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Legal report on the ecosystem approach to fisheries in Guinea-Bissau

An analysis of the ecosystem approach to fisheries in selected
national policy and legal instruments of Guinea-Bissau

FAO EAF-Nansen Programme Report No. 52
EAF-N/PR/52 (En)

A decorative graphic at the bottom of the page consisting of several thick, wavy blue lines that resemble ocean waves. Interspersed among these waves are several small, solid blue circles, which together suggest the silhouettes of fish swimming in the water.

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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Legal report on the ecosystem approach to fisheries in Guinea-Bissau

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policy and legal instruments of Guinea-Bissau**

By Julia N. Nakamura and Teresa Amador

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Abstract

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

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

This report was elaborated following a participatory approach with the involvement of the national competent authorities of Guinea-Bissau. Drafted in July 2021, the report was submitted to the national authorities of Guinea-Bissau in October 2021. The Ministry of Fisheries, through its Secretary-General and Legal Office, endorsed this EAF Legal Report of Guinea-Bissau in July 2022.

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Abbreviations and acronyms

EAF	ecosystem approach to fisheries
EIA	environmental impact assessment
FAO	Food and Agriculture Organization of the United Nations
FMP	fishery management plan
IMO	International Maritime Organization
IUU	illegal, unreported and unregulated (fishing)
MCSE	monitoring, control, surveillance and enforcement
MPA	marine protected area
NGO	non-governmental organization
RFMO/A	regional fisheries management organization and/or arrangement
TAC	total allowable catch
VMS	vessel monitoring system

1. Introduction: legislating for the ecosystem approach to fisheries

The Food and Agriculture Organization of the United Nations (FAO) has promoted the implementation of the ecosystem approach to fisheries (EAF) through various activities conducted over the last decades (FAO, 2019), many of which under the EAF-Nansen Programme (FAO, n-d). Among the many ways or processes through which the EAF can be implemented is the review of national policies and/or legislation, which provides a country the opportunity to reassess its respective policy and legal frameworks, identify the gaps and/or needs for improvement, and present recommendations for enacting new policy and/or legal instruments for the EAF, and/or amending the existing ones so that they are appropriately aligned with the EAF.

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

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

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

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

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

There are several international legally binding and non-legally-binding instruments that provide for the EAF. The Appendix A of the EAF Legal Diagnostic Tool highlights, in a non-exhaustive list, selected provisions of international instruments or decisions relevant for the EAF. Other legally binding instruments in support of the EAF are the applicable conservation and management measures of regional fisheries management

organizations/arrangements (RFMO/As) which should also be taken into account, on a country-by-country basis, in the assessment of a given country’s EAF commitments.

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

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

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

Table 1. Status of Guinea-Bissau in selected international legally binding instruments relevant to the EAF	
Instrument	Status
1971 Ramsar Convention on Wetlands of International Importance	Party
1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora	Party
1979 Convention on the Conservation of Migratory Species of Wild Animals	Party
1982 United Nations Convention on the Law of the Sea	Party
1992 Convention on Biological Diversity	Party
1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Compliance Agreement)	Not a Party
1995 United Nations Agreement for the Implementation of the Provisions of the LOSC relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA)	Not a Party
2009 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA)	Not a Party

Note: In accordance with the information provided in the secretariats of the international conventions and agreements as of May 2022.

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

With regard to the Compliance Agreement, UNFSA and PSMA¹, which Guinea-Bissau is **not yet a Party**, it is important to identify and analyse the reasons preventing the country’s consent to be bound by such instruments and raise awareness to the importance of the international fisheries governance framework. Such analysis is however beyond the scope of this report.

¹ In accordance with information provided by the Legal Department of the Ministry of Fisheries of Guinea-Bissau in April 2022, the country has initiated its process of accession to the PSMA.

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

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

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

2.1 Methodology and scope

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

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

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

2.1.1 Selection and collection of national policy and legal instruments of Guinea-Bissau

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

Additional relevant information was provided by the National EAF-Focal Point, which, together with the relevant information for the EAF available at FAOLEX, is listed under **Appendix A** and

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

identified by a reference letter and number to facilitate their citation in the EAF Legal Checklist provided in **Appendix B** of this report. Appendix A and Appendix B shall therefore be read together.

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

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

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

2.1.3 Filling in the Ecosystem Approach to Fisheries Legal Checklist of Guinea-Bissau

The EAF Legal Checklist provides the EAF legal requirements structured by the 17 EAF Components, based on a step-wise methodology (FAO, 2021, Subsection 2.2), and in accordance with the typical subjects of a fisheries primary legislation, without prejudice to the particular structure of the fisheries primary legislation of Guinea-Bissau (FAO, 2021, Subsection 3.2). In filling it in, priority was given to assessing the EAF legal requirements in the fisheries policies and primary/secondary legislation. In this process, the different symbols presented in Table 3 below were used.

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

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

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

2.1.4 Additional observations

While filling in Appendix B, some parts of the policy framework and some provisions of the legal framework which in some cases are anchored in the Guinea-Bissau Constitution of 1984, were considered particularly relevant in incorporating the EAF legal requirements. These parts and legal provisions which, without prejudice to others that may also be relevant, were considered good examples of addressing the EAF (in the case of a policy instrument) or legislating for the EAF (in the case of a legal instrument), have been highlighted in the main findings under subsection 2.2 below as good practice in legislating for the EAF.

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

2.1.5 EAF Legal Questionnaire of Guinea-Bissau

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

2.2 Overview and main findings

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

2.2.1 Fisheries policy

The assessed eight fisheries policies correspond to A1 to A8 in Appendix A. They cover **35** of the 82 EAF legal requirements.

The *Plano de Gestão dos Recursos Haliêuticos para 2020* [Fisheries Management Plan for 2020] seeks to ensure the sustainable exploration of fishery resources (Section 2.1), and in specific: monitor the activity and control the catches of industrial and artisanal fishing vessels operating in national waters; control the fishing efforts; evaluate the status of demersal and pelagic stocks in Guinea-Bissau's exclusive economic zone (EEZ); propose sustainable fisheries exploitation options for each fishery; propose measures to mitigate the pressure of artisanal fisheries, whose role is pivotal for the stocks' restoration and maintenance of ecosystems balance; and determine the percentage of by-catch for each fishery (Section 2.2). The total allowable catch (TAC) by group of species and fishing efforts are established as well (Section 6). The Plan stipulates a range of other fisheries management measures, including the embarking of observers for the biological sampling in cephalopods and crustacean fisheries; minimum mesh size for certain fisheries; prohibition of fishing of threatened species; and improving awareness raising campaigns for responsible fishing (Section 9).

