 2021, is [*A diagnostic tool for implementing an ecosystem approach to fisheries through national policy and legal frameworks*](#), hereafter referred to as "EAF Legal Diagnostic Tool" (FAO, 2021a; FAO, 2021b; FAO, 2021c). This tool, which constitutes the basis for the development of the present report, provides important information about the EAF and should be read together with this report. Such relevant information includes a non-exhaustive list of international legal instruments that support an EAF (Appendix A of the EAF Legal Diagnostic Tool), and a non-exhaustive list of examples of selected national policy and legal instruments relevant for an EAF (Appendix B of the EAF Legal Diagnostic Tool).

The Appendix C of the EAF Legal Diagnostic Tool provides the EAF Legal Checklist for Assessment and Implementation of the EAF Policy and Legal Frameworks (hereafter referred to as "EAF Legal Checklist"), based on which the level of alignment of a country's policy and/or legal frameworks with an EAF and the 17 EAF Components can be assessed (FAO, 2016).

1.2 International legally binding instruments and non-legally-binding instruments relevant to an ecosystem approach to fisheries

There are several international legally binding and non-legally-binding instruments that provide for an EAF. The Appendix A of the EAF Legal Diagnostic Tool highlights, in a non-exhaustive list, selected provisions of international instruments or decisions relevant for

an EAF. Other legally binding instruments in support of an EAF are the applicable conservation and management measures of regional fisheries management organizations/arrangements (RFMO/As) which should also be taken into account, on a country-by-country basis, in the assessment of a given country's EAF commitments.

It should further be noted that provisions of international non-legally-binding instruments that reflect principles of international law are also legally binding and therefore relevant in the analysis of the national policy and legal frameworks.

States which are a party to multilateral conventions or agreements, as well as States which adopt or endorse international non-legally-binding instruments that reflect principles of international law have the duty to align their national policy and legal frameworks with the obligations that derive from such international and regional instruments.

In light of these considerations, Table 1 below provides the present status of Ghana in respect to the EAF's relevant international legally binding instruments selected from Appendix A of the EAF Legal Diagnostic Tool.

| Table 1. Status of Ghana in selected international legally binding instruments relevant to an EAF | |
|---|---------------------|
| Instrument | Status ¹ |
| 1971 Ramsar Convention on Wetlands of International Importance | Party |
| 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora | Party |
| 1979 Convention on the Conservation of Migratory Species of Wild Animals | Party |
| 1982 United Nations Convention on the Law of the Sea | Party |
| 1992 Convention on Biological Diversity | Party |
| 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas | Party |
| 1995 United Nations Agreement for the Implementation of the Provisions of the LOSC relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks | Party |
| 2009 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing | Party |

Ghana is a **Party** to all the selected international legally binding instruments relevant for an EAF. For such instruments as well as for the non-binding instruments that Ghana has endorsed or adopted, it is important to ensure that the relevant provisions of an EAF highlighted in Appendix A of the EAF Legal Diagnostic Tool are properly reflected in the national legal and policy frameworks.

¹ In accordance with the information provided in the secretariats of the international conventions and agreements as of 11 April 2020.

2. Legal report on the ecosystem approach to fisheries: assessing a country's policy and legal framework

The EAF Legal Diagnostic Tool was the main tool used for the preparation of this report (hereafter referred to as the “EAF Legal Report”). Selected national policies and legislation were assessed and applied against the EAF Legal Checklist.

This section is divided into two subsections. Subsection 2.1 describes the methodology and scope, including the selection of the national policy and legal instruments relevant for an EAF and the assessment of the EAF legal requirements in such instruments by filling in the EAF Legal Checklist using the symbols under Table 3 below. Subsection 2.2 provides an overview of main findings, highlighting some specific parts of the policy instruments and legal provisions identified as good practice in legislating for or addressing an EAF, and summarizes the information provided by Ghana under the EAF legal questionnaire.

2.1 Methodology and scope

Understanding the complexities, detail and broad range of matters that an EAF comprises is a challenge due to *inter alia* its holistic nature and the context and priorities of each country. A simplified assessment methodology was therefore developed for the application of the EAF Legal Checklist against the selected national policy and legal instruments, leading to the compilation of this report.

During the elaboration of this EAF Legal Report, the Fisheries Commission of Ghana (hereinafter referred to as “National EAF-Focal Point”) was contacted and provided additional information concerning the implementation of the EAF at national level which has been included in this report.

This desk-based preliminary assessment cannot however replace an in-country detailed assessment of the national policy and legal frameworks.

2.1.1 Selection and collection of national policy and legal instruments of Ghana

The main source for the selection and collection of national policies and legal instruments was FAOLEX (FAO, n.d-b) which, besides the Constitutions of countries, provides a vast electronic repository of national policy and legal instruments on fisheries and other sectors relevant for an EAF, including on environment, sea, water, and wild species and ecosystems.²

Additional relevant information was provided by the National EAF-Focal Point, which, together with the relevant information for an EAF available at FAOLEX in November 2020, is listed under **Appendix A** and identified by a reference letter and number to facilitate their citation in the

² Notwithstanding the importance of certain cross-sectoral issues such as gender and climate change, these were not considered in this report.

EAF Legal Checklist provided in **Appendix B** of this report. Appendix A and Appendix B shall therefore be read together.

2.1.2 Desk-based stepwise assessment of selected national policy and legal instruments

The selected national policy and legal instruments relevant for an EAF under **Appendix A** of this report were assessed against the EAF Legal Checklist following the steps described in Table 2 below.

| Table 2. Summary of the stepwise assessment | | |
|---|---|---|
| Steps | National policy and legal instruments analysed | Scope |
| 1 st | Fisheries policy: a plan, policy, strategy, action plan, policy chart concerning fisheries, aquaculture, wildlife, sea and/or oceans, sustainable development, management and/or conservation. | Searching for the EAF legal requirements with a focus on the parts of the policy that address the principles, objectives, plans, priorities, recommendations, strategies and actions. |
| 2 nd | Fisheries primary legislation: a fisheries act, code, law, or any other type of instrument implementing the fisheries policy as well as the general law on fisheries, forestry and wildlife providing the legal framework for fishing and fishing related activities. It is the main legal instrument on fisheries, which contains the typical outline and broadly covers the subjects described in subsection 3.1 of the EAF Legal Diagnostic Tool. It should be noted that this typical outline is without prejudice to the particular structure of the fisheries primary legislation of the assessed country. | Searching for the EAF legal requirements in each provision of the fisheries primary legislation. |
| 3 rd | Fisheries secondary legislation implementing or elaborating the fisheries primary legislation: fisheries decree, regulation, order, ordinance which sets out in more detail the requirements of the fisheries primary legislation – concerning e.g. fishing vessel registration, fishing vessel requirements, vessel monitoring system (VMS), fisheries research, fisheries fund, small-scale fisheries. | Searching for the EAF legal requirements not found in the relevant parts of the fisheries policy nor in the provisions of the fisheries primary legislation. |
| 4 th | Other sector's primary legislation: an act, code or law on the relevant sectors of <i>inter alia</i> environment, sea, water, and wildlife species and ecosystems. | Searching for the EAF legal requirements not found in the relevant parts of the fisheries policy nor in the provisions of the fisheries primary and secondary legislation. |
| 5 th | Other sector's secondary legislation: a decree, regulation, order, ordinance regulating the primary legislation of other sectors assessed under step 4. | Searching for the EAF legal requirements not found in the relevant parts of the fisheries policy nor in the provisions of any of the previously assessed legal instruments. |

The Fisheries Commission of Ghana conducted their own assessment, applying the EAF Legal Checklist against selected policies and legislation of Ghana. The information provided and the results of the country self-assessment have been incorporated into this report.

2.1.3 Filling in the Ecosystem Approach to Fisheries Legal Checklist of Ghana

The EAF Legal Checklist provides the EAF legal requirements structured by the 17 EAF Components, based on a step-wise methodology (FAO, 2021, Subsection 2.2), and in accordance with the typical subjects of a fisheries primary legislation, without prejudice to the particular structure of the fisheries primary legislation of Ghana (FAO, 2021, Subsection 3.2).

In filling it in, priority was given to assessing the EAF legal requirements in the fisheries policies and primary/secondary legislation. In this process, the different symbols presented in Table 3 below were used.

| Table 3. Meaning of the symbols used in the Ecosystem Approach to Fisheries Legal Checklist | | |
|---|---|---|
| Symbol | Perceived level of alignment with the EAF legal requirement | |
| ✓ | Full or sufficient | Part(s) in the assessed fisheries policy or provision(s) in the assessed legislation <u>totally incorporates</u> the EAF legal requirement. |
| Ø | Partial or insufficient | Part(s) in the assessed policy or provision(s) in the assessed legislation <u>partially incorporates</u> the EAF legal requirement. ³ |
| X | None or inexistent | No part in the assessed policy nor provision in the assessed legislation was found that incorporates the EAF legal requirement. |
| ● | Not considered | No assessment was carried out since the EAF legal requirement was fully or sufficiently found in the primary fisheries policy/legislation, or in the primary legislation of other sector. |
| N/A | Not applicable | The EAF legal requirement is exclusively relevant to fisheries (that is the case of all the EAF legal requirements under Fisheries Management, Monitoring, Control, Surveillance and Enforcement (MCSE) and almost all of those under enforcement processes and sanctions scheme) and therefore not applicable to other sector's legislation. |
| * | Optional | The EAF legal requirement is considered to have a non-mandatory nature and therefore is not expected to be found in the assessed policy or legal instrument. |

The last two columns of the EAF Legal Checklist indicate: **(i)** the parts of the policy instruments and legal provisions where the EAF legal requirement was found; and **(ii)** additional relevant comments and explanatory notes that clarify, where appropriate, nuances in assessing the policy and legal instruments and the rationale for the assessment of partial or insufficient coverage of the EAF legal requirements. It should be noted that these additional comments and explanatory notes will benefit from a more in-depth analysis during the comprehensive review at country level.

