



Food and Agriculture  
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United Nations

# Legislating for an ecosystem approach to fisheries – Revisited

An update of the 2011 legal study on the ecosystem approach to fisheries

FAO EAF-Nansen Programme Report No. 36  
EAF-N/PR/36 (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 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 is the current phase of the Nansen Programme which started in 1975.

The aim of the Programme is that sustainable fisheries improve food and nutrition security for people in partner countries. It builds on three pillars, Science, Fisheries Management, and Capacity Development, and supports partner countries to produce relevant and timely evidence-based advice for management, to manage fisheries according to the EAF principles and to further develop their human and organizational capacity to manage fisheries sustainably. In line with the EAF principles, the Programme adopts a broad scope, taking into consideration a wide range of impacts of human activities and natural processes on marine resources and ecosystems including fisheries, pollution, climate variability and change.

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The Programme works in partnership with countries, regional organizations, other UN agencies as well as other partner projects and institutions.

# Legislating for an ecosystem approach to fisheries – revisited

An update of the 2011 legal study on the ecosystem approach to fisheries

Julia N. Nakamura for the Development Law Service

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## **Abstract**

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 provide current information on how the EAF is being implemented through national legal frameworks of selected countries in Africa. It revisits a previous legal study prepared by Anniken Skonhøft and published by FAO in 2011. A decade later, based on the scope of that study, the present work provides updated data and contributes to the knowledge on the current global and regional legal frameworks for an EAF, which are vital for EAF implementation purposes. This update also re-analysed certain countries' national legislation and their evolution with respect to capturing the EAF requirements. Ultimately, the present work supports the legal implementation of an EAF for a holistic, integrated and innovative way of managing fisheries that promotes the participation of all relevant stakeholders and the use of best available knowledge for decision making, whilst balancing the human dimensions with the care for the environment, habitats, ecosystems and biodiversity related with fishery resources on which they depend.



# Contents

<b>Acknowledgements .....</b>	<b>ix</b>
-------------------------------	-----------

<b>Abbreviations and acronyms.....</b>	<b>xi</b>
--	-----------

<b>1. Context .....</b>	<b>1</b>
1.1 Scope, aims and methodology of the present work .....	1
1.2 Current state of fisheries and the importance of an ecosystem approach to fisheries.....	2
<b>2. International instruments relevant to an ecosystem approach to fisheries .....</b>	<b>4</b>
2.1 International legally-binding instruments.....	4
2.2 International non-binding instruments.....	7
<b>3. Regional instruments and bodies relevant to an ecosystem approach to fisheries.....</b>	<b>12</b>
3.1 Regional fisheries management organizations/arrangements .....	12
3.2 Regional fishery advisory bodies.....	13
3.3 Other regional fisheries instruments relevant to an ecosystem approach to fisheries.....	14
<b>4. Implementation of an ecosystem approach to fisheries through national legislation..</b>	<b>16</b>
4.1 Ecosystem approach to fisheries and the legislation of Angola.....	16
4.1.1 Updates .....	16
4.1.2 Other relevant legal developments.....	17
4.2 Ecosystem approach to fisheries and the legislation of Cameroon .....	19
4.2.1 Updates .....	19
4.2.2 Other relevant legal developments.....	19
4.3 Ecosystem approach to fisheries and the legislation of Gabon .....	20
4.3.1 Updates .....	20
4.3.2 Other relevant legal developments.....	22
4.4 Ecosystem approach to fisheries and the legislation of Ghana .....	23
4.4.1 Updates .....	23
4.4.2 Other relevant legal developments.....	24
4.5 Ecosystem approach to fisheries and the legislation of Kenya .....	25
4.5.1 Updates .....	25
4.5.2 Other relevant legal developments.....	27
4.6 Ecosystem approach to fisheries and the legislation of Liberia .....	28
4.6.1 Updates .....	28
4.6.2 Other relevant legal developments.....	29
4.7 Ecosystem approach to fisheries and the legislation of Madagascar .....	31
4.7.1 Updates .....	31
4.7.2 Other relevant legal developments.....	32
4.8 Ecosystem approach to fisheries and the legislation of Mauritius .....	33
4.8.1 Updates .....	33
4.8.2 Other relevant legal developments.....	34
4.9 Ecosystem approach to fisheries and the legislation of Morocco .....	36
4.9.1 Updates .....	36
4.9.2 Other relevant legal developments.....	36
4.10 Ecosystem approach to fisheries and the legislation of Mozambique .....	40
4.10.1 Updates .....	40
4.10.2 Other relevant legal developments.....	41
4.11 Ecosystem approach to fisheries and the legislation of Namibia .....	44

4.11.1	Updates .....	44
4.11.2	Other relevant legal developments.....	45
4.12	Ecosystem approach to fisheries and the legislation of Senegal .....	46
4.12.1	Updates .....	46
4.12.2	Other relevant legal developments.....	47
4.13	Ecosystem approach to fisheries and the legislation of the Seychelles.....	49
4.13.1	Updates .....	49
4.13.2	Other relevant legal developments.....	50
4.14	Ecosystem approach to fisheries and Sierra Leonean legislation .....	51
4.14.1	Updates .....	51
4.14.2	Other relevant legal developments.....	52
4.15	Ecosystem approach to fisheries and the legislation of South Africa .....	53
4.15.1	Updates .....	53
4.15.2	Other relevant legal developments.....	54
4.16	Ecosystem approach to fisheries and the legislation of the United Republic of Tanzania ...	55
4.16.1	Updates .....	55
4.16.2	Other relevant legal developments.....	56
<b>5.</b>	<b>Concluding remarks .....</b>	<b>58</b>
<b>6.</b>	<b>References.....</b>	<b>63</b>
<b>Appendix A.</b>	<b>Updated list of countries and their status regarding selected international instruments of relevance to an ecosystem approach to fisheries .....</b>	<b>67</b>
<b>Appendix B.</b>	<b>Updated list of countries and their status regarding selected regional fisheries management organizations instruments of relevance to the EAF-Nansen Programme .....</b>	<b>68</b>
<b>Appendix C.</b>	<b>Updated list of countries and their status regarding selected regional fishery advisory bodies of relevance to the EAF-Nansen Programme .....</b>	<b>69</b>
<b>Appendix D.</b>	<b>Updated list of countries and their status regarding selected regional instruments of relevance to an ecosystem approach to fisheries .....</b>	<b>70</b>



## Tables

Table A.	Updated list of the legislation of Angola .....	18
Table B.	Updated list of the legislation of Cameroon .....	20
Table C.	Updated list of the legislation of Gabon .....	22
Table D.	Updated list of the legislation of Ghana .....	24
Table E.	Updated list of the legislation of Kenya .....	27
Table F.	Updated list of the legislation of Liberia .....	30
Table G.	Updated list of the legislation of Madagascar .....	32
Table H.	Updated list of the legislation of Mauritius .....	35
Table I.	Updated list of the legislation of Morocco .....	39
Table J.	Updated list of the legislation of Mozambique .....	43
Table K.	Updated list of the legislation of Namibia .....	45
Table L.	Updated list of the legislation of Senegal .....	48
Table M.	Updated list of the legislation of Seychelles .....	50
Table N.	Updated list of the legislation of Sierra Leone .....	52
Table O.	Updated list of the legislation of South Africa .....	55
Table P.	Updated list of the legislation of the United Republic of Tanzania .....	57



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## Abbreviations and acronyms

ABNJ	areas beyond national jurisdiction
ABTs	Aichi Biodiversity Targets
ACAP	Agreement on Conservation of Albatrosses and Petrels 2001
ACP	African, Caribbean and Pacific
AEWA	Agreement on the Conservation of African-Eurasian Migratory Waterbirds 1995
APFIC	Asia-Pacific Fishery Commission
ACCOBAMS	Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic area 1996
ATLAFCO	Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic Ocean
BBNJ	biodiversity beyond national jurisdiction
BMU	beach management unit
BOBP-IGO	Bay of Bengal Programme Inter-Governmental Organisation
CBD	Convention on Biological Diversity 1992
CCAMLR	Convention on the Conservation of Antarctic Marine Living Resources
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
CECAF	Fishery Committee for the Eastern Central Atlantic
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973
CMS	Convention on the Conservation of Migratory Species of Wild Animals 1979
COREP	Regional Fisheries Committee for the Gulf of Guinea
EAF	ecosystem approach to fisheries
EC	European Community
EEZ	exclusive economic zone
EIA	environmental impact assessment
EIS	environmental impact statement
ESIA	environmental and social impact assessment
FAO	Food and Agriculture Organization of the United Nations
FCWC	Fishery Committee for the West Central Gulf of Guinea
FMP	fishery management plan
GFCM	General Fisheries Commission for the Mediterranean
ICCAT	International Commission for the Conservation of Atlantic Tunas
ICM	integrated coastal management
IOTC	Indian Ocean Tuna Commission
IPOA	International Plan of Action
IUCN	International Union for Conservation of Nature
IUU	illegal, unreported and unregulated (fishing)
LEGN	Development Law Service (of FAO's Legal Office)
LMFA	locally managed fisheries area
LOSC	United Nations Convention on the Law of the Sea 1982
MCSE	monitoring, control, surveillance and enforcement
MPA	marine protected area
NBSAP	National Biodiversity Strategy and Action Plan

NFIFM	Assessment and Management Team (of FAO's Fisheries and Aquaculture Division)
PSMA	Agreement on Port States Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing 2009
RECOFI	Regional Commission for Fisheries
RFAB	regional fishery advisory body
RFMO/A	regional fisheries management organization and/or arrangement
SADC	Southern African Development Community
SDGs	Sustainable Development Goals
SEA	strategic environmental assessment
SEAFO	South East Atlantic Fisheries Organization
SIOFA	Southern Indian Ocean Fisheries Agreement
SPRFMO	South Pacific Regional Fisheries Management Organization
SRFC	Sub-regional Fisheries Commission
SSF	small-scale fisheries
SWIOFC	Southwest Indian Ocean Fisheries Commission
TAC	total allowable catch
VMEs	vulnerable marine ecosystems
VMS	vessel monitoring system
UNFSA	Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks 1995
UNGA	United Nations General Assembly
WSSD	World Summit on Sustainable Development

# 1. Context

The ecosystem approach to fisheries (EAF) is a risk-based approach for the planning, management, development, regulation and monitoring of fishing and fishing-related activities. The EAF, according to FAO's definition, "strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic, and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries" (FAO, 2003).

The importance of providing current, most comprehensive and accurate information to the fisheries sector also involves information about the legislation and regulatory instruments that apply to it. 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 ensure they remain in force, valid and aligned with international fisheries law standards.

## 1.1 Scope, aims and methodology of the present work

The present work (hereafter the "EAF Legal Study Update") was prepared with a view to provide current information on how the EAF is being implemented through national legal frameworks of selected countries in Africa. It revisits a previous legal study entitled "Legislating for an Ecosystem Approach to Fisheries: a review of trends and options in Africa" (hereafter the "2011 EAF Legal Study" or the "Present Study"), prepared by Anniken Skonhoft and published by FAO in 2011 (FAO, 2011). The 2011 EAF Legal Study provided guidance on the ways in which EAF principles are reflected in international, regional and sub-regional legally-binding and non-legally-binding instruments, with a focus on Africa. It also reviewed and analysed the legal frameworks of the following 16 African countries: Angola, Cameroon, Gabon, Ghana, Kenya, Liberia, Madagascar, Mauritius, Morocco, Mozambique, Namibia, Senegal, Seychelles, Sierra Leone, South Africa and the United Republic of Tanzania. The 2011 EAF Legal Study determined the levels to which EAF implementation existed in these countries and outlined some trends in their respective national frameworks relating to the legal and institutional mechanisms and management measures vital to EAF implementation.

The EAF Legal Study Update builds on and elaborates the developments that have occurred in the course of the ten years following the publication of the 2011 EAF Legal Study. Like the original study, the overall objective of the Present Study is to provide fisheries managers with concrete guidance and knowledge on implementing an EAF through legislation. The EAF Legal Study Update presents the international legal developments that occurred in the past decade, highlighting, for instance, when an international agreement entered into force, and reviewed the list of States parties to the relevant international legally-binding instruments. Additionally, the EAF Legal Study Update includes the latest international commitments relevant to an EAF and the work on the legal implementation of an EAF conducted by FAO. The EAF Legal Study Update re-examines the analysis of the aforementioned 16 African countries to capture information not previously reported and to include the latest relevant findings.

## **1.2 Current state of fisheries and the importance of an ecosystem approach to fisheries**

Based on official statistics, in 2018, the primary sector of capture fisheries employed about 38.97 million fishers globally, with over 30.76 million in Asia and over 5.02 million in Africa (FAO, 2020). Over the period of 1961 to 2017, there has been an average annual increase of 3.1 percent of food consumption, which has outpaced the rate of population growth at a rate of 1.6 percent (FAO, 2020). Among other matters, this data reveals the fact that more people are eating fish and there is a likely increase of reliance on fish as a food source. This contributes to greater pressure on natural habitats, ecosystems and biodiversity. Moreover, 2017 estimates suggested that 34.2 percent of the global marine fisheries were classified as overfished, thereby threatening the sustainability of the world fish stocks, which may take two to three times the fish species' lifespan to rebuild (FAO, 2020). This situation calls for substantial improvements in the way global fish stocks are managed to avoid jeopardizing the well-being of the marine environment, and to secure its full enjoyment by present and future generations. The drivers leading to poor performance of management systems have long been recognised, including overcapacity of fishing fleets, illegal, unreported and unregulated (IUU) fishing, poor governance systems, limited capacity and inadequate knowledge just to mention a few. These drivers often act simultaneously so that results cannot be obtained if issues are not addressed in a concerted way. Addressing the multiple causes of unsustainable fisheries in an integrated way, such as through an Ecosystem Approach to Fisheries (EAF), has been recommended since the 2001 World Summit on Sustainable Development (WSSD) in Johannesburg.

The EAF plays a pivotal role in transforming the traditional ways of managing fisheries by considering the current needs and problems encountered by fisheries stakeholders, particularly those that are highly dependent on fisheries for their livelihoods. As emphasised in the 2011 EAF Legal Study and FAO publications, including, but not limited to, recently-developed legal guides and tools (e.g. FAO, 2016; Harrison *et al.*, 2019; FAO, 2021), an EAF fosters and integrates the well-being of both the ecosystem and humans alike. This approach calls for fisheries management to be undertaken in a holistic, adaptive, cooperative and coherent manner with other sectors and activities, while also considering the importance of application of sustainable development principles, including the precautionary principle. It involves risk-based management planning processes, taking into account habitat restoration, ecosystem preservation, maintenance of ecologically meaningful boundaries, interactions of species and associated species, and preservation of the integrity of ecosystems as a whole as well fisheries and biodiversity conservation (FAO, 2003). It also embraces a gamut of interventions including ensuring the participation of all stakeholders, high-level government authorities and institutions, fishers operating in fisheries-related activities, and persons in other sectors affecting fisheries, throughout the planning, development and management of fisheries (FAO, 2016).

The significance of adopting an EAF is widely recognised and the FAO Committee on Fisheries (COFI) adopted EAF as the appropriate approach to implement the principles of sustainable development in the management of fisheries. The efforts to implement this approach into a country's framework require follow-up that is continuously adapting and conforming to



changing circumstances taking into account the updated relevant information to support fishers, fisheries managers, legal practitioners and policy-makers in their inter-related work. It is crucial to provide appropriate, comprehensive, current and applicable material to guide those in decision-making positions who issue directives that directly or indirectly affect the well-being of both ecosystems and humans. The EAF Legal Study Update revisits the 2011 EAF Legal Study and provides updated and complementary findings in order to contribute to an improved EAF implementation, particularly in guiding the legislative developments for an EAF.

## 2. International instruments relevant to an ecosystem approach to fisheries

### 2.1 International legally-binding instruments

The 2011 EAF Legal Study examined three conventions and four agreements identified as important international legally-binding instruments to an EAF: the 1971 Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention), the 1982 United Nations Convention on the Law of the Sea (LOSC), the 1992 Convention on Biological Diversity (CBD), the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Compliance Agreement), the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA), the 2001 Agreement on Conservation of Albatrosses and Petrels (ACAP), and the 2009 Agreement on Port States Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA). Also included in that study was a table examining the status of those international legally-binding instruments in the African countries covered by the EAF-Nansen Programme. This table has been updated to include other relevant treaties and five Southeast Asian countries (Bangladesh, Maldives, Myanmar, Sri Lanka and Thailand) that are covered by the EAF-Nansen Programme as well.

The Present Study verifies the status of international legally-binding instruments in the relevant countries and identifies some relevant developments that have occurred, most notably, the entry into force of the PSMA on 5 June 2016. To date, 24 countries (Bangladesh, Cabo Verde, Côte d'Ivoire, Gabon, Gambia, Ghana, Guinea, Kenya, Liberia, Madagascar, Maldives, Mauritania, Mauritius, Mozambique, Myanmar, Namibia, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, Sri Lanka, Thailand and Togo) beneficiaries of the EAF-Nansen Programme are State-parties to the PSMA and two (Angola and Benin) are signatories (FAO, n.d-a). The meeting of the parties to the PSMA occur every two years. Of particular importance for an EAF, it is worth highlighting that the first meeting (May 2017) emphasised the importance of the inter-sectoral coordination of port State activities at national, regional and international levels, with the involvement of institutions including FAO, was emphasized (FAO, 2017a). The second meeting (June 2019) encouraged better coordination and cohesion of capacity building initiatives for efficient use of available resources (FAO, 2019b).<sup>1</sup> The PSMA is a key instrument in ensuring that monitoring, control, surveillance and enforcement (MCSE) requirements are fulfilled in accordance with an EAF.

On the status of international legally-binding instruments, other updates include: Thailand's ratification of the LOSC in 2011; Sri Lanka's acceptance of the Compliance Agreement in 2014;

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<sup>1</sup> The third meeting of the parties to the PSMA occurred in May/June 2021, but the report of this meeting is not available at the time of writing.

Bangladesh's ratification of the UNFSA in 2012, as well as Benin, Ghana and Thailand's accessions to the UNFSA in 2017. The updated table is in **Appendix A**.

The EAF Legal Study Update examines two additional treaties in support of EAF implementation: the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the 1979 Convention on the Conservation of Migratory Species of Wild Animals (CMS). As a number of State-parties to these treaties are beneficiaries of the EAF-Nansen Programme, it is important to acknowledge the overall significance of such treaties and the obligations contained therein for these State-parties in the context of EAF implementation. Another important recent development concerns the ongoing negotiations of the proposed international legally-binding instrument under the LOSC on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (ABNJ). The first session of the intergovernmental conference held in 2018 to negotiate the Biodiversity Beyond National Jurisdiction Agreement (BBNJ Agreement)<sup>2</sup> focused on the following issues: (i) marine genetic resources including questions on access and benefit sharing (ii) area-based management tools including marine protected areas (iii) environmental impact assessment/s, and (iv) capacity-building and marine technology transfer (UN, 2018).

**CITES** (CITES, 1973) is a widely accepted multilateral environmental agreement amongst international conservation instruments and currently has 183 Parties. The purpose of CITES is to regulate international trade of plant or animal species listed in one of its three appendices. According to CITES, international trade includes export, re-export, import and introduction from the sea of plant and animal species listed in either appendix (CITES, 1973, Article I). The appendices of CITES - Appendix I, Appendix II, and Appendix III - are differentiated by the level of threat of extinction faced by plant and animal species listed therein and the corresponding restriction on international trade in such species. Appendix I includes species threatened with extinction, whose international trade is very strict and only allowed for scientific research and/or educational purposes. Appendix II includes species, which are not faced with immediate threat of extinction, but whose survival may be jeopardized by trade without the establishment of appropriate and sufficient controls. Appendix III includes species regulated by at least one State-party in which cooperation with other State-parties is requested to control the trade of the endangered species (CITES, 1973, Article II). CITES provides a licensing scheme, which requires the prior grant and presentation of a permit, certificate, or both. These conditions depend on the trade activity as well as on allocation to, and fulfilment of, the conditions stipulated in the appendices (CITES, Articles III to V).

All three CITES appendices contain fish species, approximately 16 of these are in Appendix I, 114 in Appendix II, including commercially-exploited marine fish species like rays and certain sharks species, and 24 in Appendix III (CITES, n.d.). State-parties implement and enforce against non-compliance with CITES requirements including penalising trade in, or possession of, prohibited specimens. Penalties include confiscation, return to the State of export, or fines (CITES, 1973, Article VIII). Each State-party must prepare periodic reports on the status of the

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<sup>2</sup> For more on the ecosystem approach to fisheries in areas beyond national jurisdiction (ABNJ), see Diz, D. 2012. Fisheries Management in Areas beyond National Jurisdiction: the Impact of Ecosystem Based Law-Making. *Legal Aspects of Sustainable Development*. 13 (Martinus Nijhoff, 2012).

treaty's implementation and report measures such as transmission to the Secretariat of a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions (CITES, 1973, Article VIII(7)). The Convention does not require nor provide for an EAF, but nothing in its provisions prevents CITES to be applied in through an EAF.

State-parties to CITES have recently adopted the Strategic Vision for the period of 2021–2030, which highlights, among other things, the connection between CITES and activities carried out under the Convention on Biological Diversity regime (CITES, 2019). Five broad goals were set out in that strategic vision, of which two are particularly relevant for an EAF. Goal 2 addresses the State-parties' recognition of the need to generate and have access to best available science and information in support of trade risk assessments, listing proposals, permitting and enforcement decisions. Goal 5 covers the use of existing partnerships at international, regional and national levels (CITES, 2019). Generating information and fostering cooperation between States-parties to CITES through the relevant international mechanisms, institutions, organizations and agreements are aligned with the integrated and collaborative components of an EAF. Inter-state cooperation concerning CITES implementation have involved relevant fisheries issues, especially due to the increasing number of commercially-exploited aquatic species being included in CITES Appendix II (e.g. rays, sharks species), demanding more attention of States on CITES requirements when undertaking trade transactions involving such species (Nakamura and Kuemlangan, 2020).

The **CMS** is a treaty aimed at the long-term conservation of migratory species, ensuring their status as a viable component of the ecosystems, their long-term availability and the maintenance of a sufficient habitat, related ecosystems and wildlife (CMS, 1979, Article I(1)). Any State, including non-parties, exercising jurisdiction over land or water which a migratory species inhabits, crosses or overflies on its normal migration route, or a State, including non-parties, whose flag vessels operate in ABNJ and exploit migratory species, is a "Range State" (CMS, 1979, Article I(1)). Within the framework of CMS, there are two appendices. Appendix I focuses on endangered migratory species. Appendix II has two subcategories: (i) migratory species with an unfavourable status, which requires international cooperation for conservation and management, and (ii) migratory species whose conservation status would benefit from international cooperation through international agreements. Unlike CITES, a species can be listed on both appendices if it is warranted (CMS, 1979, Articles III(1)(2) and IV(1)(2)).

Within the CMS framework, Range States have a duty to prohibit the taking of these species, "where feasible and appropriate", with respect to the conservation, restoration, prevention, removal, compensation and control of the migratory species listed in Appendix I. Despite this prohibition, exceptions exist, for instance the taking of animals for scientific purposes (CMS, 1979, Article III(4)(5)). CMS requires the Range State-parties listed in Appendix II to endeavour to conclude agreements for the benefit of species, and prioritize those in unfavourable conservation status (CMS, 1979, Article IV(3)). The CMS has developed guidelines for these agreements, including a non-exhaustive list of matters to cover such as the periodic review of the conservation status of migratory species, coordinated conservation

and management plans, research into ecology and the populations' dynamics of the migratory species concerned (CMS, 1979, Article V).