The 2015–2020 *Plano Estratégico de Desenvolvimento das Pescas da Guiné-Bissau* [Strategic Plan for the Development of Fisheries] has the central vision of achieving the economic and environmental sustainability in the exploitation of marine resources that contributes to the progressive development of the national economy and citizens' wellbeing (Page 14). It sets out the medium- and long-term visions for the industrial and artisanal fisheries sectors (Pages 14–21), also proposing important considerations for these sectors' synergies, such as the due account of potential impacts of fisheries management measures adopted for the industrial fisheries that could have on artisanal fisheries (Page 21). Three main aspects are emphasized for achieving the sectoral objectives: (i) reinforcing the capacity of the fisheries administration, (ii) development of industrial fisheries, and (iii) development of artisanal fisheries, with detailed components for each of the aspects outlined therein (Pages 22–36). This Policy contains immediate, medium, and long-term objectives to be achieved including on MCS, where the installation of the VMS is a long-term objective, or on the fisheries

administration, which including obtaining data on catches and fishing effort and measures to address Illegal, Unreported and Unregulated (IUU) fishing to be adopted in the short-term (Pages 23–25). Additionally, this Policy provides estimated costs for the activities proposed (Pages 37–38) and development projects for the implementation of the strategic plan (Annex).

The *2015–2020 Plano Estratégico e Operacional “Terra Ranka”* [Strategic and Operational Plan “Ranka Land”] sets out the vision of Guinea-Bissau based on various positive dynamics, which include sustainably enhancing natural resources and sustainable fisheries management (Page 29); integration of human activities in a systematic process of sustainable development and respect for biodiversity (Pages 31–32); inclusive development, good governance, and biodiversity preservation (Pages 33–34). The Plan fosters governmental collaboration with civil society and other stakeholders through the promotion of local development, decentralization, and citizen’s participation (Pages 41–42). It refers to the Fisheries and Aquaculture Sectoral Plan for more detail information on the implementation of programs to improve the governance of the sector, develop research and quality certification, develop the artisanal fisheries and strengthening the industrial fisheries, and develop aquaculture, with a view to preserve biodiversity, especially through maritime surveillance to end illegal fishing (Page 47). It also provides guidance for the biodiversity preservation and sustainable development, including managing and monitoring ecosystems, particularly through data collection, fishing quotas, vessel monitoring system (VMS), management of marine protected areas (MPAs) (Pages 76–80). For the fisheries and aquaculture sector, the Plan also clarifies the priority given to artisanal fisheries development for food security, job creation, and domestic aggregated value (Pages 151–152).

The *2015–2020 Strategy and National Action Plan for the Biodiversity* has a long-term vision that, by 2025, Guinea-Bissau will be a model of sustainable development with preserved and regenerated biodiversity, offering services to the local communities and contributing to the planet’s environmental balance (Page 106). It is based on various principles, including the precautionary principle; democracy, inclusion, and participation; and a systematic approach that ensures preservation and ecological processes in larger scales and in good condition for allowing ecosystems recovery and adaptation (Page 107). The Plan clarifies the actions and measures, the responsible entity, the stakeholders involved, the timeframe and the estimated costs (Chapter 6). Within these actions the following are particularly relevant for the EAF: integrating or reinforcing biodiversity in environmental impact assessments (EIAs) and Strategic Environmental Evaluation (SEEs) (Action 11); strengthening the conservation and management of fishing biological resources (Action 25); publishing, recommending and implementing the guidelines of good environmental and social practices for extractive industries (Action 27); monitoring and reinforcing the control over fishing, combating IUU fishing and applying the respective sanctions regime (Action 36); reducing and modifying harmful fishing activities (Action 39); establishing measures to improve fishing methods and minimize losses, bycatch (Action 40); and applying the ecosystem approach in the agriculture livestock and aquaculture (Action 46).

The *2014 Estratégia de Luta contra a Pesca INN na Zona da Comissão Sub-Regional das Pescas (CSRFP)* [Strategy for the Fight Against Illegal, Unreported and Unregulated Fishing in the Zone

of the Subregional Fisheries Commission] is a regional instrument that reinforces relevant commitments of Guinea-Bissau with respect to combatting IUU fishing. This policy briefly describes the policy, legal and institutional frameworks of each country and establishes minimum measures for its implementation, including the need for good governance of fisheries with the effective implementation of national legislation, particularly with regard to sanctions of IUU fishing, coordinated management of shared resources, and the using the opportunities offered by regional and international partnerships (Pages 16–17). MCSE activities are encouraged therein, such as the establishment of effective communications networks among the relevant structures of the CSRP and the setting up of a sub-regional registry for fishing vessels with data exchange on IUU (Page 17).

The *2014–2020 Estratégia Nacional para as Áreas Protegidas e a Conservação da Biodiversidade* [National Strategy for Protected Areas and Biodiversity Conservation] is founded on the principles of, *inter alia*, conserving the biodiversity and ecosystems to ensure the value of ecosystem services to all; ensuring the functioning of ecological processes at a scale larger than the limits of protected areas; MPAs as part of the management systems of national fishery resources; including communities and all relevant actors in the management of protected areas and their natural resources (Pages 25–26). This Strategy provides various management measures such as effectively integrating the *Instituto da Biodiversidade e das Áreas Protegidas (IBAP)* [Biodiversity and Protected Areas Institute] as part of the national systems of management of land and renewable natural resources; keeping updated an IBAP's business plan that takes into account the management of protected areas and national priorities as regards biodiversity assessments and conservation (Pages 32–33); enhancing the identification of protected areas in land and at sea, reinforcing the communication on their limits and improve the effectiveness and durability of the surveillance and inspection systems (Pages 41–42). The Strategy is to be implemented with the involvement of the competent institutions, NGOs, communities, tourist operators and international partners and the identified funding sources include the State Budget and international partners as well as the resources that result from the licenses and penalties (Pages 55–57).

The *2005 Plano de Gestão da Área Marinha Protegida Comunitária das Ilhas de Formosa, Nago e Chediã* [Management Plan of the Community-Marine Protected Area of the islands of Formosa, Nago and Chediã], as approved by the Decree No. 9–2005, provides for the management plan of the community-MPA at the mentioned islands which belong to the archipelago of Bijagos, classified by UNESCO in 1996 as a biosphere reserve. Its specific objectives include contributing to food security of the population; contributing to a healthy environment and biodiversity conservation; strengthening local actors so they can fight for their right to a sustainable development (Page 23). It also provides for general and specific rules which delimitate the MPAs and clarify the rules of access and utilization of coastal and marine resources (Pages 24–28). The Plan further identifies the management bodies and their competences, including the Management Committees of the *Tabanca*, which are management structures from the villages, composed by representatives of fishers, women in shell harvesting and traditional authorities (Page 29). A system of surveillance and inspection is established as a responsibility of all the community members (Pages 31–32).