The results of this assessment are presented in **Appendix B** of this report which provides the EAF Legal Checklist applied against the selected policies and legislation of Ghana.

2.1.4 Additional observations

While filling in Appendix B, some parts of the policy framework and some provisions of the legal framework which in some cases are anchored in the Ghana Constitution of 1992, were considered particularly relevant in incorporating the EAF legal requirements. These parts and legal provisions which, without prejudice to others that may also be relevant, were considered good examples of addressing an EAF (in the case of a policy instrument) or legislating for an EAF (in the case of a legal instrument), have been highlighted in the main findings under subsection 2.2 below as good practice in legislating for an EAF.

³ A more in-depth analysis will be required to understand how EAF legal requirements filled in with the Ø symbol could be fully incorporated in legal and policy instruments or reflect potential contradictions between one legal and/or policy instrument and another. Such analysis goes beyond the scope of this desk-based preliminary assessment.

2.1.5 EAF Legal Questionnaire of Ghana

The National EAF-Focal Point filled in the EAF Legal Questionnaire, which was developed by the project to collect additional relevant information from the assessed country. The results of the questionnaire are summarised under the section below.

2.2 Overview and main findings

This subsection provides an overview of the main findings of this desk-based preliminary assessment of the EAF in the selected national policy and legal instruments of **Ghana** presented under **Appendix B** and a summary of the additional relevant information provided under the EAF Legal Questionnaire of Ghana.

2.2.1 Fisheries policy

The assessed seven fisheries policies correspond to A1 to A7 in Appendix A. They cover **35** of the 82 EAF legal requirements.

The main policy of the sector is the *2015-2019 Fisheries Management Plan of Ghana: A National Policy for the Management of the Marine Fisheries Sector* (hereinafter referred to as “*Ghana’s FMP*”), which, as noted by the National EAF-Focal Point, is presently under review.

The *Ghana’s FMP* has among its key objectives reducing excessive pressure on fisheries resources, protecting marine habitats and biodiversity, and strengthening co-management and the participatory decision-making in fisheries management (Page 1). It is expected to be operationalised through annual Operational Plans and periodically reviewed and improved in accordance with advancements in knowledge and management, with the involvement of the Fisheries Commission (Page 2). *Ghana’s FMP* follows 5 key guiding principles for the development of strategies and effective implementation of the FMP, including the precautionary approach, participation, public accountability and transparency, and the ecosystem approach, which “considers all components of the ecosystem including, ethnic population, communities and habitat and their linkage as the basis for the conservation and sustainable use of the fisheries resources of Ghana” (Pages 5–6).

The Ministry in charge of fisheries and the Fisheries Commission are responsible for the implementation of the FMP which calls upon inter-agency collaboration among other ministries and research institutions and Universities on *inter alia*: MCS, compliance and enforcement, national observer programme and designation of Marine Protected Areas (MPA) (Pages 7–8). The strategic actions of *Ghana’s FMP* are aligned with an EAF and include bycatch mitigation measures, creation of marine habitat protection areas, implementation of closed seasons, improving public awareness and education, promotion of community group involvement and collaboration with other environmental agencies and institutions to combat any negative trends in the ecosystem and promotion of regional approach to MCS strategies through RFMOs (Pages 22–32). The financial year plan allocates amounts to, *inter alia*,

reducing fishing effort (Page 39), creation of marine habitat protection areas, actively protection nursery areas and spawning grounds, mainly in estuaries and mangrove areas (Page 41), as well as active public awareness programme for sensitizing fishers of the regulations including through traditional communication mechanisms (Page 41).

The *2017–2024 Coordinate Programme of Economic and Social Development Policies* is a set of policies, which has four specific goals, among which is the safeguarding of the natural environment and ensuring a resilient built environment, whose strategic objectives include rehabilitating degraded areas and supporting the conservation of biodiversity and priority ecosystems (Chapter 1(1.2.2)). The policies include one for fisheries and aquaculture development, under which the sustainable management of aquatic fisheries resources aims at increasing policy implementation efficiency in marine conservation and protection as to reduce income poverty in the medium to long-term and Illegal, Unreported and Unregulated (IUU) fishing (Chapter 4(4.2.9)) and a policy for engaging civil society and traditional authorities in national development through cooperation and collaboration (Chapter 4(4.5.10)). The implementation arrangements include the execution of the Coordinated Programme by a number of governmental entities as well as private sector and civil society whose roles are described (Chapter 6(6.2)). The Plan is also subject to a monitoring and evaluation process and supported by a communication and stakeholders' engagement strategy (Chapter 6(6.3)).

The *2016 National Biodiversity Strategy Action Plan (NBSAP)* has a mission of taking effective and urgent actions to minimise the loss of biodiversity so that by 2030 ecosystems are resilient, securing ecosystems services and contributing to human wellbeing and poverty eradication (Chapter 3(3.1)). The key strategic objectives to support the Plan's goal of ensuring "that biodiversity is valued, conserved, restored and wisely used to maintain ecosystem services, sustain life support services and promote continuous and equitable flow of benefits to all Ghanaians" include to address the underlying causes of biodiversity loss, improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity, and to enhance implementation of the plan through participatory planning, knowledge management and capacity building (Chapter 3(3.2)). Under the first strategic goal, it is prioritised that, *inter alia*, all fish are managed and harvested sustainably, legally and applying ecosystem-based approaches so that overfishing is avoided, and measures are in place to prevent adverse impacts of fishing on threatened species and vulnerable ecosystems (Chapter 4(4.1)). It defines the roles and responsibilities of stakeholders in the implementation of the NBSAP including those of the Ministry in charge of fisheries (Chapter 5(5.3)) and establishes a framework for engagement and coordination (Chapter 5(5.4)).

The *2014 National Plan of Action to Prevent, Deter and IUU Fishing*, which is currently under review, identifies twenty actions for Ghana combatting IUU fishing as a flag, coastal, port and market State. All these actions are relevant for MCSE. Action 2, for example, highlights the need to strengthen the requirement of vessel monitoring system (VMS) as a licensing condition of all large vessels while Action 3 calls for strengthening the Fisheries MCSE Unit and coordinating fisheries enforcement tasks with Ghana Navy, Ghana Airforce, the Marine Police and Attorney-General's Department (Part C). Action 13 promotes enhanced systems for

fisheries monitoring and data collection, including of ecosystems impacts, and collaborative activities with the International Commission for the Conservation of Atlantic Tunas (ICCAT), other agencies and universities for assessment of shared stocks and related research and Action 14 calls upon the full participation at ICCAT (Part C).

Also relevant for MCSE is the *2013 Guidelines for the Registration and Licensing of Fishing Vessels (Industrial and Semi-Industrial)*, which outlines the procedure for acquisition, registration and licensing of local industrial fishing vessels (Chapter 2) as well as of semi-industrial fishing vessels (Chapter 3). It also provides restrictions on transshipment (Chapter 9).

Other two policies relevant for an EAF are the *2012 Ghana Forest and Wildlife Policy*, the specific objectives of which include to manage and enhance ecological integrity of Ghana's ecosystems for the preservation of vital water resources, conservation of biological diversity (Chapter 4(4.2)– 1.1.1); and the *2012 Ghana National Aquaculture Development Plan*, which calls for a strategic environmental assessment of all identified high priority aquaculture-zones and the formulation of environmental safeguards for each zone, through collaboration of the Fisheries Commission, the Environmental Protection Agency and the Development Center of Water Research Institute (Page 23).

2.2.2 Fisheries primary legislation

The assessed two fisheries primary legislation correspond to B1 and B2 in Appendix A. They include the *Fisheries Act of 2002*, as amended in 2014, (hereinafter referred to as "*Fisheries Act*") and Part I of the *Law No. 256 on Fisheries of 1991*. They cover **42** of the 82 EAF legal requirements.

While the Fisheries Act does not have a section delineating its scope, principles and objectives, it contains a number of provisions that are aligned with an EAF. It provides for the establishment of a Fisheries Commission (hereinafter referred to as "FC"), which is competent for, *inter alia*, promoting sub-regional, regional and international cooperation in fisheries management, promoting cooperation among local fishermen and advance development of artisanal fishing, ensuring the MCS in the fishery waters, and, in collaboration with District Assemblies and fishing communities, the enforcement of bylaws made by those relevant assemblies (Section 2(2)(f)(g)(o)). The FC board includes members of different ministries, agencies and two representatives from the National Fisheries Association of Ghana, one representing the artisanal fishers and the other the industrial fishing vessel owners (Section 4(1)). Within the FC, a Fisheries Settlement Committee is established to hear and settle complaints from persons aggrieved in respect of matters arising from or related to the fishing industry (Section 10(1)). The FC is also required to cooperate fully with all government department, agencies and other public authorities (Section 13).