CMS State-parties adopted a new Strategic Plan for the period 2015–2023 based on the CBD Strategic Plan for Biodiversity and its Aichi Biodiversity Targets (ABTs). The Strategic Plan complements the specificity of migratory species conservation by aiming for facilitated national coordination and integration of issues related to migratory species into existing environmental national plans and strategies (CMS, 2017). One of its targets consists of ensuring that fisheries do not adversely affect, directly or indirectly, migratory species, their habitats or their migration routes. Furthermore, the Strategic Plan also requires the impacts of fisheries to be within safe ecological limits, and that migratory species are managed and harvested sustainably, legally and through the use of ecosystem-based approaches and the "precautionary approach".

## **2.2 International non-binding instruments**

The 2011 EAF Legal Study analysed the following non-binding instruments which are relevant for an EAF:

- 1972 Declaration of the United Nations Conference on the Human Environment;
- 1992 United Nations Conference on Environment and Development Declaration;
- 1992 Agenda 21;
- 1995 FAO Code of Conduct for Responsible Fisheries;
- 1997 FAO Technical Guidelines for Responsible Fisheries;
- 2000/2001 FAO International Plans of Actions (IPOAs) for:
  - IUU fishing;
  - fishing capacity, conservation and management of sharks; and
  - catch reduction of seabirds in longline fisheries;
- 2001 Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem;
- 2002 Johannesburg Plan of Implementation adopted at the World Summit for Sustainable Development;
- 2003 FAO EAF Guidelines;
- 2006 UN General Assembly (UNGA) Resolutions on:
  - Sustainable Fisheries; and
  - the Oceans;
- 2008 International Union for Conservation of Nature (IUCN) Guidelines for Applying Protected Area Management Categories; and
- 2009 Human Dimensions Addendum.

To complement the analysis of international non-binding instruments, the present Study outlines additional sources, briefly explaining their relevant content for an EAF.

The **1989 FAO Standards Specifications for the Marking and Identification of Fishing Vessels** (FAO, 1989) applies to all vessels - including fishing vessels - operating in capture fisheries, particularly in ABNJ. It serves as an aid to fisheries management and safety at sea, calling for the marking of fishing vessels, based on the International Telecommunication Union Radio Call Signs System. It requires the markings to be displayed at all times on particular parts of the vessel, providing technical specifications on letters, numbers, painting, and the registration of marks. Marking and identification of fishing vessels is crucial for the effective MCSE, in line with an EAF.

The **2009 FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas** (FAO, 2009a) aims to provide tools and guidance for facilitating and encouraging the efforts of States and Regional Fisheries Management Organizations and/or Arrangements (RFMO/As) towards sustainable use of marine living resources exploited by deep-sea fisheries. The prevention of significant adverse impacts on deep-sea vulnerable marine ecosystems (VMEs) and the protection of marine biodiversity that these ecosystems contain, calling upon States and RFMO/As to adopt and implement measures in accordance with an EAF, is further sought. It clarifies relevant concepts concerning deep-sea fisheries, VMEs, significant adverse impacts and advises on many management measures, for example, those to ensure the conservation of target and non-target species.

The **2009 Revised FAO Guidelines for the Ecolabelling of Fish and Fishery Products from Marine Capture Fisheries** (FAO, 2009b) encourages the application of ecolabelling schemes for marine capture fisheries. The guidelines encourage interested parties to adopt general requirements and criteria for ecolabels based on the impact of fishery on the ecosystem. In this regard, for the purpose of development of ecolabelling schemes, these guidelines suggest that the most probable adverse impacts of the fishery on the ecosystem be considered. This includes taking into account available scientific information, and traditional, fisher or community knowledge, if its validity can be objectively verified.

The parties to the CBD adopted the **2010 Strategic Plan for Biodiversity 2011–2020 and its ABTs** (CBD, 2010), in part, to ensure *“all fish and invertebrate stocks and aquatic plants are managed and harvested sustainably, legally and [by] applying ecosystem based approaches, so that overfishing is avoided, recovery plans and measures are in place for all depleted species, fisheries have no significant adverse impacts on threatened species and vulnerable ecosystems and the impacts of fisheries on stocks, species and ecosystems are within safe ecological limits”*. In this effect, many countries of the EAF-Nansen Programme have submitted their respective updated National Biodiversity Strategy and Action Plan (NBSAP), reflecting this and other ABTs.<sup>3</sup> The next CBD’s Conference of the Parties (CBD CoP-15), to be held in May 2021, will review the achievement and delivery of the Strategic Plan 2011–2020 as well as take the final decision on the post-2020 Global Biodiversity Framework.

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<sup>3</sup> For example, Cabo Verde’s Second NBSAP 2014–2030, Democratic Republic of the Congo’s Second NBSAP 2016–2020, Ghana’s Second NBSAP 2016–2040, Liberia’s Second NBSAP 2017–2025, Morocco’s Third NBSAP 2016–2020, Mozambique’s Third NBSAP 2015–2035, Mauritius’ Second NBSAP 2015–2025, Sierra Leone’s Second NBSAP 2017–2026.

The **2011 FAO International Guidelines on Bycatch Management and Reduction of Discards** (FAO, 2011) assists states and RFMOs to implement the Code of Conduct for Responsible Fisheries “CCRF” and an EAF through effective management of bycatch and reduction of discards. It advises states to establish and implement national policies, legal and institutional frameworks including measures agreed by the RFMOs to which they are members or participate as cooperating non-members. It also suggests that governance and legal frameworks should enable the application of an EAF, the implementation of co-management and community-based management of fisheries to better manage bycatch and reduce discards. Ensuring that all significant sources of fishing mortality in a fishery are addressed in fisheries management planning, and that such planning is based on an EAF, are called for as well.

The **2012 Declaration ‘The Future We Want’** (UN, 2012) calls for the implementation of various international instruments, expressly mentioning many of those analysed in the EAF Legal Study Update and the 2011 EAF legal study. It enforces the commitment to protect and restore the health, productivity and resilience of oceans and marine ecosystems, the maintenance of their biodiversity and the enablement of their conservation and sustainable use for present and future generations. It further calls for effectively applying an “ecosystem approach” and the “precautionary approach” in the management of activities that affect the marine environment, and to deliver on all dimensions of sustainable management. It also calls for holistic and integrated approaches to [international] sustainable development for restoring the health of the earth’s ecosystem and stresses the crucial role of healthy marine ecosystems, sustainable fisheries and sustainable aquaculture for food security and nutrition. This EAF Legal Study Update plays a pivotal role by being the basis for instruments related to international sustainable development.

The **2014 FAO Voluntary Guidelines for securing Sustainable Small-scale Fisheries** (SSF Guidelines) (FAO, 2014) are entirely dedicated to the sustainability of SSF and aim to provide guidance for the development and implementation of ecosystem friendly and participatory policies, strategies and legal frameworks for the enhancement of responsible and sustainable SSF. Drawing on holistic and integrated approaches of the EAF as an important guiding principle, the guidelines embrace comprehensiveness and sustainability in the management and conservation of all parts of ecosystems by people involved in SSF. Livelihoods of SSF communities are safeguarded by ensuring cross-sectoral coordination, taking into account the complexity of livelihoods and ensuring social and economic development of those communities. It also calls for sustainable practices within an EAF for deterring inputs waste in SSF handling and processing and recommends States establish and promote the institutional structures and linkages including local-national-regional-global linkages and networks for achieving policy coherence, cross-sectoral collaboration and implementation of an EAF. In support of the implementation of the SSF Guidelines, the **2020 FAO Legislating for Sustainable Small-Scale Fisheries** (FAO, 2020) provides guidance on how to better align national legislation with the SSF Guidelines, with a focus on issues of governance of tenure in SSF and resource management.

The **2015 FAO Voluntary Guidelines for Flag State Performance** (FAO, 2015) aims at preventing, deterring and eliminating IUU fishing or fishing related activities through the effective implementation of flag State responsibilities thereby ensuring the long-term conservation and sustainable use of living marine resources and marine ecosystems. Among the many recommendations established therein, these guidelines call attention to the flag State's regime for authorizing fishing and fishing related activities, which ensures that no vessel is allowed to operate unless authorized in accordance with international law and sustainability of relevant stocks, including conditions for the protection of marine ecosystems.

The **2015 Sustainable Development Goals** (SDGs) (UNGA, 2015) is currently the main international policy instrument, which builds on the foundation established in the Millennium Development Goals. It divides the 2030 Agenda for Sustainable Development into 17 SDGs and 169 targets, many of which directly or indirectly relate to, and are relevant for, EAF. Specifically, SDG 14 "*conserve and sustainably use the oceans, seas and marine resources for sustainable development*", dedicates 10 targets that are important for the implementation of EAF. Relevant targets for EAF include:

- to prevent and significantly reduce marine pollution of all kinds by 2025 (SDG 14.1); to sustainably manage and protect marine and coastal ecosystems and take action for their restoration by 2020 (SDG 14.2);
- to effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices as well as implement science-based management plans by 2020 (SDG 14.4);
- to provide access for small-scale artisanal fishers to marine resources and markets (SDG 14.c); and
- to enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in UNCLOS (SDG 14.c).

The **2015 UNGA Resolution on 'Oceans and the Law of the Sea'** approved the summary of the First Global Integrated Marine Assessment, published in 2017, which serves as a baseline for future cycles of the process of understanding, integrating and improving knowledge, as well as identifying gaps and capacity-building for further dealing with the challenges related to sustainable use of the oceans, its resources, biodiversity and ecosystems, its significant contributions to food security, food safety, and the impacts it suffers from human activities, climate change effects (UN, n.d-a). Every year, the UNGA adopts a Resolution on 'Oceans and Law of the Sea' as well as a Resolution on 'Sustainable Fisheries' (UN, n.d-b).<sup>4</sup> The latest **2019 UNGA Resolution on 'Sustainable Fisheries'**, for example, addressed the EAF in various instances, notably urging States to increase their efforts through international cooperation to promote science for conservation and management measures that apply the EAF, improving the knowledge on EAF to ensure the long-term conservation and sustainable use of living marine resources.

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<sup>4</sup> For more information on the recent legal developments on international fisheries matters, derived from the UNGA Resolutions, see Caddell, R. International Fisheries Law and Interactions with Global Regimes and Processes. In: Caddell, R. and Molenaar, E.J. (eds) Strengthening International Fisheries Law in an Era of Changing Oceans (Hart Publishing: 2019), pp. 133–164.



The **2017 Declaration ‘Our Ocean, our future: call for action’** (UNGA, 2017) supports the implementation of the SDGs with the full participation of civil society and other relevant stakeholders and reinforces the commitment of halting and reversing the decline in health and productivity of our ocean and its ecosystems and to protecting and restoring its resilience and ecological integrity. It also calls upon all stakeholders on SDG 14 by taking actions such as supporting the use of effective and appropriate area-based management tools, including marine protected areas and other integrated, cross-sectoral approaches, based on the best available science, applying the “precautionary” and “ecosystem” approaches, consistent with international law and in accordance with national legislation, to enhance ocean resilience and better conserve and sustainably use marine biodiversity, enhancing sustainable fisheries management by implementing science-based management measures, monitoring, control and enforcement, and strengthening cooperation and coordination among RFMOs, related bodies and arrangements.

The **2018 Statement of Intent on Advancing the Global Sustainable Blue Economy**, adopted at the first conference on the sustainable blue economy, set priority areas for scaling up productive and conservation activities, including the promotion of sustainable fisheries (Sustainable Blue Economy Conference, 2018). It states that a *“a sustainable blue economy builds on unlocking the full economic possibilities of the oceans, seas, lakes, rivers and other water resources through investments that involve participation of all relevant people while protecting the resources for present and future generation and ecosystem resilience”*. Commitments related to fisheries development include one by the Victory Farms Limited for constructing hatchery to produce 10,000 MT, which would make it the sub-Saharan Africa’s largest tilapia hatchery in 2019, and Kenya’s commitment to ensure responsible and sustainable fishing to conserve the endangered species and high value fish.

The **2019 Voluntary Guidelines on the Marking of Fishing Gear** provide recommendations for the preparation, management and operation of all types of fishing gears, as to enhance safety at sea by combatting, minimizing and eliminating abandoned, lost or otherwise discarded fishing gear (ALDFG) and facilitating the identification and recovery of such gear (FAO, 2019a). It takes into account the EAF, fostering the elaboration of risk assessments, based on best available information and participatory decision-making process, in order to design a system of marking of fishing gear that is environmental-friendly, compatible with traceability and certification systems, and responsive to changing conditions of all stakeholders.

### 3. Regional instruments and bodies relevant to an ecosystem approach to fisheries

#### 3.1 Regional fisheries management organizations/arrangements

The 2011 EAF Legal Study analysed the following seven RFMOs: the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), the Indian Ocean Tuna Commission (IOTC), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the South East Atlantic Fisheries Organization (SEAFO), the General Fisheries Commission for the Mediterranean (GFCM), and the Southern Indian Ocean Fisheries Agreement (SIOFA). To complement the analysis of RFMOs relevant to the countries covered by the EAF-Nansen Programme, the EAF Legal Study Update included also the South Pacific Regional Fisheries Management Organization (SPRFMO). The SPRFMO Convention entered into force on 24 August 2012. The updated list of countries and their status regarding these RFMOs is provided in **Appendix B**. It is important to note that the membership of RFMOs often change (Molenaar, 2019) and their current status can be found in the respective websites.

The **ICCAT** recently gained Guinea-Bissau, Liberia and Gambia as contracting parties in 2014, 2016 and 2019, respectively. Another relevant contribution of this RFMO was the adoption of resolutions calling for the application of an EAF management as well as the “precautionary approach” when making recommendations, for instance, the consideration of interdependence of stocks and species belonging to the same ecosystem associated with or dependent upon target stocks, minimizing negative impacts of fishing activities on the marine ecosystem, and the use of best scientific advice.<sup>5</sup> The ICCAT has a Sub-committee on Ecosystems that provides annual reports on research related to ecosystems, bycatch and associated activities, providing recommendations to its Standing Committee on Research and Statistics (e.g. ICCAT, 2018). It is also relevant to note that FAO has signed an agreement with the ICCAT to ensure cooperation between them through consultation, coordination of effort, mutual assistance and joint-action specifically concerning the collection and analysis of statistics, stock assessment and formulation of conservation and management measures on tuna and tuna-like species of the Atlantic Ocean (FAO, 1973).

The **IOTC** also gained new contracting parties in the last years, including Mauritania in 2011, Mozambique in 2012, South Africa in 2016, Bangladesh in 2018; Guinea withdrew in 2017. The IOTC has a Working Party on Ecosystems and Bycatch (“Working Party”) that meets every year to discuss and review research, data, management measures such as risk assessments and ecologically-based management tools, related to ecosystem, bycatch and related activities (e.g. IOTC, 2018). This Working Party has adopted a Programme of Work in the period of 2019-2023 with priority topics on stock structure, its connectivity and diversity, fisheries data collection, biological and ecological information, including parameters for stock assessment,

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<sup>5</sup> Resolutions by the ICCAT concerning the application of an Ecosystem Approach to Fisheries Management [15-11], and concerning the use of a Precautionary Approach in Implementing ICCAT Conservation and Management Measures [15-12], both transmitted to Contracting Parties on 4 December 2015.

stock mitigation measures and marine turtle bycatch mitigation measures. A specific measure on ecosystems, which aims to develop a plan for ecosystem-based fisheries management approaches in the IOTC, has furthermore been adopted.

The number of contracting parties to **SIOFA** also increased with Mauritius and Seychelles joining in 2012 and Thailand in 2017. The SIOFA recently formed its Protected Areas and Ecosystems Working Group, which has been holding annual meetings since 2019 (SIOFA, n.d.). The **SPRFMO**, established in 2012, is the newest of the RFMOs. Its participants includes one EAF-Nansen Programme country, Liberia, which is a cooperating non-contracting party. The convention that established the commission expressly aims *“through the application of the precautionary approach and an ecosystem approach to fisheries management, to ensure the long-term conservation and sustainable use of fishery resources and, in doing so, to safeguard marine ecosystems in which these resources occur”* (SPRFMO, 2012). It provides for the duties of each member of the commission, including effectively implementing conservation and management measures, cooperating in furthering that aim, taking all necessary measures to support efforts to prevent, deter and eliminate IUU fishing.

### 3.2 Regional fishery advisory bodies

The 2011 EAF Legal Study also examined seven other regional fishery advisory bodies (RFABs), i.e. the Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic Ocean (ATLAFCO), the Fishery Committee for the Eastern Central Atlantic (CECAF), the Sub-regional Fisheries Commission (SRFC), the Fishery Committee for the West Central Gulf of Guinea (FCWC), the Regional Fisheries Committee for the Gulf of Guinea (COREP), the Southwest Indian Ocean Fisheries Commission (SWIOFC) and the Regional Commission for Fisheries (RECOFI).

There was an increase in the number of contracting parties to the **ATLAFCO** through the accession and/or ratification of Ghana in 2014, as well as of Sao Tome and Principe in 2017 and Gambia in 2019. To complement the analysis of RFABs relevant to the countries covered by the EAF-Nansen Programme, the EAF Legal Study Update includes the Asia-Pacific Fishery Commission (APFIC), and the Bay of Bengal Programme Inter-Governmental Organisation (BOBP-IGO) (BOBP, 1999). The updated list of countries and their status regarding these RFABs is found in **Appendix C**.

The **APFIC** was established upon the request of FAO members and approved in 1948 at the Fourth Session of the FAO Conference, and has since operated under the rules of the APFIC Agreement (FAO, n.d-b). Its 21 members include some of the EAF-Nansen Programme countries such as Bangladesh, Myanmar, Sri Lanka and Thailand. The APFIC Agreement provides for the functions and responsibilities of this particular RBFA, which include: keeping under review the state of living aquatic resources and related industries, formulating and recommending measures, initiating and carrying out programmes or projects to increase the efficiency and sustainable productivity of fisheries and aquaculture, the conservation and management of resources, and protection of resources from pollution (Article IV, APFIC Agreement). The APFIC Executive Committee recently reported on the progress of supporting

member countries and partners implementing EAF management, the importance of integrating EAF management into FAO projects and programmes, and the potential to use the approach in the planning and implementing climate change adaptations for the sector (FAO, 2017b).

The **BOBP-IGO** was established in 1999 by the BOBP-IGO Agreement (BOBP-IGO, n.d.). The four member countries of the BOBP-IGO include Bangladesh, Maldives and Sri Lanka among those covered by the EAF-Nansen Programme. Through promoting, facilitating and ensuring the long-term development and utilization of coastal fisheries resources of the Bay of Bengal based on responsible fishing practices and environmentally sound management programmes, this RFAB aims to connect member countries in terms of knowledge, experience and resources required to support the bettering of the lives of their fisher folk. The BOBP-IGO has so far promoted regional programmes on safety at sea for artisanal and small-scale fishermen, on fish stocks assessment in the Bay of Bengal, on capacity building and information services for fisheries development and management in the concerned area, and on the setting up of regional information network for strengthening national capabilities in development and management of coastal fisheries.

### **3.3 Other regional fisheries instruments relevant to an ecosystem approach to fisheries**

The 2011 EAF Legal Study analysed the following eight regional legally-binding instruments relevant to EAF: the 1968 African Convention on the Conservation of Nature and Natural Resources, (Algiers Convention) as amended by the 2003 Maputo Convention, the 1981 Convention for Cooperation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan Convention), the 1985 Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (Nairobi Convention), the 1995 Convention for the Protection of the Mediterranean Sea Against Pollution (Barcelona Convention), the 1995 Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA), the 1996 Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic area (ACCOBAMS), and the 2001 Protocol on Fisheries, adopted by the Southern African Development Community (SADC Protocol).

The 2011 EAF Legal Study also analysed four regional non-legally-binding instruments relevant to EAF: the 2005 Abuja Declaration on Sustainable Fisheries and Aquaculture in Africa (Abuja Declaration), the 1999 Memorandum of Understanding concerning Conservation Measures for Marine Turtles of the Atlantic Coast of Africa (1999 MoU), the 2001 Memorandum of Understanding on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean and South-East Asia (2001 MoU), and the 1998 Cape Town Declaration on an African Process for the Development and Protection of the Coastal and Marine Environment (Cape Town Declaration). To complement this analysis, the EAF Legal Study Update examines another legally-binding regional instrument relevant to EAF, namely the 2010 Agreement amending, for the second time, the Partnership Agreement between the members of the African, Caribbean and Pacific (ACP) Group States and the European Community (EC) and its Member States (**Cotonou Agreement**), Annex IV of which

was revised in 2014 (EU Council Secretariat and ACP States Secretariat, 2010). The updated list of countries and their status regarding the regional legally-binding instrument is contained in **Appendix D**.

The **Cotonou Agreement** was signed on 23 June 2000, revised in Luxembourg in 2005, and revised again in Ouagadougou on 22 June 2010. It was concluded for the purpose of promoting and expediting the economic, cultural and social development of the ACP States, contributing to peace and security and promoting a stable and democratic political environment for cooperation among States. This includes ACP national parliaments, ACP regional organisations and the African Union, the private sector, economic and social partners including trade union organisations and civil society organizations. Specific provisions dedicated to fisheries were included in the latest revision, providing for ACP-EC cooperation for the sustainable development of fisheries within exclusive economic zones (EEZs) of the ACP States. To further develop this sector, ACP countries aim to increase the associated social and economic benefits in a sustainable manner (Articles 23(f) and 23A, Cotonou Agreement). It also requires ACP-EU cooperation in the area of regional policies for sustainable development, cooperation to support the priorities of ACP regions and, in particular, the environment and sustainable management of natural resources, food security and agriculture (Article 29(3), Cotonou Agreement). It is further stipulated that cooperation on environmental protection and sustainable utilisation and management of natural resources shall be aimed at supporting specific measures and schemes for addressing critical related issues such as the protection of fragile ecosystems (Article 32(1), Cotonou Agreement).

## 4. Implementation of an ecosystem approach to fisheries through national legislation

The present EAF Legal Study Update reviews the aforementioned 16 countries covered by the 2011 EAF Legal Study. Using FAOLEX database, a desk-based study was conducted of countries' legislation to verify their current applicability. Since the 2011 EAF Legal Study, certain pieces of legislation in the aforementioned 16 countries were repealed or amended, as identified in this update. In addition to this, the desk-based study reviewed recent legislation relevant to EAF, aiming to provide a coherent update on EAF implementation in national legal frameworks. The subsections 4.1 to 4.16 (including **Table A** through **P**) provide the national legislations mentioned in the 2011 EAF Legal Study, their respective modifications and the recent legislation relevant to EAF.

It is important to note that some of these countries' legal frameworks have been previously assessed, to a limited extent, as part of the latest FAO work within the EAF-Nansen Programme. This includes *A diagnostic tool for implementing an ecosystem approach through policy and legal instruments* (FAO, 2021), which provides an EAF Legal Checklist with requirements surmised from the 17 EAF components of the *How-to Guide on Legislating for an ecosystem approach to fisheries* (FAO, 2016). That checklist table was applied against selected policy and legal frameworks of all the 16 countries examined in the 2011 EAF Legal Study. EAF Legal Reports of these countries were developed, providing a preliminary gap-assessment of their current policy and legal frameworks with an EAF. References to this work are made in the concluding remarks of the present update, pointing to some of the gaps found in these assessments.