The 2004 *Plano Nacional de Gestão Ambiental* [National Environmental Management Plan], as approved by the Decree No. 3–2004, provides for the National Environmental Management Plan. It aims at, *inter alia*, ensuring food security through sustainable management of natural resources; protecting, preserving and enhancing the quality of life of the Guinean population; promoting the participation of all components and organizations of the Guinean society in the environmental management and protection; and contributing to the development of sub-regional and international cooperation in matters of environmental management (Pages 2–3). It provides a brief environmental description of various sectors, but only briefly refers to the fisheries sector, composed by the artisanal and industrial fisheries, and with regard to the latter the promotion of its industrialization and the introduction of clean technologies (Page 11).

2.2.2 Fisheries primary legislation

The assessed two fisheries primary legislation corresponds to B1 to B2. They cover **41** of the 82 EAF legal requirements.

The *Decreto-Lei No. 4-2014, que aprova a Lei Orgânica do Ministério das Pescas e dos Recursos Haliêuticos*, approves the statutory law of the Ministry of Fisheries and Fishery Resources. This Ministry is in charge of the definition and execution of the Government policy for the fisheries sector (Article 1) and competent to, *inter alia*, promoting the sustainable development of the fisheries sector; cooperating with the relevant international and regional institutions; promoting and coordinating scientific research; undertake in collaboration with relevant bodies the MCSE (Article 2(1)(a)(b)(e)(g)). Within the Ministry's structure is the *Conselho Nacional de Pescas* (CNP) [National Fisheries Council], which is responsible for, among others, ensuring the dialogue and cooperation with the national entities relevant to the socio-economic development of the fisheries sector (Article 6(1)(a)). This Decree-Law also provides for the implementation services, which include the General-Directory of Industrial Fisheries (Articles 16–18) and the General-Directory for Artisanal Fisheries (Articles 19–21). Both directories have the competence to carry out various activities, including collaborating with the Applied Fisheries Research Centre (CIPA) in the development of annual FMPs and monitoring the fishing activities of licensed vessels to ensure compliance with applicable obligations. Within the General-Directory for Artisanal Fisheries, the Decree allows for the establishment of Artisanal Fisheries Regional Delegations, with the power of, *inter alia*, promoting food security and bettering the socio-economic conditions of fishing communities and associations, and fighting against poverty (Articles 22–23). Additionally, Centres to Support Artisanal Fisheries can be established under the said Regional Delegations (Article 26). The following are autonomous services of the Ministry: CIPA; National service for inspection and control of fishing activities (FISCAP); Administration of Fishing Ports (APP); and Professional training institute for the fisheries sector (INFOPECAS).

The *Decreto-Lei No. 10-2011, que aprova a Lei Geral das Pescas*, as amended by Decree-Law No. 18–2016 with regard to the fishing license's fees, sanctions and competent authorities, approves the General Fisheries Law (hereinafter referred to as “Fisheries Law”). The Fisheries Law is founded on the principles of sustainable development; defending the interests of fishing communities, taking into account their legitimate interest particularly of those that are

more dependent on fisheries or that live in regions with scarce alternatives; prevention and precaution; and the principle of cooperation in the management of shared resources that imply the adoption of related common, harmonious and coordinated measures within management systems of such resources by the concerned States with a view to their preservation and sustainable utilization (Article 3). The government's department responsible for the fisheries sector is in charge of developing and implementing the FMP, which is established on an annual or pluriennial basis, subject to wide discussion and publicity, and may be reviewed periodically in accordance with new fisheries data, as well as harmonized with the FMPs of other countries in the sub-region through consultation (Article 9). This Law also details the minimum content of the FMP (Article 10). The competent fisheries government department is responsible for creating and maintaining an updated registry of fishing vessels authorised to operate in waters under national jurisdiction for the purpose of monitoring and control. The registration of the national fishing vessels in the registry of the maritime authority is a pre-requisite and condition for obtaining a fishing licence to operate in waters under national jurisdiction (Article 12). The Fisheries Law also establishes the overall principle of cooperation with other states or organisations in order to promote common management of the aquatic biological resources, harmonise procedures on minimum conditions of access to them by foreign fishing vessels and adopt coordinated measures of inspection and control of the fishing vessel's activities (Article 13).

The Fisheries Law requires fishing access agreements to contain, among other clauses which shall be compatible with the FMP, those specifying the type of fishing undertaken in national waters and TAC (Article 14(1)(a) and (2)). It also provides for a broad licensing scheme for the exercise of fishing in areas under national jurisdiction, requiring the payment of the respective fee (Article 18); specifying the duration up to one year with the possibility of renewal for successive periods of the same or less duration (Article 19); determining the impossibility of license transferability (Article 20); outlining the obligations of the license holder and the supplementary or specific conditions that may be attached to a fishing license (Articles 21–22); and specifying the conditions for suspension and revocation of the license (Article 23). The exercise of industrial fishing is prohibited in inland waters and the territorial sea, areas that are reserved for artisanal fishing vessels (Article 24). It is also prohibited the use of explosives or toxic substances for fishing (Article 25) as well as the discharge of toxic or noxious substances in the marine environment (Article 26), and the catch of threatened or endangered marine species and aquatic seabirds (Article 27). Fishing vessels operating in areas under national jurisdiction and fishing gears are required to have their identification markings (Article 29).

The Fisheries Law requires the *Serviço Nacional de Fiscalização e Controlo das Actividades de Pesca (FISCA)* [National Service of Surveillance and Control of Fishing Activities] to implement the national system of surveillance of fishing vessels operating in areas under national jurisdiction (Article 43). It also specifies the powers, duties and responsibilities of authorised officers (Articles 46–48) and the duty of cooperation by the masters of the fishing vessels (Article 49), as well as the provisional administrative procedures and process to follow in performing of the authorised officers' functions (Articles 49–60). The fisheries offences are detailed therein and categorized as 'very serious', 'serious', and 'less serious' offences, with a

special provision for offences committed by artisanal fishing vessels to be regulated (Articles 61–66). The respective penalties, accessory sanctions and others are detailed (Articles 70–73) - the amount of the fines was substantially increased with the 2016 amendment. The administrative and judicial bodies that are competent to apply the sanctions, and the respective procedures are also provided by the Fisheries Law (Articles 77–78).

2.2.3 Fisheries secondary legislation

The assessed eight fisheries secondary legislation corresponds to C1 to C8. They cover **29** of the 82 EAF legal requirements.