The Fisheries Act establishes the Fisheries Development Fund (Section 36) and ensures the allocation of its money to *inter alia* provide assistance to small-scale fishery cooperative enterprises and promote research and studies of the fishing industry (Section 38(c)(d)). The content of FMPs includes the identification of fishery resources, its characteristics, economic

and social value interrelationship with other species in the ecosystem (Section 43(a)). In the preparation of FMPs, this Act ensures consultation with organisations, authorities and the people affected (Section 44(1)). With regards to the management of shared or interrelated fish stocks, the Minister has the duty upon the advice of the FC to consult with other governments, and in particular those sharing the same or interrelated fish stocks, to, among other objectives, ensure closest practicable harmonisation or cooperation of their respective fisheries management and development plans and regulations (Section 45(1)). Access agreements are required to provide for the total allocation of fish, not exceeding a level consistent with the conservation and management of fishery resources while ensuring protection of local fishers, in accordance with the FMP (Section 64(2)).

The Fisheries Act provides for the protection and promotion of artisanal fishing and established licensing, registration and marking requirements for artisanal fishing vessels (Sections 52–59). It also establishes a detailed licensing scheme for industrial and semi-industrial fishing vessels (Sections 69–80). The ‘Inshore Exclusive Zones’ delineate the area where only small semi-industrial vessel, canoes and recreational fishing are allowed (Section 81). This Act also contains specific provisions for the protection of gravid and juvenile lobsters, other crustacea and juvenile fish (Section 89) and grants the FC with the power to make or require an EIA or ‘fisheries impact assessments’ prior to any activity other than fishing, which is likely to have a substantial impact on the fishery resources or other aquatic resource (Section 93). A Fisheries MCSE Unit is established by this Act (Section 94) and the powers of authorised officers and observers are appropriately set out (Sections 96–97 and 100). Another important provision of the Fisheries Act is the compounding of offences for administrative penalties through the payment, by the offender, of a sum of money to the Fisheries Development Fund (Section 116).

2.2.3 Fisheries secondary legislation

The assessed two fisheries secondary legislation corresponds to C1 to C2. They cover **21** of the 82 EAF legal requirements.

The main secondary fisheries legislation is the *Fisheries Regulations of 2010*, as amended in 2015, (hereinafter “Fisheries Regulations”), which regulate the Fisheries Act.

The Fisheries Regulations provide more detailed information on fishing methods, prohibiting the use of any of these that aggregate fish by light attraction (e.g. portable generator, switchboard, bulbs beyond 500 watts or bulbs whose cumulative light intensity attracts fish and long cable to facilitate light production), the use of bamboo for aggregating fish, as well as the operation of pair-trawling (Regulation 11(1)). It also established minimum mesh size of fishing gear preventing the operation and carrying on board a motor fishing vessel of a trawl net the mesh size of which is less than sixty millimetres in stretched diagonal length in the codend as well as a shrimp trawl net, the mesh size of which is less than fifty millimetres in stretched diagonal length in the codend (Regulation 12(1)). Also of relevance to an EAF are the provisions requiring the use of turtle excluder device by any person using a shrimp net for fishing (Regulation 16) and addressing the introduction of exotic species in fish farming, which

requires prior authorization by the FC which shall not allow such introduction unless it has adequate knowledge of the biology and life history of the species indicating low risk (Regulation 52(5)).

The Fisheries Regulations also list the requirements for registration of Ghanaian fishing vessels (Regulation 24A) and provides for the maintenance by the FC of a record of Ghanaian fishing vessels authorised to fish beyond national waters detailing the information that should be provided therein (Regulation 24G). These regulations also subject the owner, operator, charterer, or master of a local industrial or semi-industrial fishing vessel licenced to operate under the Fisheries Act, as well as of foreign fishing vessels which intend to fish in the fishery waters of Ghana, to the obligation of installing, maintaining and operating a VMS (Regulations 44 and 45).

The *Ministerial Directive on the Implementation of Closed Seasons for Industrial Trawlers of 2016*, under the aforementioned FMP, is an example of an implementing measure on closed season. It established closed seasons for all industrial trawlers for the periods 1–30 November 2016 and 1 February–31 March 2017.

2.2.4 Other sectors primary legislation

The other sectors primary legislation corresponds to D1 to D8 in Appendix A.

The Ghana Constitution of 1992 provides that all persons have the right to information, subject to such qualifications and laws necessary in a democratic society (Section 21(1)(f)). In implementing such right, the *Right to Information Act of 2019*, requires the government to make available to the public, general information on governance without the need for an application from a specific person (Section 2) and requires the public institution to, among others, generate, process, maintain and preserve information which is accurate and authentic, and establish an information unit headed by an information officer for facilitating access to information (Section 3(2)(3)).

Also as stated in the Ghana Constitution of 1992, the State has the duty to take appropriate measures needed to protect and safeguard the national environment for prosperity; and to seek cooperation with other States and bodies for protecting the wider environment for human kind (Section 3(9)). In line with this, the *Act No. 630/2002 on Ghana Maritime Authority* established such authority with the power to regulate, monitor and coordinate activities in the maritime industry, ensuring, *inter alia*, in collaboration with any other public agencies and institutions determined by the Board of the Authority the prevention of marine source pollution, protection of the marine environment and response to marine environment incidents (Section 2(1)(2)(i)). *Act No. 522/1996 on Water Resources Commission* establishes such commission, which has many functions, including controlling and coordinating activities connected with the development and utilisation of water resources, and advising pollution control agencies on matters about the management and control of pollution of water resources (Section 2(2)(b)).

Another governmental authority whose mandate aligns with the above mentioned constitutional provision was established by *Act No. 490/1994 on Environmental Protection Agency*, which determines a number of functions of this agency. Of particular relevance to an EAF are the following functions: coordinating activities of bodies concerned with technical or practical aspects of the environment and serving as a channel of communication between these bodies and the Ministry; collaborating or coordinating with foreign and international agencies; ensuring compliance with EIA procedures in the planning and execution of development projects; acting in liaison and cooperation with government agencies, District Assemblies and any other bodies and institutions to control pollution and generally protect the environment; promoting studies, research, surveys and analysis for the improvement and protection of the environment and the maintenance of sound ecological ecosystems; and pursuing formal and non-formal educational programmes for public awareness of the environment (Section 2(b)(e)(i)(j)(l)(m)). The Agency has the power to, by notice in writing, require a person responsible for an undertaking that is likely to adversely impact the environment to submit an EIA (Section 12).

It is also worth noting that the *Act No. 645/2003 on Shipping and the Maritime Industry* contains relevant provisions for the registration of ships, including fishing vessels. It details the requirements and procedures for registration (Sections 3 and 4). *Act No. 160/1986 on Ghana Ports and Harbours Authority*, in turn, provides for offences and penalties concerning the use of port and associated services (Sections 105 and 106). *Act No. 235/1964 on Oil in Navigable Waters* addresses some measures for combatting marine pollution from ships by, for example, designating prohibited sea areas where no discharge of oil from any ship registered in Ghana is allowed (Sections 1 and 2).

2.2.5 Other sectors secondary legislation

The other sectors secondary legislation corresponds to E1 to E5 in Appendix A.

Regulations L.I. 490/1999 on Environmental Assessment, as amended in 2002, provides details on the content of an EIA, outlining a number of matters that the environmental impact statement must address, including, *inter alia*, the alteration in ecological processes such as transfer of energy through food chains, decomposition and bio-accumulation which could affect any community, habitat or specie of flora or fauna; and the ecological consequences of direct destruction of existing habitats from activities such as dumping of waste and vegetation clearance and fillings (Regulation 14(1)). These regulations also require the Environmental Protection Agency to hold a public hearing, appointing a panel, which must hear the recommendations of any interested person and bodies residents on the geographical area of the proposed undertaking (Regulation 17). The regulations subject the construction of fishing harbors, harbor expansion and land-based aquaculture undertaking to mandatory EIA (Regulation 3 and Schedule 2).

Regulation L.I. 16959/1999 on Wetland Management (RAMSAR Sites) designates the areas as Ramsar sites, providing the details on the designation of core areas and prescribing certain restrictions. For instance, in the Ramsar sites it is prohibited to pollute any water, use poison,

chemicals, explosives or any other prohibited method for fishing and fish during closed seasons (Regulation 6). It is also prohibited to deposit any litter, hunt, capture, harm or deliberately disturb any wild animal, turtles or their eggs (Regulation 7).

Regulations L.I. 1692/2001 on Water Use also addresses public hearing, requiring the Water Resources Commission to hold public hearings in specified occasions that may involve, e.g., the dislocation, relocation, resettlement or destruction of natural water resources of the community, and in conducting such public hearing, poses the duty of the commission to collaborate with the environmental protection agency, traditional authorities of the community and relevant government institutions and agencies (Regulation 6).