### 4.1 Ecosystem approach to fisheries and the legislation of Angola

#### 4.1.1 Updates

The legislation of Angola that were examined in the 2011 EAF Legal Study remain in force, with the exception of the *1992 Act on the Territorial Sea, Contiguous Zone and Exclusive Economic Zone*, which was repealed by the *2010 Law on Maritime Zones under the National Jurisdiction of Angola*. This law reproduces the provisions of UNCLOS as ratified by Angola in 1990. The law provides for the principle of sustainable development, calls for considering the economic needs of coastal communities that depend on fisheries and the special needs of developing countries, and includes the principle of maximum sustainable yield to avoid overexploitation of species (Article 5(3)). It also includes the duty of the State to protect and exploit the natural resources of the marine environment of its EEZ in conformity with UNCLOS for the benefit of the marine environment (Article 44(2)). These prevention measures are aimed at reducing the emission of toxic substances and damaging pollution from shipping, thereby ensuring the safety of operations at sea, and preventing intentional discharges (Article 44(4)).

The 2011 EAF Legal Study highlighted the need for strengthening coordination and stakeholder participation, specifically the need to define the precise mandate of the Council

for Integrated Management of Aquatic Biological Resources (Skonhofs, 2011, p. 43) and other related matters, which were recently addressed by the *2018 Executive Decree on the Regulation of the Council* (hereafter the “Angola’s Executive Decree of 2018”). In this instrument, the mandate of this Council includes providing opinions on inter-sectoral measures for the development of the fisheries sector, preparing legislative projects related to the aquatic environment and the sustainable use of aquatic biological resources, establishing inter-sectoral actions and programmes of information, publicity and social awareness for the organization of campaigns of civil education, as well as recognizing and protecting communities with respect to environmental and aquatic ecosystems issues (Article 2(1)(b)(c)(e)). The Angola’s Executive Decree of 2018 also ensures that the Council is representative in design, with the participation of a wide range of stakeholders, governments, industries (where participants are invited by their respective related Ministries, e.g. Environment, Petroleum, Energy and Waters, Transports, Tourism), representatives of the scientific research community, fisheries and aquaculture associations, and fisheries provinces (invited by the Ministry of Fisheries and Ocean (Article 3(1)).

The 2011 EAF Legal Study also noted the potential role of the Advisory Council with respect to the participation of stakeholders from the fisheries sector, as established by the *2018 Executive Decree on the regulation of the Advisory Council* (Skonhofs, 2011, p. 43). This Council is composed of the Secretaries of State, Directors of the Technical Services, representatives of the Provincial Governments, and the Professional Fisheries, Aquaculture, Salt Associations and Cooperatives. The legislation ensures that the Ministry of Fisheries and the Sea invites other technical experts relevant to the sector to participate in the sessions of the Advisory Council, where appropriate (Article 2). The mandate of this Council consists of providing opinions on all matters upon request of the Ministry of Fisheries and the Sea, including legislative proposals, policy proposals, plans, programmes, projects and strategies related to the activities of the Fisheries sector (Article 3).

#### **4.1.2 Other relevant legal developments**

Other recent legislation of Angola relevant to an EAF include the *2018 Presidential Decree on the Statute of the Ministry of Fisheries and the Sea* and the *2018 Presidential Decree on the Marine Fisheries, Inland Fisheries and Aquaculture Management Measures for the year 2018*. The *2018 Presidential Decree on the Statute of the Ministry of Fisheries and the Sea* outlines a vast list of functions of the Ministry, including the promotion of the sustainable development of the fisheries sector to ensure the implementation of measures of preservation and sustainable management of aquatic resources and ecosystems, to coordinate all MCS activities of fishing in national marine and inland waters and to collaborate where necessary with other competent organizations and to enforce the respective sanctions (Article 2). The *2018 Presidential Decree on the Marine Fisheries, Inland Fisheries and Aquaculture Management Measures for the year 2018*, in turn, defines closed seasons for certain species (Article 3) and requires industrial and semi-industrial vessels to provide monthly statistical data through fisheries logbooks (Article 7). It establishes the TAC (Article 9), the fishing capacity limits for each type of fishing (Article 10), and other management measures.

Although the *2017 Forest and Wildlife Basic Legislation* is not applicable to aquatic biological resources (Article 2(2)), it is however aligned with an ecosystem approach. This is because it aims to establish general principles and rules of protection and management of forestry and wildlife resources and its ecosystems, ensuring that they are used in a sustainable, integrated and responsible manner (Article 3(a)). It outlines various principles, including the integration of sustainable development and institutional coordination, particularly with respect to the management of biological resources and territory, participation of all interested people, and international cooperation (Article 5(p)(q)(u)). The State has the duty to ensure institutional coordination for the compatibility of management measures of forestry and wildlife resources with measures to protect the biological diversity, territory planning and the management of water resources (Article 11(f)). This legislation also requires an environmental impact assessment (EIA) for projects with potential to cause a significant impact on forests, wildlife and ecosystems (Article 35) and outlines the measures to be approved and executed within the general policy for the protection and use of forests and wildlife (Article 138).

Table A. Updated list of the legislation of Angola	
Legislation	Status
2018 Presidential Decree No. 23 on the Statute of the Ministry of Fisheries and the Sea	In force
2018 Executive Decree No. 247 on the regulation of the Aquatic Resources Integrated Management Council of the Ministry of Fisheries and the Sea	In force
2018 Executive Decree No. 249 on the regulation of the Advisory Council of the Ministry of Fisheries and the Sea	In force
2018 Presidential Decree No. 13 on marine fisheries, inland fisheries and aquaculture management measures for the year 2018	In force
2017 Forest and Wildlife Basic Legislation Law No. 6	In force
2015 Executive Decree No. 399 on the National Directorate of Fisheries and Protection of Fisheries Resources	In force
2014 Presidential Decree No. 284 on measures to prevent, combat and eliminate illegal, unregulated and unreported fishing	In force
2014 Presidential Decree No. 117 on the Statute of the National Institute for Fisheries Research	In force
2012 Presidential Decree No. 141 on the prevention and control of national water pollution	In force
2006 Executive Decree No. 160 on fishing nets used by commercial vessels	In force
2005 Executive Decree No. 109 on approving the table of minimum size and weight for authorized aquatic animal species fishing	In force
2005 Decree No. 43 on regulating fishing control	In force
2005 General Fisheries Regulations	In force
2005 Decree No. 14 on licensing and concessions	In force
2004 Decree No. 51 on EIA	In force
2004 Petroleum Activities Law	In force
2003 Decree-Law No. 4 on the establishment of the Ministry of Urban Affairs and Environment	In force
2002 Water Law No. 6	In force
1992 Constitution	In force
1998 Environment Framework Act	In force



Table A. Updated list of the legislation of Angola	
Legislation	Status
1997 Executive Decree No. 10 on fishing of crustaceans	In force
<i>1992 Territorial Sea, Contiguous Zone and Exclusive Economic Zone Act, repealed by 2010 Law No. 14 on State rights to explore, use, conserve and manage natural resources in the EEZ</i>	Repealed

## 4.2 Ecosystem approach to fisheries and the legislation of Cameroon

### 4.2.1 Updates

The review of the legal framework of Cameroon relies on the *1994 Law No. 01 on the regime of forestry, fauna and fisheries*, but it should be noted that this law is currently under revision and will be replaced by a new fisheries bill that is currently in the process of validation. The 2011 EAF Legal Study highlighted the lack of adequate MCS measures in the main fisheries legislation of Cameroon (Skonhoft, 2011, p. 48). This gap is partially addressed in the *2010 Order on the Conditions for the Conduct of Inspection and Control of Technical Services on Board of Vessels*, which requires the Ministry in charge of merchant shipping to coordinate conducting inspections and control on board vessels (Article 3). This legislation touches upon MCSE, but it does not provide detailed information on the responsibilities of the authorised officers who conduct inspections of fishing vessels - no other related regulation was found to address this gap.

### 4.2.2 Other relevant legal developments

Other recent legislation relevant to an EAF includes the *2012 Decree on the Organisation of the Ministry of Livestock, Fisheries and Animal Industries*, which outlines the mandate of the Ministry. The Ministry is thereby tasked with the preparation, planning and implementation of government programmes, studies and research intended to restore animal and fisheries resources by liaising with the Ministry of Scientific Research and Innovation (Article 1). The Ministry is also responsible for the implementation of measures for the conservation, development and exploitation of fisheries products (Article 1). A General Secretary, two Technical Councils, a General Inspection, and a Central Administration manage the decentralized services and related services of the Ministry (Article 2); the composition and mandate of each of the offices are outlined within the Decree. Within the General Secretary, for instance, the cooperation unit is in charge of promoting and monitoring the relations among the governmental and non-governmental institutions working on livestock, fisheries and animal industries (Article 12). In the Directory of Fisheries, Aquaculture and Industrial Fisheries, a sub-division of the Industrial and Artisanal Fisheries, the Service of Artisanal Marine and Continental Fisheries promotes these activities, and monitors activities of professional and inter-professional organisations of artisanal fishers (Article 42).

The *2013 Decree on the Environmental and Social Impact Assessment (ESIA)* establishes rules on the requirement of ESIA for policies, plans, programmes and projects. It defines the minimum contents of a summarised and a detailed ESIA - the latter including the description and analysis of all the elements of natural resources, socio-cultural elements susceptible to

being affected by the project and the reasons for the site selection; the detailed ESIA also requires information on the environmental and social plan comprising the surveillance mechanisms of the project and its environment and, where applicable, a compensation plan (Articles 9 and 10). This legislation also provides for the Strategic Environmental Assessment (SEA) and defines its minimum content (Article 11). The corresponding procedures for approval of these studies are outlined and include the provision for the participation of the concerned people through public consultations and hearings to register their disagreement or any other opinions related to the studies (Article 20). The *2016 Order on the Different Categories of Operations Subject to a SEA or an ESIA* further details the policies, plans, programmes and projects that require those studies, particularly those requiring a detailed ESIA.

Table B. Updated list of the legislation of Cameroon	
Legislation	Status
2016 Order No. 00001/MINEPDED on the different categories of operations subject to a Strategic Environmental Assessment or an Environmental and Social Impact Assessment	In force
2013 Decree No. 2013/0171/PM on environmental and social impact assessments	In force
2012 Decree No. 2012/382 on the organization of the Ministry of Livestock, Fisheries and Animal Industries	In force
2010 Order No. 143 on inspections and control of technical services on board of vessels	In force
2001 Oder No. 0002/MINEPIA on modalities of protection of fisheries resources	In force
2001 Decree No. 2001/546/PM on new fishing categories and licensing	In force
2001 Decree No. 2001/718/PM on the Inter-ministerial Environmental Committee, amended by Decree No. 2006/1577/PM	In force
2001 Law on Mining No. 001	In force
2000 Decree No. 2000/465 regulating the Petroleum Code	In force
1999 Petroleum Code No. 99/013	In force
1998 Water Law No. 98/005	In force
1996 Law on Environmental Management No. 96/12	In force
1995 Decree No. 95/413 regulating the fisheries regime, amended by Decree No. 2001/546/PM	In force
*1994 Law on Forestry, Wildlife and Fisheries No. 94/01	Under revision
1994 Decree No. 94/259/PM	In force
* A fisheries and aquaculture bill is currently in the process of validation and will replace the 1994 Law No. 94/01	

## 4.3 Ecosystem approach to fisheries and the legislation of Gabon

### 4.3.1 Updates

The legislation of Gabon examined in the 2011 EAF Legal Study remain in force, except for the 1993 Law on Environmental Protection, which was repealed by the *2014 Law No. 007 on the Protection of the Environment* (hereafter “Gabon’s Environment Law”). This law contains many provisions relevant to EAF; it provides for the principles of preservation and sustainable use of natural resources, combatting pollution, as well as harmonisation of development and

safeguard of natural environment (Article 2). The Ministry of Water and Energy is required, in collaboration with other concerned ministries, departments or agencies, to take necessary measures, considering environmental concerns, to elaborate and implement public policies with a view to the reasonable exploitation of the environment and its interactions with environmental conditions (Article 3). It also calls for the elaboration of national plans for the economic, social and cultural development to take into account the principles of prevention, precaution, correction, polluter-pays, accountability, participation and integration (Article 8). The Gabon's Environment Law establishes an Environment Safeguard Fund for conducting sectorial studies related to the environment; support the local communities and environmental NGOs (Article 11). An EIA is required before undertaking any industrial, urban, rural, mining or other activities or projects, public or private, that may have a significant environmental impact (Article 30), along with a respective public hearing (Article 38).

Other relevant provisions of Gabon's Environment Law include the requirement that the State regulate renewable energies through various public policies including the imposition of measures by States or appropriate international organization on the financial operations of private companies, (Article 51). There are also measures to ensure the quality of natural resources, the seas, oceans, coastal and continental waters with specific provisions dedicated to the preservation of rare and fragile ecosystems, as well as the protection and sustainable use of biological and non-biological resources, and protection against pollution (Articles 57-60). Off-shore prospection, exploration and exploitation activities are subject to an EIA (Article 61) and the government is required to enforce the policy on the sustainable and balanced use of fisheries resources to the applicable rules on stocks recovery (Article 62). Coastal protection is ensured through public policies aiming to combat erosion and the preservation of sites, landscapes and heritage, protection of biological and ecological balance, and the preservation and development of economic activities including fishing. These public policies are implemented by prohibiting material extraction activities that pose a direct or indirect risk to the integrity of beaches, natural zones of fauna and flora, and constructions close to natural coastal sensitive spaces or rivers (Article 65). Although protected areas include marine parks (Article 79), there are no details on the procedures for their establishment.

The 2011 EAF Legal Study emphasized the lack of regulations implementing the *2005 Fisheries Code* (Skonhoft, 2011, p. 55). Since then, it seems that no legislation are in place regulating this Code. Notwithstanding, there have been recent legal developments relevant to EAF including the *2014 Sustainable Development Law*, which provides the fundamental principles, general orientations and objectives required to guide the actions of public authorities, economic operators and civil society in ensuring the sustainable development of the country for present and future generations (Article 1). In the law, relevant principles are outlined and explained, including the precautionary principle, the preservation of biodiversity and ecosystems, protection and participation of local communities, participation of women, access to knowledge and international cooperation (Article 3). This legislation also provides for the measures and instruments for sustainable development by establishing a National Council for Sustainable Development. The respective rules on this Council's composition, organization and operation have not yet been adopted. The law does however create a

management body to exercise its mission with support from the competent sectorial administrations (Articles 15–17).

### 4.3.2 Other relevant legal developments

The *2010 Decree on the Ministry of Agriculture Livestock, Fisheries and Rural Development* outlines the organisation of this Ministry, including its mandate - implementing and ensuring the surveillance of programmes, regulations and other activities aimed at favouring the management and balanced development of the fisheries sector, and controlling the fisheries zones (Article 2). This legislation also details the composition and mandate of each sub-body that comprises the Ministry. The General Directories, for instance, comprise the Service of Evaluations and Management of Marine Resources, devoted to fisheries and aquaculture that contains the service for the evaluations and management of marine resources in charge of ensuring the coordination of research and evaluation of fisheries resources, and the execution of management measures of aquatic resources and ecosystems (Article 92). A Directory of Artisanal Fisheries is provided as well, with functions that include preparation and application of all measures for implementing the general objectives of management, protection and development of coastal and continental fisheries resources (Article 94). Such organizational composition, which includes both high-level and low-level authorities reflect an EAF.

Another piece of legislation relevant to EAF is the *2004 Decree on the Procedures for Classifying and Declassifying Protected Forests and Areas*, which implements the Forestry Code. This legislation clarifies that the Water and Forestry administration is in charge of preparing a dossier requesting the creation and classification of a protected area within the forestry rural domain and outlines the respective procedures to follow, including the participation of the concerned local community upon technical support of that administration and other competent authorities (Article 13). It also ensures that the local populations is taken into account in the management of a protected area (Article 15) and that the customary rights of use respect the measures for protection and conservation of biodiversity

Table C. Updated list of the legislation of Gabon	
Legislation	Status
2014 Law No. 002 on Sustainable Development	In force
2014 Law No. 007 on principles, natural resources management, protected areas, pollution factors	In force
2010 Decree No. 0294-PR-MAEPDR on attributions and reorganization of the Ministry of Agriculture, Livestock, Fisheries and Rural Development	In force
2008 Decree No. 000519/PR/MEPNV on clean development mechanisms and climate change	In force
2005 Fisheries Code	In force
2005 Decree No. 62/PR/MEFPE on fishing vessels activities and VMS	In force
2005 Decree No. 539/PR/MEFEPEPN on EIA	In force
2005 Decree No. 541/PR/MEFEPEPN on disposal of waste	In force
2005 Decree No. 542/PR/MEFEPEPN on discharge of certain products in superficies, subterranean and marine waters	In force
2005 Decree No. 545/PR/MEFEPEPN on recuperation of oil usages	In force

Table C. Updated list of the legislation of Gabon	
Legislation	Status
2005 Decree No. 925/PR/MEFEPEPN on sustainable development programming	In force
2004 Decree No. 001032-PE-MEFEPEPN on procedures for classification and declassification of protected forests and areas.	In force
2003 Decision No. 4/MEFEPEPN/DGPA on establishing seasonal closures	In force
2002 Decree No. 608/MEFEPEPN on establishing the Akanda Marine Park	In force
2002 Decree No. 613/MEFEPEPN on establishing the Loango Marine Park	In force
2002 Decree No. 614/MEFEPEPN on establishing the Mayumba Marine Park	In force
2001 Forestry Code No. 016/01 on forestry and water management, protected areas, amended by Ordinances No. 006/PR/2002, 008/PR/2010 and 11/2008	In force
2000 Mining Code No. 05-2000	Under revision
1995 Decree No. 1260/PR/MTMMPTPM on general directory for fisheries and aquaculture	In force
1994 Decree No. 62/94 regulating 1982 Law No. 1, in force if not contrary to Law No. 015/2005	Partially in force
1993 Law on Environmental Protection No. 16/93	Repealed
1986 Order No. 0076/MEFCR/DGEF/DPMCM on prohibitions of certain fishing techniques	In force
1984 Law establishing the EEZ No. 9/84	In force
1983 Law related to Oil Exploitation No. 14/74	In force
1982 Law No. 1/82 on water and forestry issues	In force
1979 Order No. 0130 PM/MEF/DGEF on interdiction of bottom trawling in certain zones	In force
1970 Decree No. 01179/MEF/SF on catch landing statistics	In force

## 4.4 Ecosystem approach to fisheries and the legislation of Ghana

### 4.4.1 Updates

The legislation of Ghana examined in the 2011 EAF Legal Study remain in force, except for the 1986 Minerals and Mining Act, which was repealed by the *2006 Act No. 703 on Minerals and Mining*. This new legislation provides for procedures granting mineral rights, exportation and disposal of minerals. Contrary to the previous legislation, the holder of a mineral right is must now obtain the necessary approvals and permits required from the Forestry Commission and the Environmental Protection Agency for the protection of natural resources, public health and the environment, and comply with other applicable rules for environmental protection (Section 18), prior to undertaking an activity or operation under a mineral right. Mining leases require the holder, holder's agents and employees or persons authorised by the holder, to stack or dump all mineral or waste products in accordance with the holder's Environmental Impact Statement (EIS) (Section 46). The 1999 Environmental Assessment Regulations, as amended in 2002, provide the procedures for application, evaluation and approval of an environmental permit, EIA and EIS.

The 2002 Fisheries Act was modified by the *2014 Amendment*, providing additional rules relevant to the implementation and enforcement of international conservation and

management measures. The Ministry is required, by notice in the *Gazette*, to publish the list of such measures that are binding on Ghana, and the Ministry is competent to impose additional conditions on fishing licences and authorisations for giving effect to any of those measures. Additionally, the ministry is required to make regulations for promoting international cooperation to foster effectiveness of international conservation and management measures adopted by RFMOs to which Ghana is a member (Sections 45A(1)(2) and 139(3)). The Act provides penalties for contravening conditions imposed by the minister (Section 45A(3)) and rules on IUU fishing, outlining the activities that presumably characterise the engagement of a fishing vessel in IUU fishing as well as the applicable penalties (Section 88A(1)(2)). The Act also provides penalties for fish processing, establishment exporting fish and fishery products, and engaged in IUU fishing (Section 88A (3)).

The 2011 EAF Legal Study pointed to the need of regulations to implement the Fisheries Act (Skonhoft, 2011, p. 70–71). The *2010 Fisheries Regulations* were adopted and modified by the *2015 Amendment*. These regulations provide more detailed information on prohibited fishing methods, and introduces a new provision that requires prior authorization by the Fisheries Commission for the introduction of exotic species in fish farming, unless the minister has adequate knowledge of the biology and life history of the species indicating low risk (Regulation 52(5)). These regulations require the Commission to maintain a record of national fishing vessels authorised to fish beyond national waters and details the information that should be provided (Regulation 24G). In addition to this, there is a requirement for the installation, maintenance and operation of a vessel monitoring system (VMS) by operators of local industrial or semi-industrial fishing vessels navigating in national waters or beyond, as well as foreign fishing vessels (Regulations 44 and 45).

#### **4.4.2 Other relevant legal developments**

The *2016 Ministerial Directive on the Implementation of Closed Seasons for Industrial Trawlers under the Fisheries Management Plan of Ghana 2015 to 2019* declared closed seasons for all industrial trawlers during certain periods in 2016 and 2017. The Directive outlines the key objectives of the fishery management plan (FMP), which include the reduction of excessive pressure on fish stocks, ensuring that fish stocks within the marine national waters are exploited within biologically acceptable levels, protection of marine habitats and biodiversity, contributions towards the enhancement of export opportunities and strengthening value addition, and meeting the country's regional and international obligations in fisheries management.