The *Despacho Conjunto de 4 de Março de 2022, que regula as condições de acesso aos recursos haliêuticos na zona económica exclusiva*⁴, regulates the conditions of access to fishery resources in the EEZ of Guinea-Bissau. It stipulates, among others, that fishing vessels in the EEZ of Guinea-Bissau cannot have a capacity above 2500 gross tonnages (GT) (Article 3) and that access to the resources is subject to a fishing license or authorization by the competent authorities and subject to the payment of fees (Article 4 and Annexes I, II and IV). A fisheries management fund is dedicated to the implementation of policies aiming to enhance the marine scientific research for improving the management, conservation and protection of fishery resources, and restore the fauna and all the marine ecosystem to be paid prior to the issuing of the license and in accordance with the GT of the vessel, the fisheries and the duration of the license (Article 5(1) and Annex III). The conditions applying for industrial fishing licenses and for access by foreign chartered fishing vessels are introduced therein, including landing requirements, and control measures of the catches and fisheries products, in accordance with conditions and measures to be specified by the Minister (Articles 9–12).

The *Despacho Conjunto No. 16–2017, que determina as coordenadas para realização das operações conexas de pesca*, establishes the coordinates and zones for undertaking fishing-related activities, which include transshipping. It details the requirements for transshipping operations such as the prior notification with information to be sent out by the master or owner of the vessel to the competent government authority (Article 4).

The *Decreto 21–2016, que aprova o Regulamento de Operações Conexas de Pesca*, regulates fishing-related activities. It specifies the areas for the operation of such activities, which include transshipping (Articles 3(a) and 4), as well as the procedure for conducting these activities (Article 5), and the related MCSE activities (Articles 7–15).

The *Despacho Conjunto No. 03–2016, que regula as condições de acesso aos recursos haliêuticos por embarcações de pesca artesanal*, regulates the conditions of access to fishery resources by artisanal fishing vessels. These vessels, either national or foreign, must have a

⁴ It should be noted that this instrument was provided by the Legal Department of the Ministry of Fisheries and not published in the official gazette. According to information from the National EAF-Focal Point this is a common procedure in Guinea-Bissau and the instrument should be considered valid and effective- the former regime approved by Despacho Conjunto n.º 2/2016, of 23 of March is therefore considered implicitly repealed by this new Despacho..

navigation license issued by the Port Maritime Institute or its regional offices; a sanitary license issued by the competent authority; land catches in national territory and export only from authorized national port; and present proof of payment of the licensing fees (Article 2). The licensing scheme is further detailed, and special conditions of access are stipulated (Articles 3–6). This regulation also imposes fishing gears and mesh size requirements (Articles 7 and 9 and Annex I) and prohibits the use of certain fishing gears in its Annex III, and the catch, detention, landing and trade of species in its Annex II (Article 8).

The *Decreto No. 24–2011, que aprova o Regulamento da Pesca Artesanal*, approves the *artisanal fishing regulation*, as amended by Despacho 30/2017. It establishes the legal regime for fishing in inland waters and in the territorial seas and is founded on the principles of defending the interests of fishing communities taking into account the legitimate interests of the local communities and populations dependent on artisanal fisheries; promoting artisanal fisheries; and co-management of reserved fishing zones (Article 3). It provides for the Regional Advisory Councils of Artisanal Fisheries, to be regulated by ministerial order (Article 5) and requires the service responsible for artisanal fisheries to develop directly, or through the regional offices or artisanal fisheries centres, and in cooperation with Regional Advisory Councils, activities aimed at understanding and monitoring artisanal fisheries and their communities (Article 7). This decree also establishes artisanal fisheries zones, specifying the type of artisanal fishing vessel allowed in each zone and those which are exclusively reserved to artisanal fisheries (Articles 8 and 13). It also provides various other fisheries management measures such as fishing gear controls (Article 14), marking of fishing vessels and gears (Articles 15–16) and prohibits, except if otherwise established by special authorization, the capture of species of marine mammals, marine turtles and crocodiles, stingrays and sharks as well as other rare and vulnerable species (Article 19). It details the artisanal fishing licensing scheme (Articles 24–34) and provides for MCSE (Articles 38–56).

The *Decreto-Lei No. 09–2011, que aprova o Regulamento de Inspeção do Pescado*, approves the regulation on the inspection of the fishery product. Among various other issues concerning post-harvesting activities, including licensing, registration, quality control and inspection, it contains provisions on fisheries offences and the related administrative process (Articles 62–78).

The *Despacho Conjunto No. 01–GMPEM–2006, que regulamenta medidas de gestão da pesca na ZEE*, regulates fisheries management measures in the EEZ. In specific, it determines which fishing-related activities can be undertaken in the EEZ, the applicable conditions and prohibits certain fishing-related activities to be carried out in the territorial sea (Paragraphs 1–5).

The *Decreto No. 4–1996, aprova o Regulamento da Pesca Industrial*, approves the Industrial Fishing Regulation, derogated by Decree 24–2011, briefly assessed above, with regard to the provisions on artisanal fishing. It establishes the general principles of the national policy of fishery resources exploitation and provides for *inter alia*: chartering fishing vessels and the obligation of these to land their total catches in Guinea-Bissau (Article 12); the licensing scheme for industrial fishing vessels (Articles 17–30); the obligation of licensed industrial

fishing vessels operating in areas under national jurisdiction to report their catch data (Article 45); an observer scheme for industrial fishing vessels operating in national waters, indicating the functions of the observers, their rights, duties, boarding and returning to port procedures (Articles 46–52); registration of industrial fishing vessels in the National Register of Fishing Vessels (Article 53); radio call system to be installed and maintained in the fishing vessels (Article 54); detailed requirements on marking of the fishing vessels (Articles 55–56); detailed rules on the measures for measuring mesh sizes and the use of trawl nets with mesh size lower than the authorized (Articles 57–60).

2.2.4 Other sectors primary legislation

The other sectors primary legislation corresponds to D1 to D6 in Appendix A.

The *Lei No. 13-2013, que determina a fixação do espaço marítimo*, fixes the maritime zones under jurisdiction or sovereignty of Guinea-Bissau, pursuant to the country's Constitution and the applicable rules of international law (Article 2).

The *Decreto-Lei No. 5-A-2011, que aprova a Lei Quadro das Áreas Protegidas*, approves the Framework Law on Protected Areas which aims at, among others, safeguarding threatened animal and plant species and habitats; conserving and recovering habitats of migratory fauna and its corridors; promoting and supporting the development and sustainable use of natural resources (Article 2). It provides for various types of protected areas (Articles 3–4) and details the process of classification and declassification of protected areas, which is based on participation and public consultations (Articles 5–10). Each protected area has a management council, which is composed by various stakeholders, including representatives from the communities, NGOs and local businesses (Article 16). This Law also details the requirements for the zones fully protected, contiguous zones and sustainable development zones (Articles 26–29). Its management instruments include the National Strategy for Protected Areas, briefly assessed above, the Management Plans and the setting up of a Special Fund, under the supervision of the Director of IBAP, to finance conservation activities or activities of common interest of the resident community (Articles 35–40).