2.2.6 Additional relevant information from the National EAF-Focal Point

The fisheries sector interacts with the Ministries in charge of (i) roads and transport, (ii) defence, and (iii) environment, science, technology and innovation. Within the latter, in particular, the fisheries sector interacts with the Water Research Institute and the Environmental Protection Agency. It also interacts with Ghana's Marine Fisheries Associations, Irrigation Development Authority, Fisheries Associations, Maritime Authority, the Universities, academia and the Water Resources Commission among others.

Inter-sectoral activities carried out in collaboration between the fisheries sector and these other sectors include the undertaking of EIA prior to obtaining a permit for projects and works with potential to impact or affect fisheries; the development of policies for the fisheries sector; stakeholder consultation; licensing for industrial fishing vessels; and collaborative research. These interactions occur on an *ad hoc* basis and regularly on a quarterly basis. Inter-sectoral communication and cooperation occurs at all levels (port, market or flag State) depending on the type of fishing, and as part of activities within regional bodies, including the Fishery Committee for the Eastern Central Atlantic (CECAF) and the Fisheries Committee for the West Central Gulf of Guinea (FCWC).

The National EAF-Focal Point also informed that the Fishery Management Plan 2015–2019 is being reviewed and a new one is being prepared for the period 2022–2026. The FMP 2015–2019, according to the National EAF-Focal Point, is more focused on efforts to reduce over exploitation of the fishery resources placing more emphasis on monitoring and control mechanisms and regulation and over exploitation and improving scientific information sharing. In addition to this, other projects relevant for an EAF are the Stock assessment by EAF Nansen project (survey) and the collaborate research between Sustainable Fishery Management Project in monitoring closed season.

3. Conclusion

3.1 Main gaps in the assessed policy and legal instruments

Some of the EAF legal requirements in the EAF Legal Checklist in **Appendix B** were not incorporated (X) or were only partially incorporated (Ø) by the assessed policy and legal instruments of Ghana identified under **Appendix A**. This subsection summarizes the main gaps from the desk-based preliminary assessment without prejudice to others that may be identified in a comprehensive analysis of the national policy and legal frameworks at country level.

Of the 82 EAF legal requirements, **68** EAF legal requirements were found in Ghana's policy and legal frameworks assessed in this EAF Legal Report. It should be noted that the 82 EAF legal requirements are considered the minimum standards in legislating for an EAF which may be further elaborated and improved in advancing the implementation of an EAF. Based on the present preliminary assessment, **14** EAF legal requirements remain to be incorporated in the policy and legal frameworks of Ghana.

The results obtained in this Report indicate a significant alignment of the assessed policy and legal instruments with respect to various EAF Components. This is greatly due to the fact that many EAF legal requirements not met by one instrument were found in another, indicating their complementarity. This was particularly noted in the MCSE requirements.

Yet, some EAF Components require a better incorporation. The assessed policy and legal instruments lack important provisions on conflict management, as provided under EAF Component 7. They also did not provide for detailed regulation on TACs, fishing effort controls, stakeholder and institutional consultation in defining spatial and temporal controls, nor technical details on spatial controls, which are essential requirements under EAF Component 9.

There are also improvements to be made with regard to FMP, which is not detailed in respect of the need to comply with established integrated management plans for aquatic ecosystems and is not comprehensive in its content, as required under EAF Component 10. Detailed provisions on the process for designating threatened and endangered species were not found, nor provisions addressing ghost fishing and regulation of marine extractive activities, as the EAF Component 14 and 15 require. Another relevant gap is the lack of research programme on EAF and all the related provisions under EAF Component 13.

As in the majority of the jurisdictions, some EAF legal requirements are specifically covered by other sectors' primary and secondary legislation, such as the EIA required by EAF Component 16.

3.2 Level of alignment of the assessed policy and legal instruments with an ecosystem approach to fisheries

In determining the level of alignment of the assessed policy and legal instruments with an EAF in the EAF Legal Report, the following criteria were used:

| Table 4. Criteria for determining the level of alignment of assessed instruments with an EAF | | |
|--|--|--|
| Number of EAF legal requirements incorporated in the assessed policy and legal instruments | Percentage of the 82 EAF legal requirements incorporated | Overall level of alignment with an EAF |
| 0–30 | 0–36% | Low |
| 31–50 | 37–61% | Low–medium |
| 51–61 | 62–75% | Medium |
| 62–72 | 76–87% | Medium–high |
| 73–82 | 88–100% | High |

The policy and legal instruments of Ghana, assessed in this Report, incorporate **68** out of the 82 EAF legal requirements, therefore indicating a **medium-high** level of alignment with an EAF.

3.3 Final considerations and proposed way forward

Legislating for an EAF is complex and challenging. Due to the numerous national policy and legal instruments relevant to the EAF, this EAF Legal Report should be considered as a desk-based preliminary assessment. It provides the initial basis upon which countries can advance the work towards improving their national policy and legal frameworks in alignment with an EAF, contributing to the ultimate goal of sustainability in fisheries.

The incorporation in the national policy and legal frameworks of all the EAF relevant provisions from international legally binding instruments to which Ghana is a Party, as identified under subsection 1.2 above, should be a priority in the improvement of the EAF implementation at the national level. The relevant EAF provisions from the international non-binding instruments that reflect principles of international law should also be incorporated in the national policy and legal frameworks.

With respect to the assessed policy and legal instruments, some gaps have been identified which should be addressed to ensure full implementation of an EAF in the country. The following subjects could benefit from a detailed review and update in the relevant policy and legal instruments: “conflict management”, “fisheries management” (especially TAC, fishing effort control and specific issues on FMP), “conservation measures” (especially the designation of threatened and endangered species, and ghost fishing), and “fishery monitoring and research” could benefit from a detailed review and update in the relevant policy and legal instruments.

The review of policy and legal instruments with respect to “fisheries management” could be led by fisheries whereas others, such as “conflict management”, “conservation measures”, and “fishery monitoring and research” would require a more active involvement of other sectors in the review of their transversal relevant provisions.

It is recommended that the gaps identified in this preliminary assessment are incorporated in the amendment or adoption of new policy and legal instruments of Ghana.

This preliminary assessment is aimed at assisting legal practitioners, policy-makers and fisheries managers in taking the necessary steps for improving the EAF implementation in their country.

The review of national policies and/or legislation is one of the many ways or processes through which an assessment of the implementation of the EAF can be conducted. It provides a country with the opportunity to reassess its respective policy and legal frameworks, identify the gaps and/or needs for improvement, and present recommendations for enacting new policies and/or legal instruments for an EAF, and/or amending the existing ones to bring them fully in line with an EAF.

4. References

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Appendix A. List of national policy and legal instruments assessed in this report

| Identification | Instruments of GHANA |
|----------------|---|
| A | Fisheries Policies |
| A1 | 2017-2024 Coordinate Programme of Economic and Social Development Policies |
| A2 | 2016 National Biodiversity Strategy Action Plan |
| A3 | 2015-2019 Fisheries Management Plan of Ghana: A National Policy for the Management of the Marine Fisheries Sector |
| A4 | 2014 National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing |
| A5 | 2013 Guidelines for the Registration and Licensing of Fishing Vessels (Industrial and Semi-Industrial) |
| A6 | 2012 Ghana Forest and Wildlife Policy |
| A7 | 2012 Ghana National Aquaculture Development Plan |
| B | Fisheries Primary Legislation |
| B1 | Act No. 625/2002 on Fisheries, as amended by Act No. 880/2014 |
| B2 | Law No. 256/1991 on Fisheries (Part I not repealed) |
| C | Fisheries Secondary Legislation |
| C1 | Ministerial Directive of 2016 on the Implementation of Closed Seasons for Industrial Trawlers under the Fisheries Management Plan of Ghana (2015-2019) |
| C2 | Regulations L.I. 1968/2010 on Fisheries, as amended by Regulations L.I. 2217/2015 |
| D | Other Sector's Primary Legislation |
| D1 | Act No. 989/2019 on the Right to Information |
| D2 | Act No. 645/2003 on Shipping and the Maritime Industry |
| D3 | Act No. 630/2002 on the Ghana Maritime Authority |
| D4 | Act No. 522/1996 on Water Resources Commission |
| D5 | Act No. 490/1994 on the Environmental Protection Agency |
| D6 | Act No. 160/1986 on the Ghana Ports and Harbours Authority |
| D7 | Act No. 235/1964 on Oil in Navigable Waters |
| D8 | Act No. 43/1961 on Wild Animals Preservation, as amended by Act No. 55/1983 |
| E | Other Sector's Secondary Legislation |
| E1 | Regulations L.I. 1692/2001 on Water Use |
| E2 | Regulations L.I. 490/1999 on Environmental Assessment, as amended by Regulations L.I. 1703/2002 |
| E3 | Regulations L.I. 1659/1999 on Wetlands Management (RAMSAR Sites) |
| E4 | Regulations L.I. 710/1971 on Wildlife Reserves, as amended by Regulations L.I. 1105/1977 and Regulations L.I. 1283/1983 |
| E5 | Regulations L.I. 685/1971 on Wildlife Conservation, as amended by Regulations L.I. 1284/1983, Regulations L.I. 1357/1988 and Regulations L.I. 1452/1989 |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