Table D. Updated list of the legislation of Ghana	
Legislation	Status
2019 Right to Information Act No. 989	In force
2016 Ministerial Directive on the Implementation of Closed Seasons for Industrial Trawlers under the Fisheries Management Plan of Ghana (2015-2019)	In force
2010 Fisheries Regulations L.I. 1968, as amended by 2015 Amendment L.I. 2217	In force
2006 Minerals and Mining Act No. 703	In force

Table D. Updated list of the legislation of Ghana	
Legislation	Status
2005 National Petroleum Authority Act No. 691	In force
2003 Shipping and the Maritime Act No. 645	In force
2002 Fisheries Act, amended by 2014 Fisheries Act No. 880	In force
2002 Ghana Maritime Authority Act No. 630	In force
2001 Water Use Regulations L.I. 1692	In force
1999 Environmental Assessment Regulations, as amended by 2002 Amendment L.I. 1703	In force
1999 Wetlands Management (Ramsar Sites) Regulations L.I. 1659	In force
1996 Water Resources Commission Act	In force
1994 Environmental Protection Agency Act No. 490	In force
1986 Ports and Harbours Authority Act	In force
<i>1986 Minerals and Mining Act</i>	<i>Repealed</i>
1971 Wildlife Conservation Regulations L.I. 685, as amended by 1983, 1988 and 1989 Wildlife Conservation (Amendment) Regulations L.I. 1284, 685 and 1452	In force
1971 Wildlife Reserves Regulations L.I. 710, as amended by 1977 and 1983 Wildlife Reserves (Amendment) Regulations L.I. 1105 and 1283	In force
1964 Oil in Navigable Waters Act	In force
1961 Wild Animals Preservation Act No. 43, as amended by 1983 Wild Animals Preservation (Amendment) Act No. 55	In force
1953 Land Planning and Soil Conservation Ordinance No. 32, amended by Act No. 35/1957	In force

## 4.5 Ecosystem approach to fisheries and the legislation of Kenya

### 4.5.1 Updates

Significant legal developments concerning the legislation of Kenya have taken place since the 2011 EAF Legal Study. The main fisheries legislation, the 1989 Fisheries Act, was repealed by the *2016 Act No. 35 on Fisheries Management and Development*. The new act aligns with many EAF requirements. It provides for principles including the effective application of the EAF to fisheries management, and encourages the participation of users of fisheries resources and the general community in the management of fisheries (Section 5(2)(d)(g)). It establishes a MCS Unit to conduct MCSE activities, and cooperate, coordinate with necessary stakeholders and perform such functions at bilateral, sub-regional, regional and international levels (Article 20(2)). A Fisheries Research and Development Fund was established to conduct research for the development of fisheries management, capacity building, scholarships, grants and support for the observer programme (Section 27(3)). This Act also provides for coordination and collaboration among the Director-General and county governments in the management of fisheries within each county (Sections 33-36), which establishes Beach Management Units (BMUs) where community participation in fisheries management is secured (Section 37).

The 2011 EAF Legal Study highlighted the failure to expressly provide for total allowable catch (TAC) or quotas and its lack of requirement in the previous fisheries legislation to adopt FMPs (Skonhoft, 2011, p. 64). The new act partially addresses these gaps by requiring the Fisheries Advisory Council to review and advise the government on the allocation and access to fisheries resources (Section 6(2)(b)). To address the lack of FMPs, the new law requires the Director-General to, in consultation with the relevant county governments, prepare, keep under review and be responsible for the implementation of FMPs (Section 39(2)). The law also outlines the content required for an FMP, including the identification of fisheries resources and its characteristics, such as its economic and social value and interrelationship with other species in the ecosystem, the impact of the plan on fishery or fisheries involved, associated and dependent species, habitats and ecosystems, and a social impact assessment of the plan with reference to disadvantaged groups such as women, persons with disability and youth (Section 39(3)(a)(g)(n)). A relevant provision regarding control on fishing gears requires the master of a vessel that has entangled with fixed fishing gear or other objects to undertake to minimize any damage caused by the gear, and where practicable, return the gear to the sea and log its position, and to make a full report of the incident and steps taken to the Director-General as early as possible (Section 43(2)). Reporting of catch and effort data with specific requirements for industrial fishing vessels and semi-industrial fishing vessels is also provided (Sections 100 and 102).

The 2005 Forests Act was repealed by the *2016 Act No. 34 on forest conservation and management* (hereafter “Kenya’s Forestry Act”). The Kenya Forest Service was maintained by Kenya’s Forestry Act with functions that include collaborating with other organisations and communities in the management and conservation of forests and for the utilisation of its biodiversity and promoting the empowerment of associations and communities in the control and management of forests (Section 5(l)(m)). The management of the Service is carried out by a board that is representative in design, with the possibility of integrating persons associated with, or with an area that contains, one or more forest communities (Section 6(2)). A Forest Management and Conservation Fund is established to maintain and conserve indigenous forests, promote community-based forest projects, and facilitate education and research activities (Section 18). Kenya’s Forestry Act also provides for community participation through the register of a community forest association by members of a forest community and residents in the same area, and for acting in different outlined activities for the efficient conservation and management of the forest (Sections 46 and 47).

The 2002 Water Act was repealed by the *2016 Water Act No. 43* (hereafter “Kenya’s Water Act”). Contrary to the previous Act, the new Kenya’s Water Act provides for public participation when formulating a National Water Resource Strategy (Section 10(1)). The Water Resources Authority is established with functions that include coordinating with other regional, national and international bodies for the better regulation of the management and use of water resources (Sections 11 and 12), ensuring that there is a national monitoring and geo-referenced information system on water resources in place (Section 21), and, declaring a catchment area or a part thereof to be a protected area to conserve a vulnerable water resource (Section 22). Kenya’s Water Act also establishes the Water Sector Trust Fund to provide conditional and unconditional grants to counties to assist in financing the



development and management of water services in marginalised areas or any area considered to be underserved including community level initiatives for the sustainable management of water resources (Sections 113 and 114).

#### 4.5.2 Other relevant legal developments

Other recent legal developments relevant to an EAF include the *2013 Wildlife Conservation Act*, which calls for the use of an ecosystem approach (Section 4(b) (c)). It empowers the Cabinet Secretary to, in consultation with the competent authority and taking into account public participation, and by notice in the *Gazette*, declare an area as a marine protected area (Section 31(1)(b)), which may adopt a system of zoning that caters for multiple uses of marine resources for any or all listed considerations, including the protection of nesting, breeding and foraging areas, no take areas in respect of fisheries, and areas that may be used by local vessels for passage (Section 32(2)(b)(c)(d)). This Act also ensures that the preparation of an approved management plan of a marine conservation area is undertaken through a consultative process with the relevant lead agencies and communities (Section 36(2)), and requires the development and implementation of recovery plans for the conservation and management of certain species, prioritizing those that are endangered and threatened and outlining the content of each recovery plan (Section 49(2)).

Table E. Updated list of the legislation of Kenya	
Legislation	Status
2017 Wildlife Conservation and Management (Protection of Endangered and Threatened Ecosystems, Habitats and Species) Regulations L.N. 242	In force
2016 Fisheries Management and Development Act No. 35	In force
2016 Water Act No. 43	In force
2016 Access to Information Act No. 31	In force
2013 Wildlife Conservation and Management Act No. 47	In force
2013 Agriculture, Fisheries and Food Authority Act No. 13	In force
2012 Merchant Shipping (Radiocommunications) Regulation L.I. No. 117	In force
2012 Merchant Shipping (Licensing of Vessels) Regulations L.I. No. 48	In force
2011 Merchant Shipping (Port State Control) Regulations L.I. No. 191	In force
2010 Constitution of Kenya	In force
2009 Merchant Shipping Act No. 4 Cap. 389, as amended by 2012 Act No. 12	In force
2007 Fisheries (Beach Management Unit) Regulations	In force
2005 <i>Forests Act</i>	<i>Repealed</i>
2003 Fisheries (Prohibitions) Regulations	In force
2003 Environmental (Prevention of Pollution in Coastal Zone and Other Segments of the Environment) Regulation	In force
2003 Environmental (Impact Assessment and Audit) Regulations	In force
2002 <i>Water Act</i>	<i>Repealed</i>
1999 Environmental Management and Coordination Act, as amended by 2015 Act No. 5	In force

Table E. Updated list of the legislation of Kenya	
Legislation	Status
1991 Fisheries (General) Regulations	In force
1991 Fisheries (Foreign Fishing Craft) Regulations	In force
1990 Coast Development Authority Act	In force
<i>1989 Fisheries Act, Chapter 378</i>	<i>Repealed</i>
1989 Maritime Zones Act	In force
1985 Petroleum (Exploration and Production) Act	In force
1976 Wildlife (Conservation and Management) Act	In force

## 4.6 Ecosystem approach to fisheries and the legislation of Liberia

### 4.6.1 Updates

Liberia has recently adopted the *2019 Fisheries and Aquaculture Management and Development Act*, which explicitly applies the EAF (Section 2.2) and contains other several provisions aligned with an EAF. Among its principles there are the precautionary approach at a standard equal or superior to agreed international standards, taking into account the conservation of habitats and biodiversity; the prevention or elimination of overfishing and excess capacity; and consideration of the interests of artisanal and subsistence fishing through their participation in the management of their respective fisheries (Section 2.2). This Act broadens stakeholder participation through, *inter alia*, provisions on fisheries co-management areas that can be managed by fishing communities and co-management fishing associations that may be established by approval of the Fisheries Director General (Section 3.2). Consultation prior to the adoption of FMP and its review are ensured by the Act (Section 4.1) and a fishery impact assessment is required prior to activities falling outside the scope of the Act but which have an impact on fishery resources (Section 4.18).

The legislation of Liberia examined in the 2011 EAF Legal Study remain in force, except for the 1973 Revised Fisheries Rules and Regulations, which were repealed by the *2010 New Fisheries Regulations* (hereafter “Liberia’s Fisheries Regulations”). The National Fisheries and Aquaculture Authority has replaced the Bureau of National Fisheries as the lead agency for fisheries for maintenance of these regulations, which require it to evaluate management measures necessary to ensure sustainable management of fisheries with due regard to the “precautionary approach”, an ecosystem approach that takes into account habitats and biodiversity and the use of harvesting methods and fishing gears so as to consider the need to reduce possible negative impacts on living marine resources (Regulation 3). Upon the recommendations of the Bureau and with due regard to consultations with stakeholders, the Minister determines the conservation and management measures, including the TAC, total applied effort, respective allocations and means of implementation of such measures through, for instance, granting of fishing rights to artisanal fishers (Regulation 4(2)(5)).

The Bureau's Coordinator is responsible for drawing up FMPs, taking into account consultation with relevant stakeholders, in the development of each Plan, whose minimum content is provided for (Regulation 5). Other relevant provisions of this legislation include that of an inshore exclusion zone, measuring six nautical miles seawards of the low-water line, reserved for subsistence, artisanal and semi-industrial fishing activities and artisanal fishing vessels (Regulation 6), prohibitions on the use, permit to be used or attempt to use certain fishing gears and methods such as pair trawling, explosives, electrical devices or poison (Regulation 7), and provisions on relevant licensing and authorisation schemes (Regulations 14–27). Specific conditions and reporting requirements for industrial and semi-industrial fishing vessels are outlined (Sections 29–32) as well as detailed rules on transshipment (Regulation 35), rules on port State measures (Regulations 37–39) on MCSE, including an observer scheme, VMS requirements (Regulations 44–57) and provisions for offences and respective penalties with different degrees of application and civil liability (Regulation 58–65). While Liberia's Fisheries Regulations certainly improve the legal framework for fisheries management in Liberia, they still lack certain relevant EAF legal requirements, particularly with respect to integration and coordination of fisheries policies with other sectors, and the participation of local communities and low-level authorities in the fisheries management, whose roles and means of participation should be clarified.

The 1976 Law on Marine Fisheries was repealed by the *2017 National Fisheries and Aquaculture Act* (hereafter "Liberia's Fisheries Act"), which transformed the Bureau of National Fisheries into the National Fisheries and Aquaculture Authority (Section 3.1). Liberia's Fisheries Act specifically provides for the application of the "precautionary approach" and the EAF to the management and development of fisheries and aquaculture (Section 2.2(d)). Additionally, it provides for the prevention or elimination of overfishing and excess capacity (Section 2.2(i)). Under the 2017 Act, the Authority is responsible to liaise on matters within the scope of the 2017 Act with stakeholders including national and local level governments and communities, other States, regional and international organizations, institutions, experts, and industry representatives (Section 3.2(o)). Furthermore, Liberia's Fisheries Act provides for the creation of co-management associations for fisheries and aquaculture to exercise rights and responsibilities within a designated area (Section 3.15). In addition to this, the Authority may declare any area of the fisheries waters or adjacent waters to be a Special Management Area (Section 4.10(1)).

#### **4.6.2 Other relevant legal developments**

Other recent legislation relevant to an EAF include the *2009 EIA Regulation*, which provides for the procedures to be followed prior to undertaking a forestry project identified in its Annex I, including a comprehensive Environmental Management Plan that comprises an initial EIA, further EIS and Environmental Mitigation Plan and Implementation Strategy, and the regular monitoring and environmental auditing for ensuring that the project is carried out in accordance with the applicable rules and plans. The *2009 Marine Vessels, Registration and Control Act* empowers the Commissioner of Maritime Affairs to act on matters pertaining to fishing vessels. This includes the registration of fishing vessels owned by a citizen or national

of Liberia, as well as fishing vessels operating in Liberia or abroad and their respective registration procedures.

The *2010 Maritime Authority Act* (hereafter “Liberia’s Maritime Act”) establishes this Maritime Authority and clarifies its functions, which include to develop, coordinate and implement the National Maritime Strategy (Section 5(3)). This Strategy comprises policies, plans and programmes such as the Integrated Coastal Management Programme, defined as:

a process uniting Government and communities, science and management, and public and private interests in the preparation and implementation of an integrated plan for the conservation and development of coastal resources and ecosystems, improvement of the quality of life of the communities that depend on coastal resources and the maintenance of the productivity and biodiversity of ecosystems (Section 2).

Liberia’s Maritime Act also requires that Authority to establish and maintain the capacity to conduct maritime surveillance, monitoring and information gathering, providing it with limited law enforcement powers and requiring it to work in close coordination with other government institutions to protect the national borders and to board and search any vessel likely to be brought into the country illegally (Section 6(1)).

Table F. Updated list of the legislation of Liberia	
Legislation	Status
2019 Fisheries and Aquaculture Management and Development Law	In force
2017 National Fisheries and Aquaculture Act	In force
2017 Executive Order No. 84 on the Management of Liberia’s Fishery Resources	In force
2015 Marine Notice FTP-001/2015 on requirements for engaging in Transshipment Activities	In force
2010 Fisheries Regulations No. 43	In force
2010 Maritime Authority Act	In force
2009 Marine Vessels, Registration and Control Act	In force
2009 EIA Regulation No. 113-08	In force
2008 National Defense Act	In force
2006 National Forestry Reform Law	In force
2002 Environment Protection and Management Law	In force
2002 Environment Protection Agency Act	In force
1988 Wildlife and National Parks Act	In force
<i>1976 Laws of Marine Fisheries</i>	<i>Repealed</i>
<i>1973 Revised Fisheries Rules and Regulations</i>	<i>Repealed</i>
1968 Act to establish and delimit the Territorial Sea and Contiguous Zone of the Republic of Liberia	In force

## 4.7 Ecosystem approach to fisheries and the legislation of Madagascar

### 4.7.1 Updates

Some of the legislation examined in the 2011 EAF Legal Study has gone through relevant changes. The *2015 Fisheries and Aquaculture Code*, which contains many provisions relevant for EAF, replaced the *1993 Fisheries and Aquaculture Ordinance*. According to this Code, the Ministry of Fisheries is the competent authority for all activities related to fisheries, collection of fisheries products, control and surveillance, management and ensuring quality of fisheries resources, establishment of management measures, collection, analysis and publication of data, management and preservation of aquatic ecosystems, scientific research and organisation of consultations with concerned parties (Article 6). This law creates an Advisory Council for the management of fisheries, an advisory council for the issuance of licences and authorisations for marine fisheries, and an advisory body for the local and participatory management of small-scale fisheries (Article 7).

Preservation and management measures by the Ministry of Fisheries and Aquaculture aim to encourage the scientific research and collection of data for bettering the scientific and technical knowledge on fisheries and its interactions with the ecosystem, and apply the “precautionary approach” and the “ecosystem approach” (Article 9(d)(e)). This law facilitates the community governance of fisheries resources and aquatic ecosystems and the local management of small-scale fisheries (Article 14), imposes prohibitions on certain fishing gears and methods (Article 17) and on capture, detention and commercialisation of all protected species, including coral reefs, marine mammals, seabirds, marine turtles (Article 18). It also subjects all activities that could affect the productivity and/or the integrity of fisheries resources and aquatic ecosystems to an EIA (Article 21). Fishing activities are subject to registration with the Ministry of Fisheries and Aquaculture. Those activities undertaken for commercial purposes in territorial waters are reserved for nationals (Article 23) and a licensing scheme for fishing in national marine waters is provided (Articles 37–40).

The provisions related to MCSE include transshipment and enforcement powers of authorised officers. Additionally, the Code requires the fishing vessels, which are authorised to operate in national marine waters, to comply with the FAO rules for marking of vessels to facilitate their identification in accordance (Article 58(a)). It also provides procedures for the investigation of offences, application of respective penalties, and provisions on compounding offenses and penalties. In comparison to the previous legislation, the new Code provides a more comprehensive legal framework for fisheries management in the country, covering a range of issues relevant to EAF, including detailed rules on activities related to fishing such as aquaculture and commercialisation of fisheries products.

The *2015 Law on Management of Protected Areas* repealed the 2001 Protected Area Code Law and related regulation. The Code provides for the participation of affected communities in the establishment of a protected area, including the determination of safeguarding measures or in the implementation and monitoring of respective activities (Article 48). The roles, exercise of economic, cultural and traditional activities conducted by the communities within the management of protected areas, and the rights they are entitled to as well as the

modalities of participation and co-management, are described in a communitarian management convention provided (Article 49). This law aligns with EAF legal requirements related to the establishment of ecologically meaningful boundaries, setting rules for diverse types of protected areas, including marine areas with detailed descriptions of each area and the procedures to follow in their establishment.

The 1994 Decree on the general organization of maritime fisheries was repealed by *2016 Decree No. 1492*, which ensures the right to matriculation and registration and provides rules on licensing schemes for all fishing vessels operated by nationals, except for those dedicated to artisanal fishing. This decree also provides for an authorization regime of foreign vessels in waters under national jurisdiction, ensures the freedom of fishing to subsistence fisheries in accordance with applicable rules, and provides further details on the carrying out of scientific fisheries, which are subject to prior authorisation of the Ministry of Fisheries.

#### **4.7.2 Other relevant legal developments**

Other recent legislation relevant to an EAF include the *2010 Integrated Management of Marine and Coastal Zones Decree*, which establishes a National Committee for the Integrated Management of Coastal Zones which is entitled to ensure effective coordination between maritime and land authorities of concerned sectors at both regional and local levels. It also regroups the local and regional entities for reinforcing the coherence and efficacy of strategies, plans and programmes in place, and organizing and coordinating the activities conducted by central authorities with those carried out by regional and local authorities in the implementation of strategies, plans, programmes for developing marine and coastal zones (Article 31).

The *2017 Ministerial Order No. 29211* provides for the locally managed fisheries area (LMFA), which the fishers' communities can be request be implemented by the Ministry in charge of fisheries and aquaculture (Article 5). The proceedings to request a LMFA involve the approval of concerned local authorities and validation of the plan by the community assembly (Article 7). The fishers' community has the right to subject part or the entire LMFA to the payment of relevant ecosystem services, and the respective manager has the duty to conduct activities such as the systematic reforestation of mangroves and the community monitoring of the area, which can be conducted independently or with the support of non-governmental organizations and the Ministry responsible for fisheries and aquaculture (Article 8).

Table G. Updated list of the legislation of Madagascar	
Legislation	Status
2017 Ministerial Order No. 29211 on transfer of the management of fisheries resources and aquatic ecosystems	In force
2016 Port State Measures Agreement Adhesion Law No. 043	In force
2016 Decree No. 1493 on the regulation of aquaculture activities	In force
2016 Decree No. 1492 on the general reorganization of marine fishing activities	In force
2015 Law No. 053 on the Code of Fisheries and Aquaculture	In force

Table G. <b>Updated list of the legislation of Madagascar</b>	
<b>Legislation</b>	<b>Status</b>
2015 Law No. 005 on the Code on the Management of Protected Areas	In force
2014 Ministerial Order No. 21816 on prohibiting the exploitation of black coral at national level	In force
2010 Decree No. 137 on the integrated management of coastal and marine zones	In force
<i>2005 Decree No. 848 regulating the 2001 Protected Areas Code</i>	<i>Repealed</i>
2003 Decree No. 076 on the attributions of the Ministry of Agriculture, Livestock and Fisheries	In force
2002 Order No. 1612 on deep-sea fishing	In force
2002 Order No. 6535 on the closure of all fishing in the region of Ihorombe for specific period	In force
<i>2001 Protected Areas Code Law No. 005</i>	<i>Repealed</i>
2001 Law on Responsible and Sustainable Shrimp Aquaculture No. 020	In force
2000 Decree No. 415 on shrimp trawling	In force
1999 Decree No. 954 on compatibility of investments with the environment	In force
1999 Mining Code No. 022	In force
1998 Water Code No. 029	In force
1996 Law on Local Management of Renewable Natural Resources No. 025	In force
1996 Inter-ministerial Order No. 567 on the Committee on fisheries and aquaculture activities	In force
<i>1994 Decree No. 112 on organization of marine fisheries activities</i>	<i>Repealed</i>
<i>1993 Fisheries and Aquaculture Ordinance No. 022</i>	<i>Repealed</i>
1990 Law on the Malagasy Environmental Charter No. 033, as modified by 1997 Law No. 012	In force
1985 Ordinance No. 013 on establishing maritime zones of Madagascar	In force
1980 Order No. 0287 on the closure of shrimp trawling in designated area for specific period	In force
1975 Order No. 0525 on the minimum size for sea cucumbers	In force

## 4.8 Ecosystem approach to fisheries and the legislation of Mauritius

### 4.8.1 Updates

The legislation of Mauritius examined in the 2011 EAF Legal Study have gone through certain legal developments in the last decade. The 1986 Merchant Shipping Act was repealed by the *2007 Merchant Shipping Act*. The Merchant Shipping Act of 2007 applies to all Mauritian ships, including fishing vessels - save for Sub-Part II of this Act which does not apply to fishing vessels -, and every other ship while in port or in any other place within national waters, including ships on a bareboat charter to the country (Sections 3(1) and 113(1)). It provides for a Register for the registration of ships, including fishing vessels, and their related mortgages (Section 12(1)) and requires all Mauritian ships that are not less than 24 metres in length to be registered to at Port Louis (Sections 14(1) and 15). This act also provides for the procedures related to registration, carving and markings, the possession of an identification number and the carrying on board of official logbooks. It also provides for the engagement, discharge and welfare of seamen, safety of navigation, wreck and salvage, control and returns of persons on

ships, carriage of passengers and luggage, and limitation and division of liability for maritime claims.

The other instruments that were revoked are the 1993 Wildlife and National Parks Act and its correspondent 1998 Regulations, which were both repealed by the *2015 Native Terrestrial Biodiversity and National Parks Act* (hereafter “Mauritius’ Biodiversity Act”). Contrary to the previous one, the new Mauritius’ Biodiversity Act provides that “fish” has the same meaning as in the Fisheries and Marine Resources Act, thus it covers the conservation and management of wildlife, including fish species. This act provides for a Native Terrestrial Biodiversity and National Parks Council, composed of representatives from different ministries, including those responsible for education, environment, tourism, a representative from academia, experts in the field of conservation of natural resources and a person from the private sector or from a NGO involved in tourism or outdoor recreation (Section 5(1)). It is at the discretion of the President to declare, by proclamation, any State land to be a National Park of Special Reserve. Mauritius’ Biodiversity Act provides a list of closed reserves, strictly used for conservation and protection of biodiversity, and a list of open reserves which may be used for conservation, educational and recreational purposes (Section 11, First and Second Schedules).

Public participation is ensured, to a certain extent, in the preparation of the draft management plan, which is published in at least two daily newspapers for public inspection, and any person has the right to, within 60 days from that publication, to make written representations to the Director in relation to the draft management plan (Section 16(3)(4)). Once the Minister approves the final version of the plan, it is available for inspection or purchase by any person (Section 16(7)). With respect to protected wildlife and protected freshwater biodiversity, this Act provides the procedures to follow for obtaining the respective permission (Sections 21 and 24), also regulating on control of wildlife, including invasive alien species (Sections 30-37). Other relevant provisions of this act concern the enforcement powers of authorised officers, which include fisheries officers (Sections 44, 45 and 51(1)).