The *Lei No. 1-2011, que aprova o Lei de Bases do Ambiente*, approves the Framework Law on Environment. It is founded on the general principle that all persons have the right to a human environment ecologically balanced and the duty to defend it, with the State having the responsibility to promote better individual and collective quality of life (Article 4). Its specific principles include prevention, precaution, participation, international cooperation and access to a training and educational system that ensures access to environmental education and sustainable development to all (Article 5). It affirms that all fauna will be protected through specific legislation and measures to control the maintenance of biological processes of auto-regeneration, introduction of any species of wild aquatic or terrestrial animal (Article 12(2)(a)(c)). Provisions on various sources of environmental pollution are also established therein, prohibiting the discharge, deposit or other form of introduction in waters, land or atmosphere of degrading substances (Articles 19–25). The Environmental Fund is established, to be subject to specific regulation (Article 29) and an EIA is required for plans, projects,

programmes, works and actions that may affect the environment and human life quality (Article 32). This Law ensures the following relevant rights: effective participation of local communities in the definition of policies and in the management of natural resources (Article 38); information related to the management of the country's environment (Article 40); environmental education with a view to secure efficient participation in the management of the environment (Article 41); and access to justice on environmental matters (Article 42).

The *Lei No. 10–2010, que aprova o Lei sobre Avaliação Ambiental*, approves the Law on Environmental Evaluation. It specifies the types of projects, which includes the plans, programmes and policies in the fisheries sector and projects of intensive aquaculture, that are subject to an EIA process, as detailed therein (Article 2(1), Annex II) and III. The minimum content of an EIA is established (Articles 16-18) and the resulting report is subjected to comments by the public (Article 23) and to public hearing (Article 24). It also sets up procedures for transboundary impacts, which includes participation with, and in, the EIA procedures of other States (Articles 48–51).

The *Decreto-Lei No. 2–2004, que estabelece as bases para a proteção, fomento e exploração da fauna selvagem*, establishes the basis for the protection, promotion and exploitation of wild fauna, which includes aquatic mammals (Article 2 (a)). The competent Ministry is required to ensure the sustainable management of fauna resources and to promote the participation of relevant stakeholders interested in the conservation, promotion and enjoyment of the hunting heritage (Article 4). This Decree-Law details the requirements for the exercise of hunting activities, including where it can be carried out (Articles 12–13) and conservation measures (Articles 14–16). The license fees and infractions from the hunting activities integrate the Forest Fund (Article 35).

The *Decreto-Lei No. 5–A–1992, que aprova o Código de Águas*, approves the Water Code. It contains some relevant provisions on the protection of water, prohibiting, for instance, the contamination of non-consumable water, superficial and underground water (Article 33). It also requires the articulation between the Ministry in charge of fisheries and the Ministry in charge of water subjecting the granting of fishing right in the public waters domain to the opinion of the later (Article 23).

2.2.5 Other sectors secondary legislation

The other sectors secondary legislation corresponds to E1 to E10 in Appendix A.

The *Decreto No. 10-2017, que aprova o Regulamento da Inspeção Ambiental*, approves the regulation on environmental inspection. The environmental inspection aims, among others, to evaluate the performance and management of services and bodies responsible for environmental protection, through auditing activities and control, as well as ensuring the control and compliance with the environmental legislation (Article 2). It sets up the rights, duties and incompatibilities of the environmental inspectors and auditors (Articles 14–19), the inspection procedures (Articles 20–27) and the infractions and sanctions scheme (Articles 28–34).

The *Decreto No. 09–2017, que aprova o Regulamento da Auditoria Ambiental*, approves the regulation on environmental auditing. The environmental auditing concerns evaluating the level of conformity of activities with defined and applicable norms, standards and parameters as regards, *inter alia*, the impacts on the environment and public health, compliance with management plans of protected areas (Article 3). It sets up the organisation and procedures of the environmental auditing (Articles 6–13), the rights, duties and incompatibilities of the environmental auditors (Articles 14–17), and the infractions and sanctions scheme (Articles 22–28)

The *Decreto No. 08–2017, que aprova o Regulamento do Licenciamento Ambiental*, approves the regulation on environmental licensing. It details the process of environmental licensing, including the requirement of public hearing, taking into account the well-publicizing information about the EIA and project and ensuring the participation of local communities (Article 14) and environmental monitoring (Article 16). It promotes the publicity of the process of decision making (Article 20), sets the regime for termination, suspension and transmission of the environmental license (Articles 21–23) and the infractions and the respective sanctions scheme (Articles 26–32).

The *Decreto No. 07–2017, que aprova o Regulamento de Estudo de Impacto Ambiental e Social*, approves the regulation on environmental and social impact assessment (ESIA). A more elaborated ESIA is required for projects classified as potentially having a very serious environmental impact whereas a simplified ESIA is required for those projects potentially having a less serious environmental impact (Article 3(c)(d)). The process is similar to the EIA process and also includes public hearing and broad consultation (Article 13).

The *Decreto No. 06–2017, que aprova o Regulamento do Fundo Ambiental*, approves the regulation on the environmental fund. The mission of the fund is to collect, manage and apply financial resources with a view to execute, promote and foster policies, plans, programmes, projects and other activities that aims at protecting, conserving and preserving natural and environmental resources, including for damage prevention or reparation purposes, contributing to sustainable development objectives (Article 3).

The *Decreto No. 05–2017, que aprova o Regulamento de Participação Pública no Processo de Avaliação Ambiental*, approves the regulation on public participation in the process of environmental evaluation. It provides detailed rules on the proceedings, forms and conditions of public participation in the related EIA decision-making (Articles 6–7). In addition to the dissemination of information, public consultation, public hearing, another form of public participation provided therein is mediation and negotiation among the parties involved, which is promoted in case of lack of consensus during the public hearing through the recommendations, suggestions or supervening facts (Article 11).

The *Decreto No. 08–2005, que cria a Área Marinha Protegida Comunitária das Ilhas de Formosa, Nago e Chediã (Ilhas Urok)*, creates the Community MPA of these islands

traditionally designated as Urok. It aims at ensuring the sustainability of the natural and cultural heritage of these islands, with a view to ensure the sustainable development of the local populations through empowering communities concerned and their full participation in the islands' conservation (Article 2). It sets up a system of conditional access to the natural resources (Article 6) and a co-management system of surveillance (Article 7).