Appendix B. Ecosystem approach to fisheries legal checklist applied against selected national policy and legal instruments

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|---|-----------------------|---|--------------|-----------------------|------|---------------------------|------|--|--------------------------------|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | | Scope and definitions | | | | | | | |
| General guidelines | 1. | – Clearly outline the geographic and substantive scope of the application. | ✓ | X | X | X | X | (A3) Page 2 | |
| | | Principles and objectives | | | | | | | |
| C.1 EAF concepts C.3 Precautionary approach C.4 Stakeholder participation C.6 Integration of lower level authorities C.7 Conflict management and C.11, C.13, C.14 and C.17 | 2. | – Clearly define and apply the precautionary approach. | ✓ | X | X* | • | X | (A3) Pages 5 and 12 | |
| | 3. | – Broaden stakeholder participation with integration of lower level authorities and bodies. | ✓ | ✓ | X* | ✓ | X | (A2) Chapter 3(3.1 and 3.2) (A3) Pages 1, 5 and 12 (B1) Sections 2(2)(g)(o), 4 and 10 (D5) Section 2(b) | |
| | 4. | – Ensure the right of access to fair and transparent information. | ✓ | X | X* | ✓ | X | (A2) Page 114 (A3) Pages 5 and 12 (D1) Section 1 | |
| | 5. | – Promote institutional coordination, cooperation and integration. | ✓ | ✓ | ✓* | X | X | (A2) Chapter 5(5.2 and 5.4) (A3) Pages 7 and 12 (B1) Sections 2(1), 4, 44 and 45 (C2) Regulation 24C | |

Perceived level of alignment with the EAF legal requirement

| | | | | | |
|--------|-----------|--------|----------------|--------------------|------------|
| ✓ full | ∅ partial | X none | ● not assessed | N/A not applicable | * optional |
|--------|-----------|--------|----------------|--------------------|------------|

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|----------------|-----------------------|--|--------------|-----------------------|------|---------------------------|------|--|---|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | 6. | – Maintain ecological relationships among harvested, dependent and associated species. | ✓ | X | X* | X | X | (A2) Chapter 4(4.1) | |
| | 7. | – Promote sustainable development and avoid overexploitation of marine living resources. | ✓ | ✓ | X* | X | X | (A2) Chapter 4(4.1) (A3) Pages 1, 5 and 6 (A4) Part C (Action 10) (B1) Preamble and Section 2(2)(c) | |
| | 8. | – Preserve marine habitat, conserve and restore marine living resources and biodiversity. | ✓ | ∅ | X* | ∅ | X | (A2) Chapter 3(3.1 and 3.2) (A3) Page 1 (B1) Sections 2(2)(c), 89-92 (D5) Section 2(a)(l) | Provisions in (B1) and (D5) do not mention the restoration of marine resources not biodiversity |
| | 9. | – Promote ecosystem well-being, including the human biotic and abiotic components. | ✓ | X | X* | ∅* | ●* | (A2) Chapter 3(3.1 and 3.2) (A3) Page 6 (D5) Section 2(a)(d) | Provisions in (D5) do not mention ecosystem wellbeing. |
| | 10. | – Promote adaptive management measures, including their regular monitoring and review. | ✓ | ✓ | X* | ●* | ●* | (A3) Page 2 (B1) Preamble and Section 2(2)(a) | |
| | 11. | – Harmonize management measures, including those for shared resources. | ✓ | ✓ | X* | ●* | ●* | (A2) Chapter 5(5.3) (B1) Section 45(1)(a) | |
| | 12. | – Reduce and manage conflict between users and stakeholders over fisheries resources and ecosystems. | X | ✓ | X* | ●* | ●* | (B1) Sections 2(2)(d), 10, 78 and 81(2) | |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|---|-----------------------|--|--------------|-----------------------|------|---------------------------|------|---|---|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | 13. | – Consider socio-economic contexts (e.g. employment, livelihoods, equity, poverty, gender) when designing and implementing management measures. | ✓ | X | X* | ●* | ●* | (A1) Chapter 1(1.2.2) (A3) Page 5 (B1) Section 43(a) | |
| | 14. | – Promote management measures, designate the authority and outline the timeline and process for their monitoring and review. | ✓ | ✓ | X* | ●* | ●* | (A3) Pages 35-38 (B1) Sections 42-45 | |
| | 15. | – Provide for the establishment of MCSE measures. | ✓ | ✓ | X* | ●* | ●* | (A3) Pages 28, 37-38 (A4) Part C (B1) Sections 2(2)(e) and 96 | |
| | 16. | – Promote ecosystem-based research plans/priorities, designate the authority and outline the timeline and process for their monitoring and review. | ✓ | X | X* | ●* | ●* | (A4) Part C (Action 13) | |
| | 17. | – Promote the right of access to education and awareness raising on EAF. | ✓ | X | X* | ∅* | ●* | (A2) Chapter 3(3.1) (A3) Page 37 (D5) Section 2(m) | Provision in (D4) is too broad and does not explicitly refer to EAF |
| | | Institutional arrangements | | | | | | | |
| C.2 Management boundaries and measures | 18. | – Ensure new management boundaries, measures and plans are: (a) ecologically meaningful considering resource ranges, habitats and other ecological factors. | ✓ | X | X | ●* | ●* | (A1) Chapter 4(4.1) (A3) Page 29 | |
| C.4 Stakeholder participation | | (b) overlapped closely and are harmonized with well-established management boundaries and governance structures. | ✓ | X | X | ●* | ●* | (A1) Chapter 4(4.1) | |

Perceived level of alignment with the EAF legal requirement

| | | | | | |
|--------|-----------|--------|----------------|--------------------|------------|
| ✓ full | ∅ partial | X none | ● not assessed | N/A not applicable | * optional |
|--------|-----------|--------|----------------|--------------------|------------|

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|--|-----------------------|--|--------------|-----------------------|------|---------------------------|------|---|--|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| <p>C.5 Coordination, cooperation and integration</p> <p>C.7 Conflict management</p> <p>C.8 Integrated management of aquatic ecosystems</p> | 19. | – Promote states cooperation on the harmonization of management measures and plans (bilaterally, regionally and internationally). | ✓ | ✓ | X | ✓* | ●* | <p>(A2) Chapter 5(5.2 and 5.4)</p> <p>(A3) Page 7</p> <p>(A4) Part C (Action 14)</p> <p>(B1) Section 42-45</p> <p>(D5) Section 2(e)</p> | |
| | 20. | – Establish transparent and accessible mechanisms, bodies (including lower level authorities) or processes to: | ✓ | X | X | ●* | ●* | (A2) Chapter 4(4.1) | |
| | | (a) support well-established management boundaries and governance structures on the basis of ecosystem considerations. | ✓ | X | X | ●* | ●* | | |
| | | (b) outline conservation and management measures, including FMPs, at local and national levels. | ✓ | ✓ | X | ●* | ●* | <p>(A3) Pages 2 and 7</p> <p>(B1) Sections 42-44</p> | |
| | | (c) facilitate coordination, cooperation and integration of management decisions, regulatory action, environmental policies, plans and programs. | ✓ | ∅ | X | ✓* | ●* | <p>(A2) Chapter 5(5.2 and 5.4)</p> <p>(A3) Pages 7, 8 and 32</p> <p>(B1) Sections 42 and 44</p> <p>(D5) Section 2(b)(c)(d)</p> | Provisions in (B1) are limited to collaboration in the preparation and implementation of FMPs. |
| | | (d) monitor, assess and align the various environmental policies and plans. | X | X | X | ●* | ●* | | |
| | | (e) manage conflict over fisheries, relevant resource and ecosystem, including parameters for decision-making and resolving the conflict. | X | ∅ | X | ●* | ●* | (B1) Sections 2(n) and 10 | Provision in (B1) establishes the Fisheries Settlement Committee but its procedures, including the |