#### **4.8.2 Other relevant legal developments**

Other relevant legislation for an EAF include the *2011 Regulations GN No. 128*, which prohibits the use, possession, selling, importation or manufacturing of, for the purpose of fishing, a hook with a gap of less than 5 millimetres. The *2013 Regulations GN No. 288* establishes the different fees required for the issuance of fishing licences, the *2016 Regulations GN No. 167* prohibits fishing of octopus during a closed season except when authorised for the purpose of scientific research, and the *2016 Regulations GN No. 116* outlines the detailed rules applicable to fishing vessels of not less than 12 metres overall length to keep an automatic identification system in addition to VMS.

Another important legislation is the *2011 Local Government Act No. 36*, as last amended in 2018, which establishes a local authority per city, town, village and district (Section 3), with a purpose promoting social, economic, environmental and cultural wellbeing of the local community, improving the overall quality of life of people in the local community, ensuring



resources are used efficiently and effectively to best meet the needs of local community and providing for the prudent use and stewardship of local community resources (Section 49).

Table H. Updated list of the legislation of Mauritius	
Legislation	Status
2018 Regulations GN No. 114 on Port State Control	In force
2016 Regulations GN No. 167 on fishing of octopus, as last amended in 2020	In force
2016 Regulations GN No. 116 on automatic identification system	In force
2016 Regulations GN No. 100 on safety and security measures for fishermen at sea	In force
2015 Native Terrestrial Biodiversity and National Parks Act No. 14, as amended by 2016 Act GN No. 201	In force
2014 Regulations GN No. 73 on fish farming	In force
2013 Regulations GN No. 288 on licences and fees	In force
2012 Regulations GN No. 214 on bait gear licence and licence fees	In force
2012 Regulations GN No. 27 on import of fish and fish products, as last amended in 2016	In force
2011 Local Government Act No. 36, as last amended in 2018	In force
2011 Regulations GN No. 128 on prohibition of the use of hooks of small size	In force
2011 Regulations GN No. 143 on applications for PER and EIA licence	In force
2009 Regulations GN No. 110 on fishing of sea cucumbers, as last amended in 2012	In force
2009 Regulations GN No. 105 on registration of ships	In force
2007 Fisheries and Marine Resources Act No. 27, as last amended in 2019	In force
2007 Merchant Shipping Act No. 26	In force
2006 Environmental Protection (Collection, storage, treatment, use and disposal of used oil) Regulations	In force
2006 Regulations GN No. 95 on prohibition of removal of coral and sea-shell	In force
2006 Fishermen Investment Trust Act No. 29	In force
2005 Maritime Zones Act No. 2 on the delimitation of territorial sea, contiguous zone, EEZ, marine scientific research	In force
2005 Regulations GN No. 87 on vessel monitoring system	In force
2003 Environmental Protection (Standards for effluent discharge into the ocean) Regulations	In force
2003 National Heritage Fund Act No. 40	In force
2002 Environment Protection Act No. 19, as last amended by 2010 Act No. 73	In force
2002 Beach Authority Act No. 7	In force
2001 Regulations GN No. 172 on marine protected areas	In force
2000 Fishermen Welfare Fund Act No. 28	In force
2000 Waste Water Management Authority Act, as amended by 2004 Act No. 26	In force
1999 Guidelines for Coastal Water Quality General Notice No. 620 on water quality requirements for coastal waters	In force
1998 Ports Act No. 3, as last amended in 2004	In force
1998 National Parks and Reserves Regulations	Repealed
1993 Wildlife and National Parks Act No. 13 on protected areas, protected species	Repealed
1986 Merchant Shipping Act, amended in 2005	Repealed
1971 Central Water Authority Act No. 20	In force

## **4.9 Ecosystem approach to fisheries and the legislation of Morocco**

### **4.9.1 Updates**

The legislation of Morocco examined in the 2011 EAF Legal Study remain in force with the exception of two laws. The 1995 Water Law was repealed by the *2016 Water Law* (hereafter “Morocco’s Water Law”), which provides for an integrated, decentralised and participatory management of water resources to ensure the right of all citizens to have access to water with a view towards its sustainable and rational use, and an improved quantitative and qualitative valorisation of water, its aquatic environment and public water domain. The 2016 Water Law also includes rules on prevention of risks related to water for ensuring the protection and safety of persons, goods and the environment (Article 1). It also provides for an integrated water resources management plan for each basin or joint basins, which is dedicated to the proposition of schemes to mobilise and manage water resources in accordance with the principles of integrated water resources management through assembling technical, economic and environmental measures (Article 91). The local water management plans may be established by the water basin agency in coordination with the concerned local administrations and with the participation of the prefectural or provincial water commission (Article 93).

### **4.9.2 Other relevant legal developments**

This integrated approach to management of water resources is also found in another recent legislation adopted. The *2015 Integrated Coastal Management (ICM) Law* (hereafter “Morocco’s ICM Law”) establishes a national plan for the coastal zones, which defines the measures for harmonising the development projects undertaken in those areas, puts in place measures to prevent, combat and reduce pollution, and ensures the coherence and complementarity among regional coastal schemes (Article 4). Morocco’s ICM Law requires that, prior to its approval, the project plan be evaluated by a national commission for the integrated coastal management, composed of representatives of the concerned administrations, regional councils, public institutions, research bodies, professional associations, and people engaged in coastal protection (Article 5). Unfortunately, no regulation defining the roles and functions of this commission has been adopted thus far.

Morocco’s ICM Law also provides for a regional coastal scheme elaborated on the basis of an integrated coastal management and ecosystem approach, requiring its project to be subject to the evaluation of a regional commission composed by various actors, including territorial community councils and associations active on coastal protection, prior to its approval (Articles 6–9). These plans are drafted for a 20-year term and are revised every time the circumstances outlined in Article 10 require. A number of measures to protect the coastal zones are provided by this law, including the requirement of an EIA (Article 19), and specific measures against pollution (Articles 37–43).

Morocco's ICM Law further provides for the relevant competent authority to implement specific measures for the protection of ecosystems such as the delimitation of polluted or vulnerable coastal zones and spawning areas in need of urgent measures for their rehabilitation and protection (Article 27). Similarly, marine protected areas are regulated by the *2010 Protected Areas Law*, which provides for the terrestrial or marine protected areas under the categories of "national park" (Article 4), "nature park" (Article 5), "biological reserve" (Article 6), "natural reserve" (Article 7) and "natural site" (Article 8). The competent authority or the local communities concerned may submit the project for the creation of a protected area, subject to a three-month public hearing during which the concerned administrations and local communities evaluate the project and may give duly registered observations (Articles 9 and 10). The protected area is managed based on a management plan prepared by the competent administration in consultation with the local communities and populations concerned, and the Morocco's ICM Law ensures collaboration among these actors in the management of the protected area (Articles 19 and 24).

The *2014 Environment and Sustainable Development Framework Law* provides relevant EAF requirements. It outlines and describes, for example, the principles of integration, participation, the precautionary principle (Article 2 (a)(d)(g)), and ensures that environmental protection measures aim to protect marine ecosystems, preserve and showcase marine and coastal sites of biological interest by promoting the creation of protected areas (Article 6). The State, territorial communities, public institutions and State societies ensure the integration of sustainable development measures into public, global and sectoral policies in accordance with the particularities of each sector (Article 13). This law also requires the regions and other territorial communities to ensure participation of their population in decision-making related to the environmental protection at the local level, sustainable development of their territories and access to environmental information (Article 20). Another important provision concerns the system of SEA for ensuring that policies, strategies, programmes and development plans conform to the law's requirements on environmental protection and sustainable development (Article 27). A National Fund for the environment and sustainable development is established for supporting the implementation of actions and innovative initiatives for sustainable development (Article 29).

As highlighted in the 2011 EAF Legal Study, the main fisheries legislation of Morocco is limited, and the draft code on marine fisheries law appear to be under consideration as no further information of its adoption was found (Skonhoft, 2011, p. 96). There has been some recent legislation that operationalises certain matters relevant for EAF. The *2010 Decree on the conditions for installation and Use of a System of Position and Localisation on Board of Fishing Vessels with Satellite Communications for Data Transmission* provides detailed rules on the procedures for installing and using such equipment as required for national fishing vessels operating in the EEZ and in areas subject to conservation and management measures of an RFMO, as well as national or foreign ships with a gross tonnage greater than two tonnage units with a license for fishing in the EEZ. The *2014 Law on Preventing and Combating IUU Fishing* provides the rules and procedures for several EAF related areas, including the consideration of a fishing vessel to be engaged in IUU fishing and the rules applicable to foreign fishing vessels for the landing and transshipping of fisheries products in Moroccan ports, proof of

legality of captures for import and export of fisheries products, registration of fishing vessels engaged in IUU fishing, the procedures for searching, and identifying offences as well as the applicable penalties.

Table I. <b>Updated list of the legislation of Morocco</b>	
<b>Legislation</b>	<b>Status</b>
2019 Decree No. 2-18-722 on the management plans and fisheries management	In force
2016 Water Law No. 36-15	In force
2015 Integrated Coastal Management Law No. 81-12	In force
2014 Environment and Sustainable Development Framework Law No. 99-12	In force
2014 Law No. 15-22 on preventing and combating illegal, unreported and unregulated fishing	In force
2011 Law No. 52-09 on the creation of the National Agency for the development of aquaculture	In force
2011 Law No. 29-05 on the protection of species of wildlife flora and fauna and the control of their trade	In force
2011 Order of the MAMF No. 2352 on the temporary interdiction of fishing marine gastropods	In force
2011 Decree No. 2-10-164 fixing the conditions and methods for fishing fish species that require specific regulations due to local use or special circumstances	In force
2010 Protected Areas Law No. 22-07	In force
2010 Decree No. 2-09-674 on the conditions for installation and use of a system of position and localization on board of fishing vessels with satellite communications for data transmission	In force
2008 Decree No. 2-08-562 on fishing authorizations	In force
2008 Decree No. 2-07-230 on licensing with respect to small pelagic fisheries	In force
2008 Order of the Ministry of Agriculture and Maritime Fisheries (MAMF) No. 1985 on the temporary interdiction of fishing sardines, anchovies, mackerel, sable fish and sardinella	In force
<i>2008 Order of the MAMF No. 572 on the temporary interdiction of fishing marine gastropods</i>	<i>Repealed</i>
2008 Order of the MAMF No. 842 on the temporary interdiction of fishing sea urchin	In force
2008 Decree No. 2-04-563 on national and local committee of impact studies	In force
2005 Order of the MAMF No. 1954 on harvesting red coral in specified zone	In force
2003 Environment Protection Law No. 11	In force
2003 Law No. 12-03 on EIA	In force
2002 Law on Exploitation of Quarries	In force
2002 Decree No. 2-01-2726 fixing the conditions and types of fishing and harvesting of marine seaweed	In force
2001 Ministry Order No. 370 on conditions for the use of drift nets in octopus fisheries	In force
1999 Order No. 1430-99 on the banning the hunting of seals and other marine mammals	In force
1998 Ministry Order No. 369 on mesh size of drift nets in octopus fisheries	In force
1997 Law No. 04-97 on the statute of the marine fisheries chambers	In force
1996 Decree No. 2-95-838 on composition of management bodies of the National Fisheries Bureau	In force
1996 Law No. 48-95 on the creation of National Institute for Fisheries Research	In force
<i>1995 Water Law No. 11-03</i>	<i>Repealed</i>
1992 Decree No. 2-92-1026 on licensing requirements for fishing in EEZ	In force
1991 Law on Exploration and Exploitation of Hydrocarbon Fields No. 21-90	In force
1976 Law No. 1-75-030 and 1996 Law No. 49-95	In force
1973 Fisheries Law No. 1-73-255, as last amended in 2014	In force
1973 Law No. 1-73-2011, as amended by 1981 Law No. 1-81 on the limits of territorial waters and exclusive fishing zones	In force

## 4.10 Ecosystem approach to fisheries and the legislation of Mozambique

### 4.10.1 Updates

There have been significant changes in the legislation of Mozambique examined by the 2011 EAF Legal Study. The *1990 Constitution of Mozambique* was recently revised by the *2018 Law No. 1*, which resulted in the modification of certain provisions. It is important to highlight the provisions on decentralisation which aim to organise the participation of citizens towards solving the problems of their communities. Based on the initiative and capacity of populations acting in strict collaboration with the organizations of participation of citizens (Article 270-A), this decentralisation will promote local development. The Constitution also establishes that the decentralised governance model exercises functions in areas such as fisheries, management and protection of the environment (Article 270-J).

The *2013 Fisheries Law* repealed the main fisheries legislation, the *1990 Fisheries Act*. The new Fisheries Law contains relevant EAF principles such as the conservation and adequate use of aquatic biologic resources and respective ecosystems, the “precautionary principle”, the principle of participatory management of fisheries resources, and of institutional cooperation and coordination in general (Article 5(a)(b)(c)(h)). It also requires the preparation of development plans to be based on an integrated and decentralised process that ensures the participation of social, professional and economic organisations related to fisheries activities and complementary ones (Article 9(2)). Many other EAF related provisions are also provided for, for instance, conservation zones in marine and continental waters may be designated for conserving, regenerating or restoring ecosystems or for the social and economic interest of communities (Article 16). A participatory management model is adopted to ensure the rights of fishing communities to access fisheries resources and their participation in the planning and management of these resources (Article 23(2)(a)), for preventing and solving conflicts derived from fishing activities through measures (i.e. the establishment of mediating committees and the adoption of implementation measures related to the respective adopted recommendations) (Article 24(b)), and the regulation of the construction, modification of fishing fleets to ensure appropriate expansion (Article 40(1)).

The *2003 Ministerial Order on the internal regulation of such fund*, repealed the *1988 Decree on the Fisheries Promotion Fund*. The fund financially supports the actions to foster private, particularly national, investments in priority areas such as artisanal fisheries and artisanal vessel construction, installations for fleets and commercialization of fish stocks from artisanal fisheries (Article 2). The fund aims to elaborate and jointly coordinate the budget proposals and ensure the execution and financial control of public financed programmes with other institutions of the fisheries sector, (Article 3). That Order also provides for provincial delegations designated to act on behalf of the fund’s Administration Council in a geographically delimited and previously defined area, ensuring that it exercises a number of functions, including coordination with local bodies on the activities undertaken in accordance with the programmes and projects at provincial levels, registered and approved within the public investment (Articles 15 and 16).

Certain sectoral legislation were also revoked. The *2019 Law No. 20 approving the Law of the Sea* repealed the *1996 Law No. 4 on delineation of maritime boundaries*. This new law provides follows the principles of the ecosystem approach, international cooperation and coordination, adaptive management, multidisciplinary transversal and integrated management, sustainable management, maximum sustainable yield, precautionary principle, and others (Article 5).

The *2004 Decree regulating EIA* was repealed by the *2015 Decree on EIA proceedings*, providing details on the proceedings for the submission, analysis, approval, review of EIA, the licensing process that follows as well as the responsibilities of the actors involved. Public participation is defined thereunder as comprising consultations and public hearings to provide information and a hearing for all interested people directly or indirectly affected by an activity where they can request for clarifications and formulate suggestions and recommendations (Article 15). The proponent of the activity is responsible for carrying out such public participation from the activity's conceptual phase to its environmental licensing. The EIA process hereby requires a minimum of two public hearings (Article 15(3)(5)). The *2000 Decree on the Environmental Fund* was repealed by the *2016 Decree on the National Fund for Sustainable Development*. The fund mobilizes, generates and manages financial resources, applying them in sustainable development actions and creating institutions dedicated towards sustainable and integrated development (Article 5). The decree is implemented by *2017 Resolution on the organic statute of the fund*.

The *2014 Mining Act* repealed the *2002 Mining Act*. This law establishes duties for the mining right holders such as compliance with the requirements of the EIA and developing actions of protection of the nature and the environment, as approved by the competent authorities (Article 36). It also requires mining activities be operated in accordance with the laws and regulations on the protection and preservation of the environment, its social, economic and cultural aspects. It also requires the observance of good mining practices to ensure the preservation of biodiversity, minimization of waste and losses of natural resources and to protect against adverse environmental effects (Article 68).

The *2001 Oil Act* was repealed by the *2014 Oil Act* which takes into account environmental considerations by requiring the Government to establish a protection plan of natural resources, particularly in respect of piracy control, hydrocarbons discharges and protection of the EEZ, while also requiring investors to ensure the coexistence with the marine wildlife and other ecosystems, in conservation and fisheries development areas (Article 57).

#### **4.10.2 Other relevant legal developments**

Other recent legislation relevant to EAF includes the *2017 Decree on the concession of fishing rights and fishing licensing*, which regulates the main aforementioned fisheries laws. This decree defines fishing rights as "*comprising the right to a fishing quota access to fishing ports, and a preferential right to a local fishing area, in the case of artisanal fishing*" (Article 6). It clarifies the procedures for obtaining a fishing rights concession, the duties and rights of the fishing rights holder, conditions for transfer, allocation, suspension and revocation of fishing rights. The decree also has detailed requirements of fishing access agreements with third

parties, including financial compensation equal or superior to the applicable fees or representing a minimum of 12 percent of the market value of captures (Article 30(a)). This decree regulates the fishing licensing scheme, detailing the procedures for the application of commercial industrial, semi-industrial, artisanal fishing as well as non-commercial fishing activities.

The *2016 Decree on creating the National Institute for Fisheries and Aquaculture Development* ensures that the institute is relevant to the implementation of the EAF approach. This Decree encourages increased statistically sound, specialised studies on fishing activities and development of infrastructure to support small-scale fisheries and aquaculture, the implementation and coordination of activities for fisheries research, experiments, and demonstrations with the direct involvement of local State bodies, small-scale fisheries and aquaculture communities (Article 5). However, that Decree did not appropriately address environmental considerations, with special attention to the ecosystem, biodiversity and habitat protection and conservation within the fisheries and aquaculture development. The *2015 Presidential Decree on establishing competences of the Ministry of Sea, Inland Waters and Fisheries*, in turn, establishes the competence of such ministry, which includes to ensure the sustainable exploration of marine and fresh waters for the development of fisheries and aquaculture, participation in the prevention and combat of marine and freshwater pollution in the ecosystems, and ensures the management, conservation and sustainable exploration of aquatic biological resources while establishing the monitoring and control mechanisms of fishing activities (Article 3(a)(e)).

The *2014 Biological Diversity Protection, Conservation and Sustainable Use Law* has the purpose of establishing the basic principles and norms for the protection, conservation, restoration and sustainable use of biological diversity in all national territory, especially in conservation areas as well as the establishment of an integrated administration for the sustainable development of the country (Article 1). It describes fully conserved areas and sustainably used areas for the conservation of ecosystems and the coexistence of local communities with other conservation interests and values. It promotes the regional and international cooperation in the management of shared resources in transboundary areas as well as the implementation of common approaches for the conservation of ecosystems and species (Article 36(2)(a)(c)). This legislation addresses the gap on stakeholder participation identified in the 2011 EAF Legal Study (Skonhøft 2011, p. 104) by ensuring the right of local communities to submit the proposal for the creation of conservation areas (Article 38) and that the management of the conservation area is conducted in collaboration with the local communities, fostering and supporting the activities compatible to its conservation while contributing to bettering the quality of life of those communities (Article 42(3)).



Table J. Updated list of the legislation of Mozambique	
Legislation	Status
2019 Law No. 20 approving the Law of the Sea	In force
2019 Decree No. 30 approving the regulation for the Marine Scientific Research and Research-REICIM	In force
2017 Decree No. 21 regulating the legal regime for the use of the National Maritime Space	In force
2017 Resolution on the Statute of the National Fund for Sustainable Development	In force
2016 Decree No. 34 regulating International Trade in Endangered Species of Wild Fauna and Flora	In force
2016 Decree No. 6 on the National Fund for Sustainable Development	In force
2016 Decree No. 3 on the National Institute for Fisheries and Aquaculture Development	In force
2015 Decree No. 54 on the proceedings of EIA	In force
2015 Presidential Decree No. 17 on the Ministry of Sea Inland Waters and Fisheries	In force
2014 Mining Law No. 20	In force
2014 Ministerial Decision No. 162 on the Fishing Line Management Plan within Marine Waters of Mozambique for the period 2014-2018	In force
2014 Biological Diversity Protection, Conservation and Sustainable Use Law No. 16, amended by 2017 Law No. 5	In force
2014 Law No. 21 on contracts relating to recognition, search and production of oil and pipelines	In force
2013 Fisheries Law No. 22	In force
2013 Decree No. 13 on the National Council for Sustainable Development, as amended by 2016 Decree No. 19	In force
2012 Ministerial Order No. 286 approving the Regulation on the Functioning of the Monitoring and Surveillance Centre	In force
2011 Ministerial Order No. 251 approving the regulation of the National Institution for Fisheries Research	In force
2011 Decree No. 71 creating the Marine Aquaculture Reserve	In force
2009 Decree No. 76 approving the general regulation for the hygienic-sanitary control of food products of aquatic origin	In force
2008 Decree No. 57 approving the regulation on inland fisheries, as amended by Ministerial Order No. 67/2012	In force
2008 Ministerial Decree No. 22 approving the legal framework for the elaboration of fisheries offences processes and procedures	In force
2007 Ministerial Order No. 49 approving the regulation on the functioning of the Fisheries Co-management Committee	In force
2006 Decree No. 45 approving the regulation on Prevention of Pollution and Protection of the Marine and Coastal Environment	In force
2004 Decree No. 34 Regulation on the Proceedings of EIA	Repealed
2003 General Regulation of Maritime Fisheries Decree No. 43, amended by 2013 Ministerial Order No. 4	In force
2002 Mining Law No. 14	Repealed
2001 Law No. 3 on contracts relating to recognition, search and production of oil and pipelines	Repealed
2001 Decree No. 35 on the General Regulation on Aquaculture	In force
2001 Ministerial Diploma No. 47 on establishing the Advisory Council, the Coordinating Council and the Technical Scientific Council	In force
2000 Decree No. 39 on Organic Statute of the Environmental Fund	Repealed
2000 Decree No. 40 on the National Council for Sustainable Development composition and functions	Repealed
2000 Presidential Decree No. 6 on objectives and attributions of the Ministry of Fisheries and others	In force

Table J. Updated list of the legislation of Mozambique	
Legislation	Status
1999 Forest and Wildlife Act No. 10	In force
1999 Order prohibiting the catching, collecting and trading of ornamental fish and coral	In force
1997 Environmental Act No. 20	In force
<i>1996 Law No. 4 on delineation of national maritime boundaries</i>	<i>Repealed</i>
1990 Constitution of Mozambique, as revised by 2018 Law No. 1	Revised
<i>1990 Fisheries Act No. 3</i>	<i>Repealed</i>
<i>1988 Decree No. 22 on Fisheries Promotion Fund, repealed by 2003 Ministerial Diploma No. 60</i>	<i>Repealed</i>

## 4.11 Ecosystem approach to fisheries and the legislation of Namibia

### 4.11.1 Updates

The legislation of Namibia examined in the 2011 EAF Legal Study remain in force, except for the *2004 Water Resources Management Act*, which was repealed by the *2013 Water Resources Management Act*. This act provides for the EAF relevant principles of harmonisation of human water needs with the water requirements of the environmental ecosystems and the dependent species therein, while recognizing the mandate to maintain the quality of the water resources for those ecosystems. The act also provides for supporting integrated water resources management through human resources development and capacity building, promotion of water awareness and the participation of interested persons in the decision-making process as an integral part of any water resource development initiative (Section 3). The functions of the Minister include to collect, compile, analyse and disseminate information for integrated water resources management; coordinate water resources management at the national level; and coordinate and harmonize the administration and management of water resources among basin management committees and water service providers (Section 5). The composition of the Water Resources Council is diverse, including representatives from local authorities and academic institutions (Section 8). This act also provides for water protection areas, declared by the Minister, through his or her own initiative or upon application from interested parties to protect and enhance any water resource, riverine habitat, watershed, ecosystem or other environmental resource that is at risk of significant changes to resource quality, depletion, contamination, extinction or disturbance from any source (Section 85).