The *Decreto No. 02-2005, que cria o Instituto de Biodiversidade das Áreas Protegidas (IBAP)*, creates the Institute of Biodiversity Protected Areas. The IBAP is competent for proposing, coordinating and executing policies and government actions concerning biodiversity and protected areas, as well as promoting and safeguarding ecosystems, biodiversity and protected areas (Article 3). The composition of the IBAP's administration is broad and includes, among others, representatives from Ministries as well as from the community living in the protected area and from the environmental protection associations (Article 8).

The *Decreto No. 01-2005, que cria a Unidade de Gestão e Projecto de Biodiversidade da Zona Costeira*, creates the management unit and project of biodiversity coastal zone.

The *Decreto No. 52-1992, que estabelece o Conselho Nacional das Águas*, establishes the National Water Council.

2.2.6 Additional relevant information from the National EAF-Focal Point

As of April 2021, the *Documento de Estratégia de Redução da Pobreza (DENARP)* [Strategic Document for Poverty Reduction] was being updated. It highlights the importance of the fishing sector in the fight against poverty, taking into account its contribution to increasing the added value of artisanal fishing activities and aims at: restructuring the administration and the implementation of the legal and regulatory framework of companies favourable to the development of industrial fishing and the small-scale marketing system; implementing a fisheries management system in which decisions are taken based on knowledge of the state of exploitation of fisheries resources, the economic and social conditions of fisheries, supported by regular monitoring of fishing activities and catches; the regulation and development of industrial fishing rights; and promoting a system of coastal surveillance and fisheries-related activities with an operational judicial system.

With regard to the *Plano Estratégico para o Desenvolvimento das Pescas* [Strategic plan for the development of the fisheries sector], it has three main components: (i) development and strengthening of the institutional capacities of the fisheries administration; (ii) development of industrial fisheries; and (iii) development of small-scale fisheries. This plan aims at a fisheries administration committed to defining development policies and strategies, industrial fishing progressively integrated into the national economy and artisanal fishing that contributes in the first place to the social and economic development of the country thanks to a better standard of living for dependent populations, fisheries and a greater contribution to food security. It is founded on the view of a more structured and decentralized fisheries administration; increased fishing surveillance; a fisheries management system based on regular monitoring of fishing effort; a quality control service recognized as the competent

authority for the certification of products for export; strengthening the capacity of fishing communities to enable them to play a greater role in creating national wealth and involve them more in resource management; infrastructure to support industrial and artisanal fishing operations; and fishing companies already established or about to be created in the country for the processing and export of products, but also for service and supply activities in the fisheries sector.

The General Fisheries Law requires review and update as well as various regulations on: industrial fishing; fishing logbooks; artisanal fishing; fishing related activities; and VMS.

The following multiple challenges in implementing the EAF in the country were highlighted:

- On political issues, the constant changes of those responsible for the fisheries sector do not allow the implementation of the policies outlined by the government and weaken the implementation of the activities included in the development plan of that sector, especially with regard to the sustainable management of fisheries resources. The management of fishery resources still continues to be done in total gross tonnage instead of total allowable catch, which does not allow adjusting the fleet capacity to the availability of existing fishery resources. There is lack of a mechanism to control fishing opportunities.
- On legal issues, the lack of a regulation on minimum dimensions for industrial fishing; adherence to and implementation of port state measures; and the implementation of the International Convention for the Conservation of Tuna and the like in the Atlantic (ICCAT) to which the country is a contracting party.
- On institutional issues, the ineffective means of inspection to face the fight against IUU fishing, a serious problem that could endanger the durability of fisheries resources; inefficiency of a database with information recorded from radio transmissions; the limited system in place for collecting information on catches since it relies solely on reports from on-board observers and needs to be rethought; limited capacity to govern and manage the use of fisheries resources sustainably with a view to preventing overexploitation of resources; lack of performance-based promotion of staff, which contributes to poor productivity; representativeness of the sector dominated by consignees who are only representatives of foreign shipowners; the foreign fleet lands a tiny part of its catch in the port of Bissau; the industrial sector is a poor job creator; the absence of support services for production and marketing activities (lack of infrastructure and indispensable factors, weak supply of maritime transport); the lack of a remunerative national market for by-catch; the weak level of professionalization and technical development of national fishermen; the isolation of most landing sites for artisanal fish, due to the poor state of the roads; the weak development of professional associations, especially at the level of artisanal fishermen; the weak institutional capacity in terms of planning and managing infrastructure for artisanal fishing; the absence of a catch tracking system covering the entire country; the insufficient knowledge of the biology of a group of species (cephalopods and crustaceans) of great commercial value in order to propose management measures such as biological rest and reduction of carrying capacity; and the

insufficient information, monitoring and surveillance to ensure sustainable management of fishery resources and fisheries development.

On operational issues, the lack of financial autonomy of FISCAP, CIPA and DGPA; the slow response to infringements in the EEZ; the insufficiency of means of navigation to cover the entire EEZ; the lack of installation of VMS communication system in all industrial fishing vessels; the difficulties in controlling artisanal fishing pirogues due to the non-installation of the VMS system; and the insufficient use of the GPS navigation system reduces improvements in knowledge about the sector.

The fisheries sector interacts with several governmental organizations, given that the sea is a multipurpose space which intervene in the planning and management of coastal areas in Guinea-Bissau, among which the following stand out: Ministry of Fisheries; Ministry of Environment; Ministry of Territorial Administration; Ministry of Interior; Ministry of Energy and Industry; Ministry of Tourism; Ministry of Transport and Telecommunications; and Ministry of National Defence. It should be noted that among these entities, those responsible for managing the ecosystem are the Ministries of Fisheries and the Ministry of Environment.

The Ministry of Fisheries, to answer to the challenges of the marine ecosystem and the problems of the sector, adopted in 2014 an innovative organizational chart, with a view to restructuring and resizing the bodies and services, making them more operational and effective. The National Fisheries Council was created, a consultative body responsible for ensuring dialogue and collaboration with national entities and organizations paying a role in the socioeconomic development of the fisheries sector; issue opinions and recommendations on national fisheries development policy and strategies and on any matter that the member of government responsible for the fisheries sector may wish to submit for its consideration. As of April 2021, this body is not operational, but it has nevertheless recorded advances and setbacks in order to ensure its operation, with the support of the Legal Department of the Ministry. In the absence of functioning of this body, the Ministry of Fisheries resorts to coordination with other partner institutions, through correspondence notes, inter-ministerial dispatch, through periodic meetings.