Perceived level of alignment with the EAF legal requirement

| | | | | | |
|--------|-----------|--------|----------------|--------------------|------------|
| ✓ full | ∅ partial | X none | ● not assessed | N/A not applicable | * optional |
|--------|-----------|--------|----------------|--------------------|------------|

| EAF components | EAF legal requirement | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|----------------|---|--------------|-----------------------|------|---------------------------|------|---|---|
| | | | 1ary | 2ary | 1ary | 2ary | | |
| | | | | | | | | decision making, are to be regulated. |
| | (f) ensure integrated management of aquatic ecosystems (e.g. integrated coastal zone) based on ecosystem delimitations. | ✓ | X | X | ●* | ●* | (A7) Page 23 | |
| | (g) ensure periodic reviews of managed aquatic ecosystems that assess the state of aquatic resources, levels of pollution, habitat degradation and other factors. | ü | X | X | ●* | ●* | (A3) Pages 2 and 7 | |
| | (h) ensure periodic reviews of integrated management plans to assess objectives and indicators and to determine any potential needs for adjustment or revision. | ✓ | ∅ | X | ●* | ●* | (A2) Chapters 2(2.3) and 5(5.5) (B1) Sections 2(2)(a) and 44(3) | Provision in (B1) is limited to review of FMPs. |
| | (i) ensure periodic reviews of conflict management processes. | X | X | X | X* | X* | | |
| 21. | – Clearly outline powers, roles and responsibilities of all bodies, designated authorities, their relationships and processes, avoiding overlapping and conflicting mandates. | ✓ | ✓ | X | ✓* | ●* | (A1) Chapter 6(6.2) (A3) Pages 7 and 8 (B1) Sections 1-3 (D3) Sections 1 and 2 (D4) Sections 1 and 2 (D5) Sections 1, 2, 14, 15, 20 and 23 | |
| 22. | – Outline mandates for the government institutions to: (a) coordinate efforts, cooperate and integrate approaches, from the local to the national levels. | ✓ | ✓ | X | ✓ | ● | (A2) Chapter 5(5.3) (A3) Pages 7 and 8 (B1) Sections 2(2)(g)(o), 13 and 44 | |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|---|-----------------------|--|--------------|-----------------------|------|---------------------------|------|---|--------------------------------|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | | | | | | | | (D5) Section 2(j) | |
| | | (b) coordinate, cooperate and integrate the regional and international processes and arrangements. | ✓ | ✓ | X | ✓ | • | (A1) Chapter 4(4.5.10) (A2) Chapter 5(5.2) (A3) Page 7 (A4) Part C (Action 14) (B1) Sections 2(2)(f), 45 and 45A (D5) Section 2(e) | |
| | | (c) allocate financial, human and material resources to ensure the integration of lower level authorities | ✓ | ✓ | X | X | X | (A2) Chapter 5(5.7) (A3) Page 41 (B1) Sections 36 and 38(c) | |
| | | Stakeholder participation, coordination, cooperation and integration | | | | | | | |
| C.4 Stakeholder participation | 23. | – Ensure bodies established are broadly representative (from industry, the artisanal sector, academia, civil society and local communities) and processes allow for stakeholder and institutional participation and coordination, engaging and integrating lower level authorities or bodies when resources are affected at local level. | ✓ | ✓ | X | X | X | (A2) Chapter 3(3.2.1) (B1) Sections 4(1), 15, 16, 19, 23, 51 and 78 | |
| C.5 Coordination, cooperation and integration | 24. | – Establish and properly publicize public meetings or hearings. | X | X | X | X | ✓ | (E2) Regulation 17 | |
| C.6 Integration of lower level authorities, bodies and stakeholders | 25. | – Allow for sufficient and reasonable time for comments on proposed management decisions or actions (e.g. in meetings and in writing). | X | X | X | X | ✓ | (E2) Regulation 17(5) | |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|--|-----------------------|---|--------------|-----------------------|------|---------------------------|------|---|--------------------------------|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| C.8 Integrated management of aquatic ecosystems | 26. | – Promote international cooperation for effective integrated management of aquatic ecosystems. | ✓ | ✓ | X | X | X | (A4) Part C (Actions 14-16) (B1) Sections 2(2)(f), 45 and 45A (D5) Section 2(e) | |
| | | Fisheries management Catch/output controls | | | | | | | |
| C.9 Controls on fishing operations C.10 Fishery management plans C.17 Monitoring and review | 27. | – Establish limits on the amount of fish that may be removed from a fishery in a given period of time (e.g. TAC), restrict the number of fish that may be landed in a day (e.g. bag limit) or place limits on the amount of acceptable bycatch and/or discards from a fishery – all based on scientific data and maximum sustainable yield and the precautionary principle. | X | X | X | N/A | N/A | | |
| | 28. | – Ensure authority to institute TACs and to allocate individual quotas is representative, including representatives from lower levels of government. | X | ✓ | X* | N/A | N/A | (B1) Section 139(1)(a) | |
| | 29. | – Ensure procedure for TACs outlines the category of vessels to which the TAC applies; period of time for which the TAC is declared; process for sub-dividing the TAC into individual quotas; timeline, authority and participatory process for periodic monitoring and review. | X | X | X | N/A | N/A | | |
| | 30. | – Coordinate the TACs for shared stocks or highly migratory species with international or regional management measures. | X | ✓ | X* | N/A | N/A | (B1) Sections 45 and 64(2) | |
| | 31. | – Monitor the catch in real-time and close a fishery when the TAC is reached. | X | X | X* | N/A | N/A | | |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|---|-----------------------|---|--------------|-----------------------|------|---------------------------|------|---|--|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | 32. | – Attach catch controls to licenses and access agreements, including authority responsible for allocating, issuing and regulating quotas, and the procedure to be followed. | X | X | X* | N/A | N/A | | |
| | 33. | – Outline the ability to institute additional catch controls (e.g. bag limits for recreational fishing), including the authority responsible for allocating, issuing and regulating quotas, and the procedure to be followed. | X | ✓ | X* | N/A | N/A | (B1) Section 139(1)(a) | |
| | | <i>Effort/input controls</i> | | | | | | | |
| C.9 Controls on fishing operations C.10 Fishery management plans C.17 Monitoring and review | 34. | – Define a broad fishing license scheme to regulate access to fisheries and fishing vessels with timeline, authority and process for renewing the license, monitoring and compliance, and permit suspension and revocation of the license for non-compliance. | ✓ | ✓ | ✓* | N/A | N/A | (A5) Chapters 2(2.2) and 3(3.3) (B1) Sections 46-49, 52-58, 60-61, 63 and 69-77. (C2) Regulations 2 and 3, 23, 27-30, | |
| | 35. | – Designate authority responsible for allocating, issuing and regulating licenses, specified license duration, requirement of a fee and conditions that may be attached to licenses. | ✓ | ✓ | ✓* | N/A | N/A | (A5) Chapters 2(2.2) and 3(3.3) (B1) Sections 11, 53, 59, 63, 69-71 (C2) Regulations 2-3 | |
| | 36. | – Outline process for establishing provisions for effort controls (e.g. limitation on vessel capacity, on expansion of fishing fleet, on allowable days spent at sea). | ✓ | ✓ | X* | N/A | N/A | (A3) Pages 17-23 (B1) Section 139(1) | |
| | 37. | – Outline specific details of fishing license scheme (e.g. number of licenses to be allocated, permit conditions for each fishery). | X* | ∅* | ∅ | N/A | N/A | (B1) Section 72-74 (C2) Regulation 2 | Provisions in (B1) allow regulation to specify further conditions for granting licences, |

Perceived level of alignment with the EAF legal requirement

| | | | | | |
|--------|-----------|--------|----------------|--------------------|------------|
| ✓ full | ∅ partial | X none | • not assessed | N/A not applicable | * optional |
|--------|-----------|--------|----------------|--------------------|------------|