The main fisheries legislation *2000 Marine Resources Act No. 27* was amended by the *2015 Marine Resources Amendment Act*, which provides modifications, most of which relate to quota provisions. For instance, it ensures that the TAC is determined based on the best scientific evidence available; and upon request of advice from the advisory council by notice in the *Gazette* thus ensuring the possibility of TAC allocation by the Minister for commercial harvesting, non-commercial harvesting and reserves (Section 38(1)(2)). If for non-commercial harvesting or reserve purposes, the Minister may allocate a quota to the National Fishing Corporation of Namibia Limited (Section 39(3A)).

#### 4.11.2 Other relevant legal developments

Other recent legislation relevant to an EAF include the *2011 EIA Regulations*, providing rules on the public consultation process, for example, it requires the person conducting the consultation to give notice, through various means, including fixing a notice board at a place conspicuous to the public at the boundary or on the fence of the site where the activity relates is or is to be undertaken, to all potential and affected parties subject to such consultation give written notice to the relevant people with interest in or affected by the project (Regulation 21(2)(a)(b)). The *2012 Namibian Islands' Marine Protected Area (MPA) Regulations* provides for the delimitation of these areas, including their respective buffer zones, and outlines the specific restrictions and prohibitions of harvesting of certain species, fishing gears and methods. The *2014 Vessel Monitoring Regulations* required vessels licenses for commercial purposes in national waters or when using a national vessel within or beyond national waters to have an automatic location communicator installed and registered in accordance with these regulations (Regulation 2). It also provides for a Fisheries Monitoring Centre, established by the Minister, for receiving and recording the information transmitted by all the vessels (Regulation 5).

The *2017 Access to Biological and Genetic Resources, Associated Traditional Act* is devoted to maintaining and improving the diversity of biological and genetic resources and its associated knowledge. It ensures the effective participation of concerned local communities, with a particular focus on women, in making decisions related to the distribution of benefits that may derive from the use of their biological and genetic resources and its associated traditional knowledge (Section 2). It regulates, among other issues, the rights in relation to biological and genetic resources and associated traditional knowledge, institutional arrangements, the access to such resources and knowledge through a permit scheme, prior informed consent, benefit sharing and material transfer agreements as well as recognition and protection of community rights.

Table K. Updated list of the legislation of Namibia	
Legislation	Status
2017 Access to Biological and Genetic Resources, Associated Traditional Knowledge Act No. 2	In force
2015 Government Notice No. 238 on regulations relating to inspection of register	In force
2014 Government Notice No. 65 on Vessel Monitoring	In force
2013 Water Resources Management Act No. 11	In force
2012 Government Notice No. 316 on Namibian Islands' Marine Protected Area	In force
2012 Government Notice No. 29 on the List of activities that may not be undertaken without Environmental Clearance Certificate	In force
2011 Government Notice No. 30 on EIA regulations	In force
2007 Environmental Management Act No. 7	In force
2006 Government Notice No. 27 on licensing of foreign flagged vessels for harvesting Namibia's shared resources	In force
2005 Government Notice No. 65 on VMS regulations, as amended in 2014	In force
2004 Water Resources Management Act No. 284	Repealed

Table K. <b>Updated list of the legislation of Namibia</b>	
<b>Legislation</b>	<b>Status</b>
2003 Inland Fisheries Resources Act No. 1	In force
2003 Government Notice No. 118 on inland fisheries resources	In force
2003 Government Notice No. 245 on aquaculture licensing	In force
2002 Aquaculture Act No. 18	In force
2001 Regulation No. 241 on exploitation of marine resources	In force
2000 Marine Resources Act No. 27, amended by 2015 Act No. 9	In force
1999 Petroleum (Exploration and Production) Act Regulations	In force
1994 Port Authority Act No. 51	In force
1993 Petroleum (Exploration and Production Act), amended by 1998 Petroleum Laws Amendment Act	In force
1992 Minerals (Prospecting and Mining) Act, amended by 2008 Act No. 8	In force
1990 Constitution of Namibia	In force
1990 Act No. 3 on establishing the territorial sea and EEZ	In force
1981 Act No. 6 on prevention and combatting of pollution at sea by oil, as last amended in 1990	In force
1981 Marine Traffic Act No. 2, as last amended in 1991	In force
1977 Criminal Procedures Act, as amended several times	In force
1975 Nature Conservation Ordinance, as last amended in 2017	In force
1951 Merchant Shipping Act No. 57, as amended	In force

## 4.12 Ecosystem approach to fisheries and the legislation of Senegal

### 4.12.1 Updates

Some of the legislation examined in the 2011 EAF Legal Study were repealed. The *2015 Maritime Fisheries Code* and its regulation, the *2016 Decree*, repealed the *1998 Maritime Fisheries Code* and its correspondent *1998 Decree* respectively. The new Code contains many provisions relevant to EAF. It requires the state to take appropriate measures to facilitate coordination and participation of professional organisations of the sector – marine fishing communities and all other actors concerned - in the preparation of policies of sustainable development and management of marine fishing activities and promotes co-management among those stakeholders (Articles 5 and 6). The FMPs are established on an annual or multiannual basis by the Minister in charge of fisheries and are subject to periodic review upon fisheries data (Article 13).

This Code ensures the adoption of an ecosystem-based integrated management approach by incorporating conservation objectives to ensure sustainability of critical species and habitats for restoration of fisheries resources and increased productivity in national waters (Article 14). The development of artisanal fisheries are prioritised by the state due to its vitality, social and economic importance, notably for the fight against poverty, to food security and growth, with support given in promoting for example their participation in fisheries management and the creation of zones reserved to this sector (Article 24). It also provides for a broad licensing

scheme, relevant conservation measures that include the prohibition on the fishing, detention and commercialization of all species of marine mammals (Article 67(a)), MCSE procedures, an outline of administrative and judicial proceeding for the application of penalties, including provisions for compounding of offences through an agreement between the respective Minister or his or her respective representative and the offender (Article 105).

The 2011 EAF Legal Study criticised the lack of measures on fishing gear and methods by the revoked fisheries legislation (Skonhofs, 2011, p. 116), matters that were regulated in detail by the *2016 Decree regulating the Marine Fisheries Code*. This decree provides more detailed rules on the National Advisory Council for Marine Fisheries, which boasts of diverse membership, including directors, ministries' representatives, people representing the artisanal fisheries local councils, inter-professional artisanal fisheries, and a representative of the civil society (Article 4). Additionally, the artisanal fisheries local councils participate in the preparation and execution of local FMPs as well as MCS systems at the local level and promote the local initiatives associated with fisheries co-management (Article 6).

The conservation and management measures addressed by this Decree are numerous and detailed. It specifies the minimum mesh size and fishing gears for both artisanal fishing and industrial fishing operating in national waters (Articles 24 and 29) setting prohibitions of the use of fishing gears and methods (Articles 25 and 36) such as the prohibition on bottom long line in statuarys, inlets, and in other parts of mangrove areas, beach seine and drifting gillnets for shrimp fishing in national waters (Article 25). It also prohibits the capture, transport, transshipping, detention and sale of specified species are outlined (Article 38) as well as establishes the specific geographical coordinates for the fisheries zones (Articles 39). It also provides for MCS rules, marking of fishing vessels and an observer scheme, ensuring, for instance, the responsibilities of the fishing vessel's commander with respect to the activities undertaken by the observer on board of the vessel (Articles 59 and 62).

#### **4.12.2 Other relevant legal developments**

The *2017 IUU fishing Law* incorporates the rules of the PSMA thereby ensuring the control and management of IUU fishing through measures for Senegalese ports and by competent authorities establishing. The *2017 Decree regulating the attributions of the Ministry of Environment and Sustainable Development* outlines a number of responsibilities including the protection of water courses against the invasion of aquatic plants, the protection, in collaboration with local communities, of marine flora, coasts and statuarys from marine erosion, and the facilitation of access to national parks and other protected areas with a view to ensuring a higher degree of their protection.

Table L. Updated list of the legislation of Senegal	
Legislation	Status
2017 IUU Fishing Law No. 02	In force
2017 Decree No. 1594 on the Ministry of Environment and Sustainable Development	In force
2016 Decree No. 1804 on the implementation of the Marine Fisheries Code	In force
2016 Decree No. 19126 establishing the conditions for the installation and use of electronic fishing logbooks in deep-sea shrimp fishing vessel	In force
2016 Ministerial Order No. 18456 establishing the conditions of use of certain fishing gears by industrial fishing vessels authorised to fish in areas under Senegalese jurisdiction	In force
2015 Law No. 18 on the Marine Fisheries Code	In force
2015 Ministerial Order No. 5308 on the permit of artisanal fishing	In force
2013 Decree No. 246 approving the Fisheries Management Plan of Deep-Sea Shrimps	In force
2012 Ministerial Order No. 6397 on the registration of marine artisanal fishing vessels	In force
2011 Ministerial Order No. 12439 on the creation, organisation and functioning of the local councils for artisanal fisheries	In force
2010 Ministerial Order No. 9077 on the creation, organization, and functioning of Local Councils of Marine Artisanal Fisheries	In force
2008 Order No. 8998 on the creation of a National Commission for sustainable development	In force
2008 Decree No. 1026 on public services and related issues	In force
2006 Ministerial Order No. 2467 on the organization and functioning of the Directory of Fisheries Protection and Surveillance	In force
2005 Ministerial Order No. 3110-MEM on the creation, organisation and functioning of bodies for the implementation of the component 'sustainable development of fisheries' within the programme of integrated management of marine and coastal resources	In force
2005 Ministerial Order No. 853 on the creation, organisation and functioning of the national register of fishing vessels	In force
2005 Decree No. 569 on the organization of the Ministry of Maritime Economy	In force
2005 Oder No. 5916 on the artisanal fisheries permit	Repealed
2004 Decree No. 1408 (in force) on the creation of MPAs	In force
2003 Mining Code	In force
2002 Law No. 22 on the Marine Merchant Code	In force
2001 Ministerial Order No. 9472 MJEHP-DEEC on the content of the report of EIA	In force
2001 Ministerial Order No. 9471 MJEHP-DEEC on the terms of reference of EIA	In force
2001 Ministerial Order No. 9470 MJEHP-DEEC on the conditions for the issuance of approval of activities subject to an EIA	In force
2001 Ministerial Order No. 9468-MJEHP-DEEC on the public participation in EIA	In force
2001 Decree No. 282 on the implementation of the Environment Code	In force
2001 Environmental Code Law No. 01	In force
1999 Ministerial Order No. 1008 regulating the embarking of observers on board Senegalese fishing vessels	In force
1998 Law No. 18 on the Maritime Fisheries Code	Repealed
1998 Decree No.498 regulating the 1998 Fisheries Code	Repealed
1998 Petroleum Code Law No. 05	In force

Table L. Updated list of the legislation of Senegal	
Legislation	Status
1992 Order No. 9248 establishing technical conditions applicable to fishing vessels except artisanal fishing vessels	In force
1986 Law No. 04 on the Protection of Nature and Hunting Code	In force
1981 Water Code Law No. 13	In force

## 4.13 Ecosystem approach to fisheries and the legislation of the Seychelles

### 4.13.1 Updates

Some legal developments have occurred since the 2011 EAF Legal Study, including the revocation of certain legislation. Of greatest significance is the *1986 Fisheries Act*, which was repealed by the *2014 Fisheries Act* and fills some of the gaps identified in the study.<sup>6</sup> It clearly defines the objective of the act and requires the Fishing Authority to ensure effective management and sustainable development of fisheries in accordance with applicable international rules and an EAF that addresses the needs and desires of the society without jeopardising the options for future generations to benefit from the full range of goods and services provided by marine ecosystems (Section 4(b)). Under the law, it is the authority's responsibility to prepare and keep under review FMPs upon consultation with stakeholders, including local fishermen, with whom the authority may enter into co-management arrangement if necessary (Section 5(3)(4)). The authority is also responsible for making and maintaining a record of licensed, authorised or permitted fishing vessels, whose authorisation is approved per the required list of information is provided for in the act (Section 8(1)(2)).

A broad licensing scheme is provided in this Act as well as conservation measures, including the prohibition of the use of poison or other noxious substance for fishing (Section 31). Other relevant EAF related provisions of this act concern MCSE as seen, for example, in the detailed description of enforcement powers of authorised officers (Sections 49–51) and the provision for regional cooperation conducted through agreements with other States in the Indian Ocean for joint harmonised surveillance and enforcement measures in respect to foreign fishing vessels (Section 57). This act also describes offences, provides the respective penalties and the possibility for the court to, in addition to any other penalty, order the forfeiture of the fishing vessel, gear or article used in the commission of the offence (Section 70(1)); it also provides for the compounding of offences (Section 72).

The *2016 Environment Protection Act* repealed the *1996 Environmental Protection Act*. This act outlines the mandate of the Ministry responsible for the environment to coordinate activities of other agencies with environmental protection (Section 4(1) (c)). There is provision for the Minister to declare one or more coastal zones with subsidiary zones dedicated to the preservation, rehabilitation and conservation of coastal biodiversity (Section 28(1)(c)). Participation and consultation in decision-making are not sufficiently addressed by this act,

<sup>6</sup> Skonhoft A. 2001, pp. 121–122.



but an inventory of all users and uses of the coastal zone is required to be included in a report of which the Minister may make or a survey of the coastal zones to prepare or the Integrated Coastal Zone Management Plan (Section 29(1)(2)(j)(3)). Another relevant provision is the requirement to carry out an EIA as part of the proceedings to obtain an authorization for certain development activities listed (Sections 43-45).

The *1996 Environment Protection (Marine Parks Authority) Order* was repealed by the *2009 Environment Protection (Seychelles National Parks Authority) Order*. It outlines the responsibilities of this authority in charge of the protection and management of a National Park, to implement policies and programmes for the protection and management of the park, monitoring and controlling of all activities concerned with its management and protection (Section 4(1)). This authority is managed by a board appointed by the minister consisting of members of high-level authorities with the possibility of other persons being appointed by the minister to participate, if they have the knowledge and experience to contribute to the affairs and operation of the authority (Section 13(1)).

#### **4.13.2 Other relevant legal developments**

Additional legislation related to an EAF include the *2003 Regulations on the protection of whales shark* which is consistent with the principles of EAF, specifically conserving and protecting biodiversity through the protection of a threatened species.

Table M. Updated list of the legislation of Seychelles	
Legislation	Status
2017 Regulations S.I. No. 45 on compounding of offences	In force
2016 Environment Protection Act No. 18, as amended in 2017	In force
2014 Fisheries Act No. 20	In force
2010 Fisheries Licences Act Cap. 113, as consolidated in 2014	In force
2009 Environment Protection (Seychelles National Parks Authority) Order	In force
2004 Ports Authority Act No. 11, as amended and consolidated in 2012	In force
2003 Regulations S.I. No. 1 on the protection of whales shark	In force
<i>1996 Environment Protection (Marine Parks Authority) Order</i>	<i>Repealed</i>
1996 Environment Protection (Impact Assessment) Regulations, as amended in 2013	In force
<i>1994 Environmental Protection Act</i>	<i>Repealed</i>
1994 Wild Animals (Turtles) Protection Regulation, as consolidated in 2003	In force
1992 Merchant Shipping Act No. 13, as amended in 2014	In force
1987 Fisheries Regulations Cap. 82, as amended in 1998 and 2007	In force
<i>1986 Fisheries Act Cap. 82, as amended in 2001</i>	<i>Repealed</i>
<i>1986 Licences Act No. 3</i>	<i>Repealed</i>
1984 Fishing Authority (Establishment) Act Cap. 214	In force
1971 Regulations S.I. No. 110 regulating the procedure for designation of protected areas	In force



Table M. Updated list of the legislation of Seychelles	
Legislation	Status
1969 National Parks and Nature Conservancy Act Cap. 141	In force
1961 Wild Animals and Birds Protection Act, as revised in 1991	In force

#### 4.14 Ecosystem approach to fisheries and Sierra Leonean legislation

##### 4.14.1 Updates

There were two major legal development in Sierra Leone with the adoption of the *2018 Fisheries and Aquaculture Development Act* (hereafter the “Sierra Leone’s Fisheries Act”) and its regulatory instrument, the *2019 Fisheries and Aquaculture Regulations* (hereafter the “Sierra Leone’s Fisheries Regulations”). These instruments repealed the previous Fisheries Decree of 1994 and its Regulations of 1995. With these new fisheries legal instruments, Sierra Leone’s legal framework for an EAF was significantly improved. The Sierra Leone’s Fisheries Act endorse the FAO’s definition of an EAF i.e. as “an approach that balances diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions, and applying an integrated approach to fisheries within ecologically meaningful boundaries” (Section 1). It follows a participatory approach through the provision for community fisheries management areas, which can be established by the Minister responsible for fisheries in consultation with local councils (Section 3). A scientific body entitled Scientific, Economic and Technical Committee is established with the duty to advice that Minister on biological, social, economic and technical aspects for ensuring sustainable fisheries and conservation (Section 7). Fisheries management objectives are aligned with an EAF, taking into account, inter alia, the precautionary approach and the use of selective fishing gears (Section 9).

The Fisheries Act provides for a broad licensing scheme and requirements on catch reporting, spatial controls through the establishment of an inshore exclusive zone reserved for artisanal and recreational fishing (Sections 14-18). An observer programme is also established by this Act (Sections 29–35) and the VMS provisions detail the requirements for its installation and maintenance (Section 37). The Fisheries Regulations elaborates on certain issues, including the provision of coordinates of those inshore exclusive zones (First Schedule) and participatory process for the declaration of MPA (Regulation 5). They also detail the restrictions on the use of certain fishing gears such as prohibition on pair trawling, and provide for the protection of marine species like turtles, immature rays and immature sharks (Regulations 6, 9), landing and transshipment requirements (Regulation 31).

The *2001 Petroleum and Exploration and Production Act*, in turn, was repealed by the *2011 Petroleum Exploration and Production Act*. This act improves the limited environmental provisions of the previous act. For instance, it requires an EIA in the application for a reconnaissance permit (Section 21(e)) and an ESIA to be submitted along with the submission to obtain approval of the plan for the development and operation of the petroleum field (Section 54(3)). It also ensures that no holder of a petroleum right can commence petroleum

operations without the approval of its EIA, which shall be prepared in consultation with representatives of local communities or citizens at risk of suffering social, environmental or economic disruption as a result of petroleum operation and to be duly published, as well as an environmental management plan and the issuance of the respective licence (Section 91(3)(4)(5)).

#### **4.14.2 Other relevant legal developments**

Other recent legislation relevant to EAF include the *2012 Environmental and Social Regulations for the Mineral Sector*, which clearly outlines some relevant EAF principles. These include the sustainability principle, the precautionary principle, the general duty and legal responsibility to protect the environment, access to information, public participation and public consultation (Regulations 8, 10, 11, 14-16). It ensures that the local community affected by the project participate in the procedures prior to the granting of an environmental licence, and that such participation is designed to identify all relevant social issues that could contribute to harmful effects on the local community and to guide setting development priorities, joint planning, implementation, management, and monitoring of sustainable development projects (Regulation 31). The *2012 National Protected Area Authority and Conservation Trust Fund Act*, in turn, requires the authority to, among other functions, formulate and implement awareness activities for local communities, schools, and local administration to promote knowledge of and participation in programmes and services, relating to socioeconomic and environmental issues including fisheries, water conservation in protected areas and buffer zones (Regulation 12(2)(i)).

The *2017 National Water Resources Management Agency Act* outlines objectives and principles to be observed by the Agency it established. It requires the Agency and other water institutions to perform their duties based on principles including consultation and participation of relevant state institutions, local communities, women and other relevant stakeholders, and promotion of integrated water resources management (Section 2(4)(a)(d)). The Agency is also required to promote the integrated water resources management and the management of economic development, social welfare and environmental sustainability, the river basin and its adjacent marine and coastal environment (Section 2(5)(a)(c)), and to cooperate and collaborate with relevant international organisations for the management and utilization of international transboundary watercourses (Section 13(i)).

Table N. Updated list of the legislation of Sierra Leone	
Legislation	Status
2019 Fisheries and Aquaculture Regulations	In force
2018 Fisheries and Aquaculture Act No. 10	In force
2017 National Water Resources Management Agency Act No. 5	In force
2012 National Protected Area Authority and Conservation Trust Fund Act No. 11	In force
2012 Environmental and social issues for the mineral sector Regulations	In force
2011 Petroleum Exploration and Production Act No. 7	In force

Table N. Updated list of the legislation of Sierra Leone	
Legislation	Status
2009 Mines and Minerals Act	In force
2008 Environment Protection Agency Act No. 11	In force
2006 Regulations S.I. No. 14 on fishing fees	In force
2003 Merchant Shipping Act No. 3	In force
<i>2001 Petroleum Exploration and Production Act</i>	<i>Repealed</i>
2000 Maritime Administration Act No. 11	In force
1996 Maritime Zones (Establishment) Decree	In force
<i>1995 Fisheries Regulations</i>	<i>Repealed</i>
<i>1994 Fisheries (Management and development) Decree, as amended in 2007</i>	<i>Repealed</i>
1988 Forestry Act	In force
1986 Regulations P.N. No. 1 on operation of foreign motor fishing vessels	In force
1972 Wildlife Conservation Act	In force
1965 Registration of Shipping Act No. 26	In force

## 4.15 Ecosystem approach to fisheries and the legislation of South Africa

### 4.15.1 Updates

There does not appear to be been any repeal of legislation examined in the 2011 EAF Legal Study, but there has been modification of certain legislation. The *1998 Marine Resources Act* was amended twice. The *2014 Amendment Act No. 5* provides modifications that are relevant for the EAF. Three additional objectives and principles are outlined: the need to promote equitable access to and involvement in all aspects of the fishing industry and, in particular, to rectify past prejudices against women, the youth and persons living with disabilities, the need to recognise approaches to fisheries management which contribute to food security, socio-economic development and the alleviation of poverty, and the need to recognise that fish may be allocated through a multi-species approach (Section 2(k)(l)(m)). The amendment deletes the previously denominated term “subsistence fishing” and includes definitions of “small-scale fishing”, “small-scale fisheries sector” and “small-scale fishing community” instead and ensures, for example, that the portions of TAC and total applied effort or a combination thereof, as determined by the Minister, are allocated in any year to small-scale fishing (Section 14(2)).