3. Conclusion

3.1 Main gaps in the assessed policy and legal instruments

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

Of the 82 EAF legal requirements, **65** EAF legal requirements were found in Guinea-Bissau's policy and legal frameworks assessed in this EAF Legal Report. It should be noted that the 82 EAF legal requirements are considered the minimum standards in legislating for the EAF which may be further elaborated and improved in advancing the implementation of the EAF. Based on the present preliminary assessment, **17** EAF legal requirements remain to be incorporated in the policy and legal frameworks of Guinea-Bissau.

The assessed policy and legal instruments did not provide for important EAF concepts such as maintaining ecological relationships among harvested, dependent and associated species, ensuring the promotion of ecosystem-based research and awareness-raising on EAF, as required under EAF Component 1. There was also lack of references and provisions on conflict management review process, under EAF Component 7, and on integrated management of aquatic ecosystems and periodic review of the respective plan, which corresponds to EAF Component 8. Gaps were noted with respect to TAC, coordinating TACs for shared stocks and monitoring catch in real time, stakeholder consultation in the establishment of temporal and spatial control, as provided under EAF Component 9. There are also improvements to be made with regard to FMPs, which lack provisions on some of its minimum content, as provided under EAF Component 10.

In respect of MCSE, which is of particular relevance to the fisheries sector, the assessed policy and legal instruments only briefly outline the observer scheme not requiring that it is in line with regional or international requirements, no comprehensive requirements on VMS and registration of fishing vessels were found nor requirements on the cooperation and coordination among fisheries and maritime authorities throughout the vessel registration process, as part of the EAF Component 11.

A major gap concerns the requirements on ecosystem-based research, indicating misalignment with EAF Component 13. There is a lack of detailed process, including with stakeholder participation on the listing of protected species and protected areas, which is relevant for EAF Component 14. Regulation of activities potentially harmful to the aquatic ecosystems, including ghost fishing, was also not found in the assessed policy and legal instruments, which indicate a gap related to EAF Component 15.

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

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

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

The policy and legal instruments of Guinea-Bissau, assessed in this Report, incorporate **65** out of the 82 EAF legal requirements, therefore indicating a **medium-high** level of alignment with the EAF.

3.3 Final considerations and proposed way forward

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

Some gaps have been identified which should be addressed to ensure full implementation of the EAF in the country. The following subjects could benefit from a detailed review and update in the relevant policy and legal instruments: “institutional arrangements” (especially conflict management and integrated management of aquatic ecosystems), “control on fishing operations” (especially TACs and participatory decision-making in setting spatial and temporal controls), “fisheries management” (particularly covering all the minimum content of FMPs), “conservation measures” (especially regulation of activities potentially harmful to aquatic ecosystems), “research” (focused on EAF), and “MCSE” (especially the comprehensive requirements on VMS, observers scheme, registration process, cooperation and coordination on the registration process).

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

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

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

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

Identification Instruments of GUINEA-BISSAU	
A	Fisheries Policies
A1	2020 Plano de Gestão dos Recursos Haliêuticos para 2020
A2	2015-2020 Plano Estratégico de Desenvolvimento das Pescas da Guiné-Bissau
A3	2015-2020 Plano Estratégico e Operacional “Terra Ranka”
A4	2015-2020 Strategy and National Action Plan for the Biodiversity
A5	2014 Estratégia de Luta contra a Pesca INN na Zona da CSRP
A6	2014-2020 Estratégia Nacional para as Áreas Protegidas e a Conservação da Biodiversidade na Guiné-Bissau
A7	2005 Plano de Gestão da Área Marinha Protegida Comunitária das Ilhas de Formosa, Nago e Chediã, aprovado pelo Decreto No. 9-2005
A8	2004 Plano Nacional de Gestão Ambiental, aprovado pelo Decreto No. 3-2004
B	Fisheries Primary Legislation
B1	Decreto-Lei No. 4-2014, aprova a Lei Orgânica do Ministério das Pescas e dos Recursos Haliêuticos
B2	Decreto-Lei No. 10-2011, aprova a Lei Geral das Pescas, alterada pelo Decreto-Lei 18-2016
C	Fisheries Secondary Legislation
c1	Despacho Conjunto de 4 de Março de 2022, regula as condições de acesso aos recursos haliêuticos na zona económica exclusiva
c2	Despacho Conjunto No. 16-2017, determina as coordenadas para realização das operações conexas de pesca
c3	Decreto 21-2016, aprova o Regulamento de Operações Conexas de Pesca
c4	Despacho Conjunto No. 02-2016 regula as condições de acesso aos recursos haliêuticos na zona económica exclusiva
c5	Decreto No. 24-2011 aprova o Regulamento da Pesca Artesanal, alterado pelo Despacho No. 30-2017
c6	Decreto-Lei No. 09-2011 aprova o Regulamento de Inspeção do Pescado
c7	Despacho Conjunto No. 01-GMPem-2006 regulamenta medidas de gestão da pesca na zona económica exclusiva
c8	Decreto No. 4-1996 aprova o Regulamento da Pesca Industrial, derogado pelo Decreto 24-2011
D	Other Sector’s Primary Legislation
D1	Lei No. 13-2013, que determina a fixação do espaço marítimo
D2	Decreto-Lei No. 5-A-2011 aprova a Lei Quadro das Áreas Protegidas
D3	Lei No. 1-2011 aprova a Lei de Bases do Ambiente
D4	Lei No. 10-2010 aprova a Lei sobre Avaliação Ambiental
D5	Decreto-Lei No. 2-2004 estabelece as bases para a proteção, fomento e exploração da fauna selvagem
D6	Decreto-Lei No. 5-A-1992 aprova o Código de Águas
E	Other Sector’s Secondary Legislation
E1	Decreto No. 10-2017 aprova o Regulamento da Inspeção Ambiental
E2	Decreto No. 09-2017 aprova o Regulamento da Auditoria Ambiental
E3	Decreto No. 08-2017 aprova o Regulamento do Licenciamento Ambiental

Identification Instruments of GUINEA-BISSAU

€4	Decreto No. 07-2017 aprova o Regulamento de Estudo de Impacto Ambiental e Social
€5	Decreto No. 06-2017 aprova o Regulamento do Fundo Ambiental
€6	Decreto No. 05-2017 aprova o Regulamento de Participação Pública no Processo de Avaliação Ambiental
€7	Decreto No. 08-2005 cria a Área Marinha Protegida Comunitária nas ilhas Formosa, Nago e Chediã
€8	Decreto No. 02-2005 cria o Instituto de Biodiversidade das Áreas Protegidas
€9	Decreto No. 01-2005 cria a Unidade de Gestão e Projecto de Biodiversidade da Zona Costeira de Guiné-Bissau
€10	Decreto No. 52-1992 estabelece o Conselho Nacional das Águas

Perceived level of alignment with the EAF legal requirement

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

Appendix B. Ecosystem Approach to Fisheries Legal Checklist applied against selected national policy and legal instruments