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|---|-----------------------|--|--------------|-----------------------|------|---------------------------|------|---|--|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | | | | | | | | | renewal and period of validity. Provisions in (c2) outlines conditions for issuance of the licence, but not the conditions of the licences themselves. |
| | 38. | – Empower the designated authority to establish additional regulations for licensing. | ✓* | ✓ | X* | N/A | N/A | (A5) Chapters 2(2.2) and 3(3.3) (B1) Sections 59, 72 and 139(1)(b) | |
| | 39. | – Empower authority to regulate effort controls and respective parameters. | X* | X | X* | N/A | N/A | | |
| | | Fishing gear and method controls | | | | | | | |
| C.9 Controls on fishing operations C.10 Fishery management plans C.17 | 40. | – Establish requirements on fishing gear and methods that are permitted for use within a given fishery or area, including related technical specifications (e.g. general prohibitions on types of gear, methods, specifications on gear design, minimum mesh sizes). | X | ✓ | ✓ | N/A | N/A | (B1) Sections 82 and 83, 85-88 (c2) Regulations 6-10 and 12 | |
| | 41. | – Outline prohibitions on highly destructive gear and fishing methods (e.g. fishing by toxic substance, explosives, electricity, fishing with the use of light). | X | ✓ | ✓* | N/A | N/A | (B1) Section 88 (c2) Regulation 11 | |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|---|-----------------------|---|--------------|-----------------------|------|---------------------------|------|---|---|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| Monitoring and review | 42. | – Outline requirements aimed at reducing negative impacts of fishing methods and gear (e.g. prohibition of trawling in areas with sensitive seabed habitat, require use of biodegradable nets, restrict the use of FADs or require use of bycatch reduction devices). | X | ✓ | ✓ | N/A | N/A | (B1) Section 86-87 (C2) Regulations 12-13, 15-16, 18-21 and 31 | |
| | | Spatial and temporal controls | | | | | | | |
| C.9 Controls on fishing operations c.10 Fishery management plans c.17 Monitoring and review | 43. | – Regulate area and time in which fishing operations may or may not take place (e.g. closed areas/seasons), closed or restricted-use areas, which prohibit or limit fishing operations (e.g. protection of artisanal fishing). | X | ✓ | ✓* | N/A | N/A | (B1) Sections 81 and 84 (C2) Regulations 6, 7 and 9 | |
| | 44. | – Empower authority to define spatial and temporal controls and the procedure. | X | ✓ | X* | N/A | N/A | (B1) Section 84 | |
| | 45. | – Ensure stakeholder and institutional consultation, both at national and lower levels, in the process of defining spatial and temporal controls. | X | ∅ | X* | N/A | N/A | (B1) Sections 44 and 84(2) | Provisions in (B1) are limited to FMPs generally and to ensure reasonable publicity in the declaration of closed seasons. |
| | 46. | – Establish technical details and specifics on spatial controls. | X* | ✓* | X | N/A | N/A | (B1) Sections 81 and 84 | |
| | | Fishery management plans | | | | | | | |
| C.9 | 47. | – Designate authority with power and responsibility to develop, approve, adopt and publicize a FMP, clearly outlining the roles and responsibilities. | ✓ | ✓ | X* | N/A | N/A | (A3) Page 1 (B1) Sections 2(2)(a) and 42 | |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|---|-----------------------|--|--------------|-----------------------|------|---------------------------|------|---|---|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| Controls on fishing operations C.10 Fishery management plans C.17 Monitoring and review | 48. | – Ensure FMPs and measures comply with established integrated management plans for aquatic ecosystems involving e.g. protected areas or critical habitat. | X | X | ∅ | X* | X* | (c2) Regulation 1(2) | Provision in (c2) refers to the need of ensuring the FMP complies with international agreement or convention. |
| | 49. | – Establish process for approval, adoption and publication of FMP with its periodic review. | X | ✓ | X* | N/A | N/A | (b1) Sections 42 and 44 | |
| | 50. | – Detail process of drafting FMP, including multi-level and multi-sector collaboration and consultation with stakeholders, and a participatory transparent process for monitoring and reviewing the FMP at a minimum within five years of their development. | X | ✓ | X* | N/A | N/A | (b1) Section 44 | |
| | 51. | – List the minimum requirements in the FMPs: | ✓ | ✓ | X* | N/A | N/A | (A3) Pages 6 and 16 (b1) Sections 42(1) and 43 | |
| | | (a) management objectives that take into account EAF; | ✓ | ✓ | X* | N/A | N/A | (A3) Pages 9-13 (b1) Section 43(a) | |
| | | (b) biological description of fishery and ecosystem in which it takes place; | ✓ | ✓ | X* | N/A | N/A | (A3) Page 12 (b1) Section 43(b) | |
| | | (c) social, economic and institutional aspects of the fishery; | ✓ | ✓ | X* | N/A | N/A | (b1) Section 43(e) | Provision in (b1) is too broad, referring to measures against overfishing |
| | | (d) species composition and levels of bycatch, both retained and discarded; | X | ∅ | X* | N/A | N/A | (b1) Section 43(a) | |
| | | (e) ecological relationships between harvested, dependent and associated species; | X | ✓ | X* | N/A | N/A | | |
| | | (f) impact of other anthropogenic activities on the ecosystem; and | X | X | X* | N/A | N/A | | |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|---|--|--------------|-----------------------|------|---------------------------|------|---|---|
| | | | 1ary | 2ary | 1ary | 2ary | | |
| | (g) a review of the relationship with other coastal or marine resource management plans. | X | X | X* | N/A | N/A | | |
| | Conservation measures | | | | | | | |
| C.14 Habitat and biodiversity conservation and restoration | 52. – Incorporate the consideration of habitat and biodiversity in the processes for establishing management measures (e.g. outline habitats and species related to the fishery and take measures to limit the negative impacts of fishing on them) or gear regulations. | ✓ | ✓ | X* | •* | • | (A1) Chapter 4(4.1) (B1) Section 89 | |
| | 53. – Ensure special protection for marine mammals, sea turtles and other particularly vulnerable marine life (e.g. set prohibitions or limitations), in coordination with other national designations or protections and regional and international conservation and management measures. | X | ✓ | ✓* | ∅* | ✓ | (B1) Section 90 (C2) Regulations 16-17 (D5) Section 62(1)(j) (D8) Section 11 (E3) Regulations 6 and 7 | Provisions in (D5) and (D8) empowers the government to adopt regulations for the protection of species. |
| | 54. – Ensure coordination between the various authorities involved in marine environment protection. | X | ✓ | ∅* | ✓* | • | (B1) Sections 4, 6 and 13 (D3) Section 2(2)(i) (D5) Section 2(b) | Provision in (D5) grants the Environmental Protection Agency with coordination powers with the technical and practical aspects of the environment in general. |
| | 55. – Establish mechanisms and designation of authority responsible for establishing: (a) designation and protection of threatened and endangered species, ensuring cooperation among the authorities throughout the listing process, definition and | X | X | X* | ∅* | ∅ | (D8) Schedules (E3) Regulations 6 and 7 (E5) Regulations 1 and 2 | Provisions in (D8), (E3) and (E5) do not establish the definition and qualifying factors |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|----------------------------------|-----------------------|--|--------------|-----------------------|------|---------------------------|------|---|---|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | | qualifying factors of each designation, process for listing, including steps for consultation and the special protections associated with the designations. | | | | | | | for designation, listing process, consultation. |
| | | (b) protected areas, ensuring the outline of the type of protected areas, description of their levels of protection (e.g. marine reserve, parks, sanctuaries or MPAs), the process for nominating, establishing and managing a protected area, including stakeholder participation particularly of local communities, consultation and coordination with various authorities, both at national and local levels. | ✓ | ✓ | X* | ∅* | ✓ | (A2) Chapter 4(4.1) (B1) Section 91 (D5) Section 62(1) (D8) Section 11 (E3) Regulations 3-5 | Provisions in (D5) and (D8) empowers the government to adopt regulations for the protection of species. |
| | | (c) the restoration of damaged habitat and ecosystems, ensuring the process through which it is decided when, where and how a damaged habitat/ecosystem shall be restored, and the establishment of funds that may be used to engage in restoration activities. | ✓ | X | X* | •* | • | (A2) Chapter 4(4.1) | |
| | 56. | – Ensure educational and awareness-raising activities for promoting habitat and biodiversity conservation and restoration with the establishment of special funds to support such activities. | ✓ | X | X* | ∅* | • | (A2) Chapter 4(4.1) (D5) Section 2(m)(p) | Provisions in (D5) requires the environment authority to initiate education programmes for public awareness on environmental issues, conduct seminars, but does not provide for the establishment of funds to secure such activities. |
| C.15 Regulation of activities | 57. | – Adopt measures to: | ✓ | ✓ | X | ✓ | • | (A2) Chapter 4(4.1) (B1) Section 92 | |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|---|-----------------------|---|--------------|-----------------------|------|---------------------------|------|--|---|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| potentially harmful to aquatic ecosystems | | (a) regulate and reduce pollution of the aquatic ecosystems which should apply to all activities that might have an impact (including fishing, mining, shipping, etc.) and cover all types of pollution including bycatch, discharge of waste, vessel emissions, coastal runoff. | | | | | | (D4) Section 2(2)(b) (D7) Sections 1-5 | |
| | | (b) promote energy efficiency and reduce emissions that are applicable to fishing vessels, merchant shipping vessels and extractive industries, including through fuel efficiency standards, vessel size limitations and equipment restrictions for fishing vessels. | X* | X* | X* | X | X | | |
| | | (c) prevent and eliminate ghost fishing with the prohibition of the abandonment of fishing gear, notification of authorities when fishing gear is lost, regulation of materials used in the manufacture of gear. | X | X | X | X | X | | |
| | 58. | – Require authorization prior to the planned introduction of any species, including species meant for aquaculture or fish stocking, taking into account the precautionary approach, and establish measures to prevent the escape of exotic species into the wild. | X | X | ✓ | X | X | (C2) Regulations 52(5) | |
| C.16 EIS or EIA | 59. | – Regulate marine extractive activities (e.g. marine mining for minerals or petroleum, harvesting of marine plants) and other potentially harmful activities, including the construction of installations for use by industry, laying of underwater cables, military exercises, shipping. | X | X | X | ∅ | X | (D7) Entire Act | (D7) is limited to the regulation of pollution of oil from ships |
| | 60. | – Require EIS or EIAs for activities that have the potential to affect ecosystems that support fisheries (e.g. fishing, aquaculture, mining, petroleum extraction, coastal development). | ∅ | ✓ | X | ✓ | ✓ | (A7) Page 23 (B1) Section 93 (D4) Section 12 (E2) Regulation 3 and Schedule 2 (E1) Regulation 12 | Reference in (A7) refers to strategic environmental assessment for the aquaculture zones. |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|----------------------|-----------------------|---|--------------|-----------------------|------|---------------------------|------|------------------------|--|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | 61. | – Detail components of EIS or EIA, which should at least discuss the purpose/need for the activity, the ecosystem that may be affected, potential impacts of the proposed activity and potential alternatives or mitigation and rehabilitation measures. | X | X* | X* | X | ✓ | (E2) Regulation 14(1) | |
| | 62. | – Establish process for submission, review and decision-making on the EIS or EIA, with designation of authority responsible for receiving, reviewing and deciding upon the EIS or EIA (e.g. the minister responsible for environment), opportunity for public participation (e.g. comment periods and hearings), consultation with other relevant government institutions or localities, and determination of adequate mitigation measures. | X | X* | X* | X | ✓ | (E2) Regulations 9-19 | |
| | | Fishery monitoring and research | | | | | | | |
| C.13 EAF research | 63. | – Establish research programme for furthering the knowledge and understanding of EAF. | X | ∅ | X* | X | X* | (B1) Section 2(h) | Provision in (B1) requires the Fisheries Commission to carry out research and survey work for fisheries resources assessment but no reference is made to EAF |
| | 64. | – Designate authority for conducting and involving stakeholders in the research programme. | X | ✓ | X* | X | X* | (B1) Section 2(h) | |
| | 65. | – Ensure the research programme's objectives are based on EAF principles, which may include research on inter-species interactions, the impact of fishing on target and non-target stocks, the identification of spawning and nursery areas, areas of critical habitat, rates of bycatch and discards per fishery, the | X | X | X* | X | X* | | |