The *1998 National Environmental Act* was amended several times and the most recent *2013 Amendment Act No. 30* contains relevant provisions for an EAF. For instance, new provisions require the minister to prepare and publish a national environmental outlook report for the Republic at intervals of not more than four years (Section 16A). This provides the possibility of the minister to provide for the guidelines on the development, content and use of voluntary organisation or sector-based instruments, with a view to promote or facilitate integrated, environmentally sustainable and sound management. These instruments, must at

least integrate environmental considerations into decision-making, provide for the implementation of best environmental practice, promote the progressive adoption of environmentally sound technology or promote sustainable consumption and production, including eco-endorsement or labelling, where appropriate (Section 23A).

#### **4.15.2 Other relevant legal developments**

Recent legislation relevant to EAF include the *2016 Small-scale fishing Regulations*, which requires the Department of Agriculture, Forestry and Fisheries to set up a procedure to engage and consult with the small-scale fishing communities. This includes proposing demarcated areas for them to fish, reducing conflict between small-scale fishing communities as well as considering the mobility of each species in the allocated basket of species (sessile species requiring smaller fishing areas while nomadic and migratory species require larger areas) (Regulation 5(1)(2)(3)). It also ensures that small-scale fishing communities have the authority to donate a portion of its commercial catch to its fishers for their own consumption, provided that the amounts are accounted for against the allocation granted to the cooperative (Regulation 6(2)). They are also entitled to agree on the initial apportionment of TAC and fishing effort commercially available to each small-scale fishing community (Regulation 6(3)).

The *2015 Threatened or Protected Species Regulations* require an EIA for restricted activities involving wild specimens of critically endangered species, restricted activities carried out in ecosystems listed as threatened in terms of Section 52 of the Biodiversity Act, or release captive-bred or artificially propagated specimen of a listed threatened or protected species into a national protected area (Regulation 12(1)), outlining the content of such assessment, including management of potential risks and any other information as the issuing authority may determine (Regulation 13(2)(g)(h)). The *2014 EIA Regulations*, in turn, provides for the proceedings for applying for an environmental authorisation, including the requirement of consultation among competent authorities and organs of state that administer the law relating to a matter affecting the environment relevant to that application (Regulation 7(2)), submission of basic assessment report, environmental management programme, closure plan (Regulation 19), submission of a scoping report (Regulation 21), submission and consideration of EIA report and an environmental management programme (Regulation 23). The rules related to the issuance of an environmental authorisation, monitoring the subsequent procedures, amendment, suspension, withdrawal and auditing of compliance with it and the environmental management programme are also within the 2014 Regulations. The regulations devote a chapter to public participation, ensuring the right of any registered interested and affected party to submit comments on the reports or plans (Regulations 39-44).

Table O. Updated list of the legislation of South Africa	
Legislation	Status
2019 Government Notice s No. 382 on Coastal Waters Discharge regulations	In force
2017 Government Notice s No. 711 on Dumping at Sea regulations	In force
2017 Government Notice No. R 477 Threatened or Protected Marine Species Regulations	In force
2017 Government Notice No. 476/2017 on the Lists of Marine Species that are Threatened or Protected, Restricted Activities that are Prohibited and Exemption from Restriction	In force
2016 Small-scale Fishing Regulations No. 229	In force
2016 Government Notice No. 1067 on the duration of small-scale fishing rights	In force
2016 Government Notice No. 229 on Small-scale Fishing regulations	In force
2016 Government Notice No. 382 on Management of Protected Areas Norms and Standards	In force
2015 Threatened or Protected Species Regulations No. 255	In force
2014 EIA Regulations No. 892, as last amended in 2018	In force
2008 Integrated Coastal Management Act, amended in 2014	In force
2008 Marine Spatial Planning Act No. 16	In force
2008 Government Notice No. 62 on the protection of wild abalone (haliotis) regulations	In force
2004 National Environmental Management Biodiversity Act, amended in 2009	In force
2004 Declaration on the Pondoland MPA Notice No. 694	In force
2004 Declaration on the Bird Island Group Marine Protected Area Notice No. 696	In force
2003 National Environmental Management Protected Areas Act, as last amended in 2014	In force
2002 Mineral and Petroleum Resources Development Act, amended in 2005	In force
2002 Government Notice No. R 497 on Ship Registration regulations	In force
2000 Promotion of Access to Information Act No. 2, as amended in 2001	In force
2000 Declaration of Areas as MPAs Notice No. R 1429	In force
1998 Marine Living Resources Act No. 18, amended in 2000 and 2014	In force
1998 Government Notice No. 1111 on the Marine Living Resources Regulations, as last amended in 2015	In force
1998 National Environmental Management Act No. 107, as last amended in 2013	In force
1998 National Water Act No. 36, amended in 2014	In force
1998 Maritime Safety Authority Act	In force
1998 Ship Registration Act	In force
1989 Environmental Conservation Act No. 73, as last amended in 2009	In force
1988 Sea Fishery Act No. 12	Partially repealed

#### 4.16 Ecosystem approach to fisheries and the legislation of the United Republic of Tanzania

##### 4.16.1 Updates

The recently adopted *2020 Deep-Sea Fisheries Management and Development Act* repealed the *1998 Deep-Sea Fisheries Authority Act*. This new Act keeps the Deep-Sea Fisheries

Authority and strengthen its functions, which include developing, managing and controlling all activities relating to fisheries including fishing and related activities in relation to the EEZ and all areas such as licensing, data collection, coordinating MCSE activities; and formulating and coordinating programmes for scientific, economic, social or other research on fisheries (Section 6). This act provides for data collection through the establishment and maintenance of an information system and register with information, data and statistics to be prescribed by regulations (Section 51).

The *2005 Fisheries Act Regulations* were repealed by the *2009 Fisheries Act Regulations*. The new Regulations provide for and detail the fishing license scheme, prohibitions on destructive gears, closed area, closed season, special protection for endangered species, specifications of gear use, and details on VMS. Although this instrument does not outline nor define the “precautionary approach”, it requires the fish inspector to take precautionary action by closing any fish establishment when convinced that conditions in the establishment constitute a high risk to consumers’ health, or that such conditions approximates fraud (Regulation 139(1)). It also provides for the facilitation of fisheries statistical data collection, processing, analysis, publication and dissemination (Regulation 141(h)) through the support of the Fisheries Development Fund.

#### **4.16.2 Other relevant legal developments**

Other recent legislation relevant to EAF include the *2009 Deep-Sea Fishing Authority Act Regulations*, which applies to the fishing and related activities in the United Republic of Tanzania’s EEZ (Regulation 2). It provides for the licensing of fishing operations and the management of fishery resources and protection of the marine environment, requiring the observance to the “precautionary principle”, polluter pays principle, principle of ecosystem integrity, principle of international cooperation in management of fishery resources and public participation (Regulation 19). The Director General is required to collaborate with relevant research institutions and other stakeholders for carrying out fish stock assessments and conduct studies on fish migratory patterns, fishing seasons, biodiversity, environmental, ecological, socio-economic factors or any other fishery related study for effective management of fishery resources (Regulation 20(1)). These Regulations allow the Director General discretion for the establishment of measures for restoration of fish stocks to ensure the sustainability of fishery resources (Regulation 21), in consultation with other relevant RFMOs, and the restriction on the use of any fishing gear or method, area or time of fishing in the EEZ (Regulation 22). There are also provisions on marking and protection of set fishing gears, control on landing and transshipment, and prohibition on water pollution and the degradation of marine environment (Regulations 23–25).

Fishing vessels licenced under this act are required to be equipped with an automatic location communicator linked to the VMS (Regulation 28(1)) and the Director General has the duty to establish a VMS operation centre equipped with receivers and other equipment for receiving and recording information transmitted from those vessels (Regulation 29(1)). A Surveillance Unit is established by this act for protecting fishery resources and the marine environment against IUU fishing in the EEZ and ensuring the general enforcement of the act

(Regulations 31(1) and 32(1)) though enshrining the enforcement powers of the fishery inspectors and fishery observer scheme (Regulations 33(1) and 34). The act also regulates stowage of fishing gear, the maintenance of log books, requirements on radio call signs and limitations on trade of fishery resources, scientific research permits, offences and penalties.

The *2016 Fisheries Research Institute Act* meets the requirement on ecosystem-based research as well as those on fishery monitoring and research by ensuring that the institute carries out research on fisheries and aquaculture with a focus on various areas. These areas include aquatic ecosystems and biodiversity inventories, sustainability of aquatic ecosystems and resources, aquatic invasive alien species and endangered species, by-catch in relation to biodiversity, water quality, quantity, accessibility and pollution, key stone and critical habitats, resistance and resilience of aquatic organisms, catch and stock assessment, fishing gear technology, methods and crafts, fish aggregation devices, fisheries and aquaculture systems management, fishers migration, gender and fisheries (Section 15(1)).

Table P. <b>Updated list of the legislation of the United Republic of Tanzania</b>	
Legislation	Status
2020 Deep-Sea Fisheries Management and Development Act	In force
2016 Fisheries Research Institute Act No. 11	In force
2012 Regulations G.N. No. 206 on Wildlife Management Areas	In force
2009 Fisheries Regulations GN No. 308	In force
2009 Deep-Sea Fishing Authority Act Regulations GN No. 48	In force
2009 Water Resources Management Act No. 11	In force
2009 Wildlife Conservation Act No. 5	In force
<i>2005 Fisheries Act Regulations</i>	<i>Repealed</i>
2005 National Guidelines for Beach Management Units	In force
2005 Regulations G.N. No. 349 on Environmental Impact Assessment and Audit	In force
2004 Ports Act No. 17	In force
2004 Environmental Management Act No. 20	In force
2003 Fisheries Act No. 22	In force
2003 Merchant Shipping Act No. 21	In force
2002 Forest Act	In force
2001 Surface and Marine Transport Regulatory Authority Act No. 9	In force
<i>1998 Deep-sea Fishing Authority Act, as amended in 2007</i>	<i>Repealed</i>
1994 Regulations No. 370 on Prohibition of Use of Specified Vessels or Tools	In force
1994 Marine Parks and Reserves Act No. 29	In force
1989 Territorial Sea and EEZ Act	In force
1983 Regulations No. 81 on Authorised Officers' Identification	In force
1982 Regulations No. 109 on Explosives Poisons and Water Pollution	In force
1981 Regulation on Fisheries Inland Waters	In force
1975 Regulations G.N. No. 137 on Marine Reserve	In force

## 5. Concluding remarks

This EAF Legal Study Update revisited the 2011 EAF Legal Study and reviewed its content. The 2011 EAF Legal Study contained a robust examination of the international legal framework as well as the select regional and national legislation relevant to EAF. A decade later, however, those findings have, to a certain extent, changed and their reassessment reinforced the evolutionary character of international (regional and global) law with respect to an EAF as well as of national legislation in conforming with an EAF.

The international framework has been improved with the adoption of new instruments. Notably, the entry into force of the PSMA represented a significant milestone for operationalizing MCSE measures by Port-States. Parties to this agreement must comply with the duties to prevent, deter and eliminate IUU fishing. The accession by new State-parties to the core *corpus* of law of the sea instruments, including the LOSC, UNFSA and the Compliance Agreement, indicates the willingness of certain States to adhere to established agreements, setting some of the EAF standards with which their national legal frameworks must be aligned. The biannual meetings of the parties facilitate the evaluation and monitoring of the PSMA implementation and needs for further improvements in inter-States coordinated efforts and national implementation. The holistic character of an EAF attracts the consideration of different regimes of international law, which this EAF Legal Study Update captured by analysing other two relevant legally binding instruments, CITES and CMS. These Conventions have fostered, to a certain extent, an EAF through cooperation among State-parties in specific issues, namely, the control of international trade in CITES-listed species and the international control of migratory species. These species involve aquatic species commercially-exploited and managed by the fisheries sector.

The EAF Legal Study Update examined several non-binding international instruments that promote an EAF through different spectrums and particularly in matters related to fishing. Examples include the marking and identification of fishing vessels, management of deep-sea fisheries, eco-labelling of fish products, bycatch management and reduction of discards, small-scale fisheries, flag state performance, as well in other issues that broadly cover sustainable development and biodiversity protection. Furthermore, it was seen that the SDGs and ABTs play a pivotal role in moving countries towards achieving those objectives and managing fisheries in a more responsible and sustainable manner as to maintain the integrity of the ecosystem and biodiversity. Many countries have adopted national biodiversity plans in line with those targets and have initially implemented an EAF in accordance with the CCRF.

At the regional level, the EAF Legal Study Update examined other regional fisheries bodies, including RFMO/As and RFABs, namely, SPRFMO, APFIC and BOBP-IGO, which are relevant for the current phase of the EAF-Nansen Project. New contracting-parties to some of these RFMO/As and RFABs point to the importance of constant cooperation among countries in ensuring the relevant states become parties to the regional instruments applicable to their marine areas of interest. The consideration of EAF matters and related issues within the forum of discussions provided by some of these RFMO/As and RFABs represents significant evidence



of the potential that EAF has in shaping the conservation and management measures adopted in the high seas, particularly in relation to research, collecting data and measuring risks placed by fishing on ecosystems.

Finally, revisiting the national legislation of those countries examined by the 2011 EAF Legal Study illustrated the different degrees of progress achieved in conforming their respective legislation to an EAF. Based on the present EAF Legal Update as well as on the preliminary assessments of the 16 countries, using the EAF Legal Checklist, some conclusions are noted.

In **Angola**, the legal developments occurred in the past decade with the adoption of new fisheries secondary legislation strengthened the legal framework for implementing an EAF overall. Nonetheless, there is a need for improvement with respect to additional EAF requirements. For example, legislation should more appropriately address the managing of conflicts over fisheries, active participation of the different range of stakeholders in meetings or hearings, and more detailed provisions on TACs and its monitoring.

In **Cameroon**, there are very few developments in this country's legal framework with respect to an EAF. However, with the ongoing revision of the *1994 Law on Forestry, Wildlife and Fisheries* there is opportunity to improve the alignment of the new law with an EAF. The gaps identified in the current legislation include the absence of provisions on ensuring mechanisms for institutional coordination and integration, stakeholder participation with the integration of lower-level authorities and communities; integrated coastal management, rules on catch control, TACs, FMPs, adequate MCSE measures, including the outline of enforcement powers of authorised officers to board on vessel for inspection, controls on landing and transshipment, a fisheries observer scheme and more elaborate rules on protected areas and species.

In **Gabon**, the lack of regulations to implement the *2005 Fisheries Code* remains an issue, but the legislation from the environmental sector were recently adopted and have contributed to improve the legal framework for an EAF in this country. A positive aspect of the two environmental laws adopted in 2014 is that they cover the broad matters related to environmental protection and conservation on one hand, and sustainable development on the other hand. Thus, the mechanisms such as the Environment Safeguard Fund as well as its principles could apply within the fisheries sector, or perhaps serve as the legal basis for further developing specific legislation that ensures their application in line with an EAF.

In **Ghana**, the adoption of the *2010 Fisheries Regulations* has improved the alignment of this country's legal framework with an EAF and the need for regulations implementing the *2002 Fisheries Act*. Despite the adoption of these regulations and their recent amendment as well as the amendment to the Fisheries Act, there remains some gaps with respect to certain EAF requirements. These gaps concern in particular: stakeholder participation, institutional coordination and integration, elaborated rules on TACs and fishery monitoring and research.

The legal framework of **Kenya** has gone through some relevant changes with the revocation of three primary legal instruments, including the 1989 Fisheries Act. The recently adopted rules govern fisheries, environmental management and coordination, water, forests,

merchant shipping, wildlife conservation and management, and access to information, thereby providing a fairly strong and modern framework in support of an EAF. In this sense, they may complement each other on certain specific requirements where another lacks, particularly those on stakeholder participation and access to information. However, the specific fisheries-related requirements remain insufficiently met such as rules on TACs, effort controls, fishery monitoring and research.

In **Liberia**, the adoption of the *2010 New Fisheries Regulations* was an important development for the country's legal framework. However, it brought about limited improvements, mostly on management measures, including more elaborated rules on FMPs, fishing gear and method controls, and MCSE provisions. Other recently adopted legislation complemented certain EAF requirements with respect to EIA, registration of fishing vessels and integrated coastal management, but the overall framework needs to be enhanced in matters such as managing conflicts over fisheries, TACs, efforts control, conservation, and management of protected areas and species.

The legal framework of **Madagascar** has been modified significantly in recent years, as many legal instruments were repealed, including the *1993 Fisheries and Aquaculture Ordinance*. Adoption of a more EAF-aligned set of legislation, specifically devoted to integrated management of coastal areas, contributed to improve the legal framework of this country with respect to an EAF. There remain gaps in certain specific fisheries-related matters such as conflict management, TACs, spatial and temporal controls, and fishery monitoring and research.

The legal framework of **Mauritania** experienced few changes. Most importantly, it introduced rules to improve biodiversity protection and conservation. Although fisheries legislation of Mauritania are detailed in its provisions, there remain gaps on certain EAF requirements, with respect to, *inter alia*, principles, objectives, institutional arrangements and conservation measures.

An important issue identified in the review of the legal framework of **Morocco** is the lack of an updated fisheries primary legislation. However, other relevant fisheries legislation and from other sectors have been recently adopted and contributed to a better alignment of the legal framework with an EAF overall. These developments were particularly noted in respect of integrated coastal management, sustainable development, IUU fishing and protected areas.

Another country whose legal framework has experienced significant changes is **Mozambique**, as evidenced by its revocation of various acts, including the *1990 Fisheries Act*, and the adoption of recent regulations relevant to EAF including a fund for sustainable development and the establishment of a national institute for fisheries and aquaculture development, as well as the adoption of a new law on biodiversity protection. However, specific and detailed rules for TACs, provision for an observer scheme, controls on landing and transshipment remain unaddressed.

There have been some relevant developments in the legal framework of **Namibia** with respect to the EAF legal requirements relating to EIA, MPAs and VMS. For example, the new *Water Resources Management Act* embraces an integrated and coordinated approach for institutional arrangement that supports an EAF. Another important contribution specifically related to stakeholder participation and integration was the recently adopted Act on Access to Biological and Genetic Resources and Associated Knowledge, which empowers local communities and their use of biological and genetic resources. Certain EAF requirements, including provision for FMPs, reporting of catch data, and fishery monitoring and research, need improvement.

Significant legislative modifications have occurred in **Senegal**, as, for instance, the Maritime Fisheries Code and its respective regulatory decree were repealed. The *2017 law regulating IUU fishing* addressed certain gaps of the previous legislation, including the introduction of improved rules on control of fishing gear and methods and port State control. However, appropriate rules for protected species, fishery monitoring and research remain unaddressed.

The primary fisheries legislation of **Seychelles** as well as two other important environmental instruments were repealed by recent acts. These changes contributed to the implementation of an EAF, including elaborated provisions on, for instance, the objectives of the *2014 Fisheries Act* and preparation of FMPs taking into account stakeholder participation. An evident issue that persists for this country's framework is the absence of legislation on integrated coastal management, regulations on TACs and fishery monitoring and research.

In **Sierra Leone**, the adoption of the primary and secondary fisheries legislation strengthened the legal framework with provisions for a scientific body to advise on fisheries management, more detailed requirements on fishing gears restrictions, and other recent legislation specifically addressed the issues of water resources management, conservation of protected areas and environmental and social issues within the mineral sector. With respect to management of fisheries in particular, however, there were no relevant developments.

**South Africa** has adopted relevant amendments to the national Marine Living Resources Act that are relevant for an EAF. A notable development is the attention given to small-scale fisheries, which also obtained additional support with specific regulations devoted to this sector. Other recent legislation adopted enforces provisions on protected species and EIA requirements, but with respect to fisheries, there should be more elaborated rules on TACs, FMPs, fishery monitoring and research, reporting of catch data, and registration of vessels.

An important development of the **United Republic of Tanzania's** legal framework related to EAF was the recent adoption of the *2020 Deep-Sea Fisheries Act* and of the *2016 Fisheries Research Institute Act*, the latter which appropriately addresses the requirement on EAF research that is not usually met by other country's legislation. The *Fisheries Act* meets many of EAF legal requirements and the *2009 Fisheries Regulations* address certain requirements not met by the previous legislation, including provisions for closed season and the Fisheries Development Fund.

Overall, the EAF Legal Study Update has shown that there have been some significant improvements in the legal frameworks of the 16 countries that were analysed in the 2011 EAF Legal Study. On one hand, these progresses bring a positive light on the EAF implementation from a legal standpoint, demonstrating that certain legal frameworks have evolved and enhanced their alignment with the EAF requirements. On the other hand, it is a constant challenge ensuring a fully comprehensive and coherent legal framework is in place, as well as ensuring a coherent and coordinated implementation of the current legislation according to an EAF. As highlighted in this update, many legal gaps remain in the assessed countries' legal frameworks. Much work is therefore required to improve and strengthen the EAF in those countries. This study has highlighted some of the areas that still need to be improved in moving towards effectively implementing an EAF through legislation.

## 6. References

### Legally binding and non-legally binding instruments

- BOBP.** 1999. Resolution adopted at the 24<sup>th</sup> Meeting of the Advisory Committee of the BOBP (Phuket, October 1999).
- CBD.** 2010. COP10, Decision X/2. Strategic Plan for Biodiversity 2011-2020 (Nagoya, 29 October 2010).
- CITES.** 1973. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (Washington, 3 March 1973, entered into force on 1 July 1975) 933 UNTS 243.
- CITES.** 2019. Resolution Conf. 18.3 CITES Strategic Vision: 2021-2030. Adopted at CoP18, in Geneva, Switzerland, 17–28 August 2019.
- CMS.** 1979. Convention on the Conservation of Migratory Species of Wild Animals (CMS) (Bonn, 23 June 1979, entered into force on 1 November 1983) 1651 UNTS.
- CMS.** 2017. UNEP/CMS/Resolution 11.2 (Rev.COP12). Strategic Plan for Migratory Species 2015-2023. Adopted at the Twelveth Meeting of the Conference of the Parties to the CMS (Manila, October 2017).
- CMS.** 2016. Amendments to the Sharks MoU, 2<sup>nd</sup> Meeting of the Signatories (San Jose, 20 February 2016).
- EU Council Secretariat and ACP States Secretariat.** 2010. Agreement amending for the second time the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States and the European Community and its Member States (Ouagadougou, 22 June 2010, provisionally entered into force on 1 November 2010).
- FAO.** 1973. Agreement between the Food and Agriculture Organization of the United Nations and the International Commission for the Conservation of Atlantic Tuna (adopted by the FAO Conference, decided at its Third Regular Meeting in Paris, Nov–Dec 1973).
- FAO.** 1989. The Standards Specifications for the Marking and Identification of Fishing Vessels (Rome, 1989, 8p.).
- FAO.** 1995. Code of Conduct for Responsible Fisheries. Adopted in Rome, 31 October 1995.
- FAO.** 2009a. International Guidelines for the Management of Deep-sea Fisheries in the High Seas (Rome, 2009, 73p.)
- FAO.** 2009b. Guidelines for the Ecolabelling of Fish and Fishery Products from Marine Capture Fisheries. Revision 1 (Rome, 2009, 97p.)
- FAO.** 2011. International Guidelines on Bycatch Management and Reduction of Discards (Rome, 2011, 73p.)
- FAO.** 2014. Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the context of food security and poverty eradication (Rome, 2014, 18p.).
- FAO.** 2015. Voluntary Guidelines for Flag State Performance (Rome, 2015, 53p.).

**FAO.** 2019a. Voluntary Guidelines on the Marking of Fishing Gear (Rome, 2019, 90p.)

**ICCAT.** 2015. Resolutions by the International Commission for the Conservation of Atlantic Tuna concerning the application of an Ecosystem Approach to Fisheries Management [15–11], and concerning the use of a Precautionary Approach in Implementing ICCAT Conservation and Management Measures [15-12], both transmitted to Contracting Parties on 4 December 2015.

**Sustainable Blue Economy Conference.** 2018. Nairobi Statement of Intent on Advancing the Global Blue Economy, Global Sustainable Blue Economy Conference (Nairobi, 26-28 November 2018).

**SPRFMO.** 2012. Convention on the Conservation and Management of High Sea Fishery Resources in the South Pacific Ocean (Auckland, 14 November 2009, entered into force on 24 August 2012).

**UN.** 2012. UN Conference on Sustainable Development Outcome Document (Rio de Janeiro, 20-22 June 2012).

**UN.** 2015. UNGA Resolution 701 of 25 September 2015, Transforming our world: the 2030 Agenda for Sustainable Development (UN Doc. A/RES/70/1, 21 October 2015).

**UN.** 2017. UNGA, Our ocean, our future: call for action (UN Doc. A/RES/71/312, 14 July 2017).

### **Reports and other international instruments**

**FAO.** 2003. Fisheries Management. The ecosystem approach to fisheries. FAO Technical Guidelines for Responsible Fisheries. No. 4, Suppl. 2, Rome, FAO.

**FAO.** 2013. Final Evaluation Report of the EAF-Nansen Project (Phase I): Strengthening the Knowledge Base for and Implementing an Ecosystem Approach to Marine Fisheries in Developing Countries (GCP/INT/003/NOR). In Norad Collected Reviews 11/2013.

**FAO.** 2016. A How-to Guide on legislating for an ecosystem approach to fisheries. In FAO EAF-Nansen project report No. 27, Rome, FAO.

**FAO.** 2017a. Report of the First Meeting of the Parties to the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Oslo, Norway, 29–31 May 2017. FAO Fisheries and Aquaculture Report No. 1211. Rome.

**FAO.** 2017b. Asia-Pacific Fishery Commission. Report of the Seventy-sixth Session of the Executive Committee of the Asia-Pacific Fishery Commission, Manila, the Philippines, 21–23 February 2017. Bangkok.

**FAO.** 2019b. Report of the Second Meeting of the Parties to the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Santiago, Chile, 3-6 June 2019. FAO Fisheries and Aquaculture Report No. 1272. Rome.

**FAO.** 2018. Progress in the Implementation of the Code of Conduct for Responsible Fisheries and related instruments. In Report of the 33rd Session of the Committee on Fisheries (Rome, 9–13 July 2018).

- FAO.** 2020. The State of the World Fisheries and Aquaculture 2020. Sustainability in action. Rome. <https://doi.org/10.4060/ca9229en>
- FAO.** 2021. *A diagnostic tool for implementing an ecosystem approach to fisheries through policy and legal frameworks*. Rome. <https://doi.org/10.4060/cb2945en>
- ICCAT.** 2018. Report of the 2018 Sub-Committee on Ecosystem Meeting (Madrid, 4–8 June 2018).
- IOTC.** 2018. Report of the 14<sup>th</sup> Session of the IOTC Working Party on Ecosystems and Bycatch (Cape Town, 10–14 September 2018).
- UN.** 2018. First Session of the Intergovernmental conference on an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, Statement of the President of the conference at the closing of the first session, A/CONF.232/2018/7 (New York, 4–17 September 2018).

#### **Peer-reviewed articles and literature**

- Caddell, R.** 2019. International Fisheries Law and Interactions with Global Regimes and Processes. In: Caddell, R. and Molenaar, E.J. (eds) *Strengthening International Fisheries Law in an Era of Changing Oceans* (Hart Publishing: 2019), pp. 133–164.
- Diz, D.** 2012. Fisheries Management in Areas beyond National Jurisdiction: the Impact of Ecosystem Based Law-Making. *Legal Aspects of Sustainable Development*. 13 (Martinus Nijhoff, 2012).
- FAO.** 2020. Legislating for Sustainable Small-Scale Fisheries – A guide and considerations for implementing aspects of the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication in national legislation. Rome. <https://doi.org/10.4060/cb0885en>
- Harrison, J., Lobach, T., Morgera, E., Diz, D., Kuemlangan, B., Manoa, P. & Hamley, G.** 2019. Step-wise guide for the implementation of international legal and policy instruments related to deep-sea fisheries and biodiversity conservation in the areas beyond national jurisdiction. Rome, FAO.
- Kuemlangan, B., Sanders, J., Deupmann, P. & De Young, C.** 2014. Integrative policy and legal instruments, approaches and tools: fisheries and biodiversity conservation. In: Garcia, S. M., Rice, J. and Charles, A. (eds) *Governance of Marine Fisheries and Biodiversity Conservation: Interaction and Co-evolution* (John Wiley & Sons, 2014), pp. 166–180.
- Molenaar, E.J.** 2019. Participation in Regional Fisheries Management Organizations. In: Caddell, R. and Molenaar, E.J. (eds) *Strengthening International Fisheries Law in an Era of Changing Oceans*. Hart Publishing. pp. 103–129.
- Nakamura, J.N. & Kuemlangan, B.** 2020. Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through national fisheries legal frameworks: a study and a guide. Legal Guide No. 4. Rome, FAO. <https://doi.org/10.4060/cb1906en>.

**Skonhoft, A.** 2011. Legislating for an ecosystem approach to fisheries. A review of trends and options in Africa (English). In FAO EAF-Nansen project report No. 10, p. iv. Rome, FAO.

#### **Internet sources**

**BOBP-IGO.** n.d. Bay of Bengal Programme Inter-Governmental Organisation [online]. [Cited 11 July 2021] [http://bobbigo.org/html\\_site/index.htm](http://bobbigo.org/html_site/index.htm)

**CITES.** n.d. The CITES species [online]. [Cited 11 July 2021] <https://www.cites.org/eng/disc/species.php>

**FAO.** n.d-a. List of Parties to the PSMA [online] [Cited 11 July 2021] <http://www.fao.org/treaties/results/details/en/c/TRE-000003/>

**FAO.** n.d-b. Asia-Pacific Fishery Commission [online]. [Cited 11 July 2021] <http://www.fao.org/apfic/en/>

**SIOFA.** n.d. 'Protected Areas and Ecosystems Working Group Meetings', available at <https://www.apsoi.org/meetings/PAEWG> (accessed 11 July 2021).

**UN.** n.d-a DOALOS - Division for Ocean Affairs and the Law of the Sea. A Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socio-economic Aspects (Regular Process) [online]. [Cited 11 July 2021] [http://www.un.org/depts/los/global\\_reporting/WOA\\_RegProcess.htm](http://www.un.org/depts/los/global_reporting/WOA_RegProcess.htm)

**UN.** n.d-b DOALOS - Division for Ocean Affairs and the Law of the Sea [online]. [Cited 11 July 2021] [https://www.un.org/Depts/los/general\\_assembly/general\\_assembly\\_resolutions.htm](https://www.un.org/Depts/los/general_assembly/general_assembly_resolutions.htm)



## Appendix A. Updated list of countries and their status regarding selected international instruments of relevance to an ecosystem approach to fisheries

		1971 RAMSAR C.	1973 CITES	1979 CMS	1982 UNCLOS	1992 CBD	1993 COMPL. AG.	1995 UN FSA	2009 PSMA
1	Angola	X	31.12.2013	X	05.12.1990	01.04.1998	07.03.2006	X	S. 22.11.2009
2	Bangladesh	21.09.1992	18.02.1982	01.12.2005	26.08.2001	03.05.1994	X	05.12.2012	19.11.2020
3	Benin	24.05.2000	28.05.1984	01.04.1986	16.10.1997	30.06.1994	24.04.2003	02.12.2017	S. 28.09.2010
4	Cameroon	20.07.2006	03.09.1981	01.11.1983	19.11.1985	19.10.1994	X	X	X
5	Cabo Verde	18.11.2005	08.11.2005	01.05.2006	10.08.1987	29.03.1995	27.01.2006	X	01.01.2017
6	Congo	18.10.1998	01.05.1983	01.01.2000	09.07.2008	01.08.1996	X	X	X
7	Côte d'Ivoire	27.06.1996	19.02.1995	01.07.2003	26.03.1984	29.11.1994	X	S. 24.01.1996	22.11.2019
8	D. R. of Congo	18.05.1996	01.05.1983	01.09.1990	17.02.1989	03.12.1994	X	X	X
9	Eq. Guinea	02.10.2003	08.06.1992	01.08.2010	21.07.1997	06.12.1994	X	X	X
10	Gabon	30.04.1987	14.05.1989	01.08.2008	11.03.1998	14.03.1997	X	S. 07.10.1996	05.06.2016
11	Gambia	16.01.1997	24.11.1977	01.08.2001	22.05.1984	10.06.1994	X	X	05.06.2016
12	Ghana	22.06.1988	12.02.1976	01.04.1988	07.06.1983	29.08.1994	12.05.2003	26.02.2017	29.12.2016
13	Guinea	18.03.1993	20.12.1981	01.08.1993	06.09.1985	07.05.1993	X	16.10.2005	17.07.2016
14	Guinea-Bissau	14.05.1990	14.08.1990	01.09.1995	25.08.1986	27.10.1995	X	S. 04.12.1995	X
15	Kenya	05.10.1990	13.03.1979	01.05.1999	02.03.1989	26.07.1994	X	12.08.2004	23.09.2017
16	Liberia	02.11.2003	09.06.1981	01.12.2004	25.09.2008	08.11.2000	X	16.10.2005	20.06.2019
17	Madagascar	25.01.1999	18.11.1975	01.01.2007	22.08.2001	04.03.1996	24.04.2003	X	27.03.2017
18	Maldives	X	12.03.2013	01.11.2019	07.10.2000	09.11.1992	X	11.12.2001	16.04.2017
19	Mauritania	22.02.1983	11.06.1998	01.07.1998	17.07.1996	16.08.1996	X	S. 21.12.1995	15.04.2017
20	Mauritius	30.09.2001	27.07.1975	01.06.2004	04.11.1994	04.09.1992	24.04.2003	11.12.2001	05.06.2016
21	Morocco	20.10.1980	14.01.1976	01.11.1993	31.05.2007	21.08.1995	24.04.2003	19.10.2009	X
22	Mozambique	03.12.2004	23.06.1981	01.08.2009	13.03.1997	25.08.1995	09.01.2009	10.01.2009	05.06.2016
23	Myanmar	17.03.2005	11.09.1997	X	20.06.1996	25.11.1994	24.04.2003	X	05.06.2016
24	Namibia	23.12.1995	18.03.1991	X	18.04.1983	16.05.1997	24.04.2003	11.12.2001	18.07.2017
25	Nigeria	02.02.2001	01.07.1975	01.01.1987	14.08.1986	29.08.1994	X	02.12.2009	X
26	S. T. & Principe	21.12.2006	07.11.2001	01.12.2001	03.11.1987	29.09.1999	X	X	22.11.2016
27	Senegal	11.11.1977	03.11.1977	01.06.1988	25.10.1984	17.10.1994	08.09.2009	11.12.2001	23.03.2017
28	Seychelles	22.03.2005	09.05.1977	01.08.2005	16.09.1991	22.09.1992	24.04.2003	11.12.2001	05.06.2016
29	Sierra Leone	13.04.2000	26.01.1995	X	12.12.1994	12.12.1994	X	X	17.09.2018
30	South Africa	21.12.1975	13.10.1975	X	23.12.1997	02.11.1995	X	13.09.2003	05.06.2016
31	Sri Lanka	15.10.1990	02.08.1979	01.09.1990	16.11.1994	23.03.1994	29.08.2014	11.12.2001	05.06.2016
32	United Republic of Tanzania	13.08.2000	27.02.1980	01.07.1999	30.09.1985	08.03.1996	24.03.2003	X	X
33	Thailand	13.09.1998	21.04.1983	X	14.06.2011	31.10.2003	X	22.05.2017	11.06.2016
34	Togo	04.11.1995	21.01.1979	01.02.1996	16.04.1985	04.10.1995	X	X	22.04.2017

Last verification on 25 January 2021.

Dates represent the dates that the international instrument entered into force. In cases where the country did not sign, access or ratify, an "X" is indicated; when the country has solely signed, an "S." followed by the date of signature are mentioned; and a "W." stands for withdrawal.

## Appendix B. Updated list of countries and their status regarding selected regional fisheries management organizations instruments of relevance to the EAF-Nansen Programme

		1949 GFCM	1966 ICCAT	1980 CCAMLR	1993 CCSBT	1993 IOTC	2001 SEAFO	2006 SIOFA	2012 SPRFMO
1	Angola	X	29.07.1976	X	X	X	06.05.2006	X	X
2	Bangladesh	X	X	X	X	24.04.2018	X	X	X
3	Benin	X	W. 31.12.1994	X	X	X	X	X	X
4	Cameroon	X	X	X	X	X	X	X	X
5	Cabo Verde	X	11.09.1979	X	X	X	X	X	X
6	Congo	X	X	X	X	X	X	X	X
7	Côte d'Ivoire	X	06.12.1972	X	X	X	X	X	X
8	D. R. of Congo	X	X	X	X	X	X	X	X
9	Eq. Guinea	X	13.05.1987	X	X	X	X	X	X
10	Gabon	X	19.09.1977	X	X	X	X	X	X
11	Gambia	X	11.02.2019	X	X	X	X	X	X
12	Ghana	X	21.03.1969	X	X	X	X	X	X
13	Guinea	X	05.06.1991	X	X	W. 31.12.2017	X	X	X
14	Guinea-Bissau	X	13.05.2016	X	X	X	X	X	X
15	Kenya	X	X	X	X	29.09.2004	X	S. 07.07.2006	X
16	Liberia	X	14.02.2014	X	X	X	X	X	CNPC
17	Madagascar	X	X	X	X	27.03.1996	X	S. 04.10.2006	X
18	Maldives	X	X	X	X	13.07.2011	X	X	X
19	Mauritania	X	04.12.2008	X	X	X	X	X	X
20	Mauritius	X	X	02.10.2004	X	27.04.1996	X	21.06.2012	X
21	Morocco	17.09.1956	26.09.1969	X	X	X	X	X	X
22	Mozambique	X	X	X	X	13.02.2012	X	S. 07.07.2006	X
23	Myanmar	X	X	X	X	X	X	X	X
24	Namibia	X	10.11.1999	29.07.2000	X	X	13.04.2003	X	X
25	Nigeria	X	02.08.2007	X	X	X	X	X	X
26	S. T. & Principe	X	15.09.1983	X	X	X	X	X	X
27	Senegal	X	21.12.2004	X	X	X	X	X	X
28	Seychelles	X	X	X	X	27.03.1996	X	21.06.2012	X
29	Sierra Leone	X	13.10.2008	X	X	01.07.2008	X	X	X
30	South Africa	X	21.03.1969	07.04.1982	CNPC	16.02.2016	17.08.2008	X	X
31	Sri Lanka	X	X	X	X	27.03.1996	X	X	X
32	United Republic of Tanzania	X	X	X	X	18.04.2007	X	X	X
33	Thailand	X	X	X	X	17.03.1997	X	21.05.2017	X
34	Togo	X	X	X	X	X	X	X	X

Last verification on 25 January 2021.

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## Appendix C. Updated list of countries and their status regarding selected regional fishery advisory bodies of relevance to the EAF-Nansen Programme

		1948 APFIC	1967 CECAF	1984 COREP	1985 SRFC	1991 ATLAFCO	1999 BOBP-IGO	2004 SWIOFC	2006 FCWC
1	Angola	X	Member	Observer	X	06.04.2006	X	X	X
2	Bangladesh	17.07.1974	X	X	X	X	Member	X	X
3	Benin	X	Member	X	X	11.08.1999	X	X	11.10.2010
4	Cameroon	X	Member	Member	X	S. 11.12.1992	X	X	X
5	Cabo Verde	X	Member	X	29.03.1985	07.09.2001	X	X	X
6	Congo	X	Member	Member	X	08.01.1992	X	X	X
7	Côte d'Ivoire	X	Member	X	X	11.08.1995	X	X	11.10.2010
8	D. R. of Congo	X	Member	Member	X	22.10.2004	X	X	X
9	Eq. Guinea	X	Member	Observer	X	07.09.2001	X	X	X
10	Gabon	X	Member	Member	X	11.08.1995	X	X	X
11	Gambia	X	Member	X	29.03.1985	11.08.1995	X	X	X
12	Ghana	X	Member	X	X	01.10.2014	X	X	11.10.2010
13	Guinea	X	Member	X	1987	11.08.1995	X	X	X
14	Guinea-Bissau	X	Member	X	29.03.1985	S. 04.12.1992	X	X	X
15	Kenya	X	X	X	X	X	X	Member	X
16	Liberia	X	Member	X	X	X	X	X	15.10.2010
17	Madagascar	X	X	X	X	X	X	Member	X
18	Maldives	X	X	X	X	X	Member	Member	X
19	Mauritania	X	Member	X	29.03.1985	11.08.1995	X	X	X
20	Mauritius	X	X	X	X	X	X	Member	X
21	Morocco	X	Member	X	X	S. 09.10.1992	X	X	X
22	Mozambique	X	X	X	X	X	X	Member	X
23	Myanmar	07.01.1949	X	X	X	X	X	X	X
24	Namibia	X	X	X	X	X	X	X	X
25	Nigeria	X	Member	X	X	13.06.1999	X	X	11.10.2010
26	S. T. & Principe	X	Member	Member	X	29.03.2017	X	X	X
27	Senegal	X	Member	X	29.03.1985	11.08.1995	X	X	X
28	Seychelles	X	X	X	X	X	X	Member	X
29	Sierra Leone	X	Member	X	Associated	11.08.1995	X	X	X
30	South Africa	X	X	X	X	X	X	Member	X
31	Sri Lanka	21.02.1949	X	X	X	X	Member	X	X
32	United Republic of Tanzania	X	X	X	X	X	X	Member	X
33	Thailand	09.11.1948	X	X	X	X	X	X	X
34	Togo	X	Member	X	X	S. 05.07.1991	X	X	11.10.2010

Last verification on 25 January 2021.

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## Appendix D. Updated list of countries and their status regarding selected regional instruments of relevance to an ecosystem approach to fisheries

		1968 Algiers C.	2003 Maputo C.	1981 Abidjan C.	1985 Nairobi C.	1995 Barcelona C.	1995 AEWA	1996 ACCOBAMS	2001 SADC P.	2000 Cotonou Ag.
1	Angola	01.06.1972	S. 01.02.2010	X	X	X	X	X	17.07.2009	June 2003
2	Bangladesh	X	X	X	X	X	X	X	X	X
3	Benin	S. 15.09.1968	S. 11.02.2004	16.12.1997	X	X	01.01.2000	X	X	June 2003
4	Cameroon	29.10.1978	X	05.08.1984	X	X	X	X	X	June 2003
5	Cabo Verde	X	X	X	X	X	X	X	X	June 2003
6	Congo	29.05.1981	R. 04.02.2014	19.02.1988	X	X	01.11.1999	X	X	June 2003
7	Côte d'Ivoire	16.06.1969	R. 23.10.2013	05.08.1984	X	X	01.06.2013	X	X	June 2003
8	D. R. of Congo	13.11.1976	S. 30.06.2008	17.08.2014	X	X	X	X	S. 14.08.2001	June 2003
9	Eq. Guinea	S. 01.02.2010	S. 30.06.2005	X	X	X	01.12.1999	X	X	June 2003
10	Gabon	18.12.1988	S. 24.01.2013	11.02.1989	X	X	01.12.2012	X	X	June 2003
11	Gambia	S. 15.09.1968	S. 24.12.2003	05.02.1985	X	X	01.11.1999	X	X	June 2003
12	Ghana	16.06.1969	R. 20.07.2007	18.09.1989	X	X	01.10.2005	X	X	June 2003
13	Guinea	16.10.2012	S. 16.12.2003	05.08.1984	X	X	01.11.1999	X	X	June 2003
14	Guinea-Bissau	S. 30.01.2011	S. 08.03.2005	12.08.2012	X	X	01.11.2006	X	X	June 2003
15	Kenya	16.06.1969	S. 17.12.2003	X	30.05.1996	X	01.06.2001	X	X	June 2003
16	Liberia	22.12.1978	S. 16.12.2003	21.05.2005	X	X	X	X	X	June 2003
17	Madagascar	23.10.1971	S. 28.02.2004	X	30.05.1996	X	01.06.2007	X	X	June 2003
18	Maldives	X	X	X	X	X	X	X	X	X
19	Mauritania	S. 15.09.1968	X	17.06.2012	01.10.2000	X	01.05.2015	X	X	June 2003
20	Mauritius	S. 15.09.1968	X	X	X	X	01.01.2001	X	17.07.2009	June 2003
21	Morocco	X	X	X	X	15.01.1980	01.12.2012	01.06.2001	X	X
22	Mozambique	01.05.1981	S. 04.02.2004	X	02.06.1999	X	X	X	17.07.2009	June 2003
23	Myanmar	X	X	X	X	X	X	X	X	X
24	Namibia	X	S. 09.12.2003	X	X	X	X	X	17.07.2009	June 2003
25	Nigeria	07.06.1974	S. 16.12.2003	05.08.1984	X	X	01.07.2004	X	X	June 2003
26	S. T. & Principe	S. 02.02.2010	S. 29.06.2008	X	X	X	X	X	X	June 2003
27	Senegal	24.03.1972	S. 16.01.2004	05.08.1984	X	X	01.11.1999	X	X	June 2003
28	Seychelles	16.06.1969	X	X	30.05.1996	X	X	X	W. 01.08.2003	June 2003
29	Sierra Leone	S. 15.09.1968	S. 09.12.2003	21.05.2005	X	X	X	X	X	June 2003
30	South Africa	X	R. 28.03.2014	15.07.2002	14.08.2003	X	01.04.2002	X	17.07.2009	June 2003
31	Sri Lanka	X	X	X	X	X	X	X	X	X
32	United Republic of Tanzania	04.03.1977	S. 30.12.2003	X	30.05.1996	X	01.11.1999	X	17.07.2009	June 2003
33	Thailand	X	X	X	X	X	X	X	X	X
34	Togo	S. 15.09.1968	S. 07.12.2004	05.08.1984	X	X	01.11.1999	X	X	June 2003

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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 provide current information on how the EAF is being implemented through national legal frameworks of selected countries in Africa. It revisits a previous legal study prepared by Anniken Skonhoft and published by FAO in 2011. A decade later, based on the scope of that study, the present work provides updated data and contributes to the knowledge on the current global and regional legal frameworks for an EAF, which are vital for EAF implementation purposes. This update also re-analysed certain countries' national legislation and their evolution with respect to capturing the EAF requirements. Ultimately, the present work supports the legal implementation of an EAF for a holistic, integrated and innovative way of managing fisheries that promotes the participation of all relevant stakeholders and the use of best available knowledge for decision making, whilst balancing the human dimensions with the care for the environment, habitats, ecosystems and biodiversity related with fishery resources on which they depend.

**For more information:**

**The EAF-Nansen Programme**

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**Food and Agriculture  
Organization of the  
United Nations**



**Norad**