Perceived level of alignment with the EAF legal requirement

| | | | | | |
|--------|-----------|--------|----------------|--------------------|------------|
| ✓ full | ∅ partial | X none | ● not assessed | N/A not applicable | * optional |
|--------|-----------|--------|----------------|--------------------|------------|

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|----------------|-----------------------|--|--------------|-----------------------|------|---------------------------|------|--|--|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | | incidence and effect of pollution on fisheries, the status of ecosystem biodiversity, the social and economic dimensions (such as employment, food security), income distribution and other considerations. | | | | | | | |
| | 66. | – Consider the findings of the EAF research in the adoption of conservation and management measures. | ✓ | ✓ | X* | X | ●* | (A4) Part C (Action 13) (B1) Sections 42(1)(a) 43(f) | |
| | | MCSE | | | | | | | |
| C.11 MCSE | 67. | – Outline an observer scheme with details on the categories of vessels/fisheries that it applies to and the role that observers play (which may be tailored to the category of vessel or the type of fishery and may be limited to the collection of catch/effort data and the collection of scientific samples, or may include the authority to register and/or report violation of management measures). | X | ✓ | ✓ | N/A | N/A | (B1) Sections 100-105 (c2) Regulations 35 and 36 | |
| | 68. | – Ensure observers have full access to all parts of the vessel and its equipment and to any place in the country where fish that have been caught in national waters are uploaded, processed, stored or transshipped. | X | ✓ | X | N/A | N/A | (B1) Sections 101 and 102 | |
| | 69. | – Design the scheme in line with regional or international requirements, taking into account relevant regional observer programs. | ✓ | X | X | N/A | N/A | (A3) Part C (Action 14) and Appendix 3 | |
| | 70. | – Ensure VMS is required for vessels licensed to fish in national waters and ABNJ, detailing specific categories of fishing vessels and/or fisheries to which it applies. | ✓ | ∅ | ✓ | N/A | N/A | (A3) Pages 38 and 42 (A4) Part C (Action 2) and Appendix 3 (B1) Section 139 (1)(l) (c2) Regulations 42-49 | Provision in (B1) grants the Minister with the power to make regulations, on the recommendation of the FC, prescribing |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|----------------|---|--|--------------|-----------------------|------|---------------------------|------|---|---|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | | | | | | | | | matters relating to satellite monitoring of fishing activities. |
| 71. | – Ensure reporting of catch and effort data, clearly identifying the vessels that are expected to report (at least all commercial fishing vessels that fish within national waters and all nationally-flagged vessels authorized to fish within waters under national jurisdiction and in ABNJ), to whom they are required to report (the designated authority), the frequency and timing of their reports, and the method or format in which they are required to report (e.g. weight of fish caught, including percentage of bycatch, species, dates of fishing, fishing zones, gear/methods employed, type of vessel, time of departure from national waters and catch status at that time). | | X | X | ✓ | N/A | N/A | (c2) Regulations 24U, 50 and 51 | |
| 72. | – Ensure the establishment and maintenance of a record of fishing vessels licensed to fish in waters under national jurisdiction and nationally flagged vessels authorised to fish in ABNJ with the designation of the authority responsible for its maintenance and information to be recorded for each category of vessel. | | X | X | ✓ | N/A | N/A | (c2) Regulations 24G-24J | |
| 73. | – Ensure the records of industrial fishing vessels include the name of the vessel, the flag state and any previous flag states, the radio call sign, the International Maritime Organization (IMO) number, the automatic identification system (AIS) and the VMS, if relevant the vessel length and tonnage, if relevant the fishing methods and gear used, the name and nationality of operator and beneficial owners of the vessel, and any transgressions of fisheries legislation associated with the vessel. | | X | X | ✓ | N/A | N/A | (c2) Regulation 24A and Form E | Form in (c2) concerns the registration of fishing canoe |
| 74. | – Broadly detail the registration process and ensure registration of all fishing vessels with the relevant fisheries or maritime authority, including information on the name of vessel, the flag state and any previous flag states, the radio call sign, if relevant | | ✓ | X | ✓ | N/A | N/A | (A4) Part C (Action 8) (A5) Chapters 2(2.1) and 3(3.2) | Reference in (A4) establishes the general requirement of |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|----------------|--|----|--------------|-----------------------|------|---------------------------|------|---|---|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | the IMO number, the AIS and VMS, if relevant the vessel length and tonnage, the name and nationality of the beneficial owners of the vessel, and any transgressions of fisheries legislation associated with the vessel. | | | | | | | (c2) Regulations 24A-24F | implementing the FAO Voluntary Guidelines for Flag State Performance |
| 75. | – Detail the specifications for marking vessels and fishing gear in accordance with internationally approved standards. | X | ∅ | ✓ | N/A | N/A | | (b1) Sections 49 and 55(2)(3) (c2) Regulations 3(3)(4), 4, 5 and 25 | Provisions in (b1) lack reference to marking of fishing gears. |
| 76. | – Ensure cooperation and coordination between fisheries and maritime authorities throughout the registration process. | ✓ | X | ✓ | N/A | N/A | | (A4) Part C (Actions 3, 6 and 7) (c2) Regulation 24C | |
| 77. | – Ensure authorized officers have enforcement powers, allowing them to board and search vessels (at sea and in port) and other premises related with fishing, to examine logbooks, records, gear and catch, to investigate and collect evidence, to seize fish, gear and vessels, and to interrogate, detain and arrest persons associated with reasonably suspected violations. | X | ✓ | ✓ | N/A | N/A | | (A3) Pages 38 and 42 (b1) Sections 95-99 (c2) Regulations 37-39 | |
| 78. | – Ensure the controls placed on landing and transshipping of fish, both at sea and in port, and by national and foreign vessels, is in accordance with regional and international instruments. | ✓ | ✓ | ✓ | N/A | N/A | | (A3) Page 25 (A4) Appendix 3 (A5) Chapter 9 (b1) Sections 132-134 (c2) Regulations 33 and 24V-24Z | |
| 79. | – Provide additional VMS specifications and specific details on the registration process. | X* | X | ✓ | N/A | N/A | | (c2) Regulations 45-47 | |

Perceived level of alignment with the EAF legal requirement

✓ full ∅ partial X none • not assessed N/A not applicable * optional

| EAF components | EAF legal requirement | | Fish. policy | Fisheries legislation | | Other sectors legislation | | Policy and legal basis | Comments and explanatory notes |
|---|-----------------------|--|--------------|-----------------------|------|---------------------------|------|--|--|
| | | | | 1ary | 2ary | 1ary | 2ary | | |
| | | Enforcement processes and sanctions scheme | | | | | | | |
| C.12 Offences, penalties and administrative and judicial processes | 80. | – Detail the fisheries-related offences (civil or criminal) and corresponding penalties, weighted depending on the level of severity of the offence but outlined in a way that maintains their strength over time (e.g. utilize formulas such as a percentage of the total market value of the sale of the illegal catch, or penalty units). | X | ✓ | ✓ | ∅ | ∅ | (B1) Various sections and general penalty in Section 137 (C2) Various regulations (D5) Sections 105 and 106 (D6) Various Sections (E1) Regulation 24 (E2) Regulation 29 | Provisions in (D5) and (D6) refer to offences that are not directly fisheries-related. Provisions in (E1) and (E2) do not provide for weighting of penalties according to the level of severity of offence. |
| | 81. | – Establish transparent and equitable administrative processes for determining and confirming offences, applying relevant penalties, with provision for compounding of offences/out-of-court settlement. | X | ✓ | X | • | • | (B1) Section 116 | |
| | 82. | – Establish judicial processes used for determining and confirming offences and applying relevant penalties to the offending parties, allowing for a right of appeal. | X | ✓ | X | • | • | (B1) Section 115 | |

The ecosystem approach to fisheries (EAF) is a risk-based management process for the planning, management, development, regulation and monitoring of fishing and fishing-related activities. EAF addresses ecological consequences of fishing as well as social, economic and institutional aspects of fisheries sustainability. Adequate legislation and regulatory frameworks are key to successful implementation of the EAF. The continuous review and update of information on legislation and regulatory instruments require the analysis of existing legal frameworks at all levels of governance, to assess whether they remain in force, valid and aligned with international fisheries law standards, including the EAF. The present work was prepared with a view to assess the level of alignment of national policy and legal frameworks of Ghana. Based on this preliminary assessment, policy-makers, legal practitioners and fisheries managers can take the necessary steps for improving the EAF implementation in their country. These steps could involve the amendment of existing legislation and/or enactment of new legislation and development of new policies to bring fully in line with an EAF.

For more information:

The EAF-Nansen Programme

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