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
	Scope and definitions								
General guidelines	1.	– Clearly outline the geographic and substantive scope of the application.	✓	✓	✓	✓	✓	(A6) Pages 14–19 (B2) Articles 1–2 (C1) Article 1 (C3) Articles 1–2 (C5) Articles 1–2 (C6) Articles 1–2 (D4) Articles 1–2 (E2) Articles 1–2 (E3) Articles 1–2	
	Principles and objectives								
C.1 EAF concepts C.3 Precautionary approach C.4 Stakeholder participation C.6 Integration of lower level authorities	2.	– Clearly define and apply the precautionary approach.	✓	✓	•*	✓	X	(A4) Page 107 (A8) Page 4 (B2) Article 3(c) (D3) Article 5(b)	
	3.	– Broaden stakeholder participation with integration of lower level authorities and bodies.	✓	✓	✓*	✓	✓	(A3) Pages 41–42, 79–80 (A4) Page 107 (A6) Pages 26, 42, 45 (A7) Page 23 (A8) Pages 2–4	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
C.7 Conflict management and C.11, C.13, C.14 and C.17								(b1) Articles 19–26 (b2) Article 3(b) (c5) Article 3 (d3) Articles 5(g)(k), 6(i) (d4) Article 4(d) (d5) Article 4(c) (E3) Article 14 (E6) Entire Decree (E7) Article 2	
	4.	– Ensure the right of access to fair and transparent information.	∅	✓	X*	✓	✓	(A4) Page 108 (B1) Article 14(1)(h) (D3) Article 40 (E6) Article 8	Reference in (A4) relates to access to information on biodiversity.
	5.	– Promote institutional coordination, cooperation and integration.	✓	✓	X*	X	✓	(A2) Pages 22–23 (A3) Page 78 (B1) Articles 2(1)(b), 6(1)(a), 10(2)(c) (B2) Article 3(d) (E5) Articles 3(3) and 15	Provision in (B2) concerns inter-States coordination and cooperation.
	6.	– Maintain ecological relationships among harvested, dependent and associated species.	X	X	X*	✓	X	(D2) Article 2	
	7.	– Promote sustainable development and avoid overexploitation of marine living resources.	✓	✓	✓*	✓	✓	(A2) Page 39 (A3) Pages 29, 149–150	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
								(A4) Chapter 6 (Actions 25, 36) (B1) Article 2(1)(a) (B2) Article 3(a) (C1) Article 5(1) (D2) Article 2 (D3) Article 6 (D4) Article 4(e) (E8) Article 2	
8.	– Preserve marine habitat, conserve and restore marine living resources and biodiversity.		✓	X	✓*	✓	✓	(A3) Pages 31–33, 71–80 (A4) Pages 106, 109–110 (A6) Page 25 (A7) Page 23 (C1) Article 5(1) (C4) Article 5(1) (D2) Article 2 (E8) Article 3(b)	
9.	– Promote ecosystem well-being, including the human biotic and abiotic components.		✓	X	✓*	✓*	✓*	(A1) Section 2.2(b)(d)(e) (A3) Pages 33–34, 71–80 (A4) Page 108 (A6) Page 25 (C1) Article 5(1) (D3) Article 6 (E8) Article 3(b)	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
10.	– Promote adaptive management measures, including their regular monitoring and review.	✓	✓	X*	X*	X*	(A3) Pages 71–80 (A4) Pages 148–149 (B1) Article 14(1)(d)-(i)	
11.	– Harmonize management measures, including those for shared resources.	X	✓	●*	∅*	∅*	(B2) Articles 9(4), 13 (D4) Articles 48–51 (E2) Article 31	
12.	– Reduce and manage conflict between users and stakeholders over fisheries resources and ecosystems.	✓	X	X*	X*	X*	(A3) Page 79	
13.	– Consider socio-economic contexts (e.g. employment, livelihoods, equity, poverty, gender) when designing and implementing management measures.	✓	✓	✓*	✓*	✓*	(A2) Pages 14–15 (A3) Pages 29, 151–152 (A7) Page 23 (A8) Pages 2-3 (B1) Articles 23(2)(b) 26 (B2) Article 11 (C5) Article 3 (D2) Article 2 (D3) Articles 5(e), 6 (E7) Article 2	
14.	– Promote management measures, designate the authority and outline the timeline and process for their monitoring and review.	∅	✓	●*	✓*	●*	(A6) Entire FMP (B1) Article 14(1)(d)-(i) (B2) Article 9 (D3) Article 35	(A6) does not provide for monitoring and review of the measures.
15.	– Provide for the establishment of MCSE measures.	✓	✓	✓*	●*	●*	(A1) Section 2.2(a) (A2) Pages 23–24	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
							(A3) Pages 47, 77, 150 (A4) Pages 41 and 42 (A5) Pages 15–17 (A7) Pages 31 and 32 (B1) Articles 16(2)(d), 19(2)(d)(j) (B2) Articles 43, 44 (C5) Article 38	
16.	– Promote ecosystem-based research plans/priorities, designate the authority and outline the timeline and process for their monitoring and review.	∅	X	X*	X*	X*	(A3) Pages 150–151	References in (A3) foster research and certification for the sustainable management of fisheries resources.
17.	– Promote the right of access to education and awareness raising on EAF.	∅	X	X*	∅*	X*	(A3) Page 79 (A4) Page 108 (A6) Page 28 (D2) Article 2(d) (D3) Articles 5(j), 41	Reference in (A3) concerns environmental education and awareness-raising. References in (A4) and (A6) concern awareness-raising on biodiversity issues. Provision in (D2) and (D3) do not include awareness-raising on EAF.
	Institutional arrangements							

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
C.2 Management boundaries and measures	18.	– Ensure new management boundaries, measures and plans are: (a) ecologically meaningful considering resource ranges, habitats and other ecological factors.	✓	X	X	✓*	✓*	(A4) Chapter 6 (Actions 74–85) (A6) Pages 33–34, 41 (A7) Pages 24–28 (D2) Articles 25–29 (E7) Article 3–4	
		(b) overlapped closely and are harmonized with well-established management boundaries and governance structures.	✓	X	X	✓*	✓*	(A6) Pages 33–34, 41 (A7) Pages 24–28 (D2) Articles 25–29 (E7) Article 3–4	
C.4 Stakeholder participation	19.	– Promote states cooperation on the harmonization of management measures and plans (bilaterally, regionally and internationally).	✓	✓	X	✓*	∅*	(A4) Page 109 (A6) Pages 27–28 (A8) Page 3 (B1) Articles 5(2)(c) 10(2)(a) (B2) Articles 3(d), 9(4), 13 (D3) Article 5(h) (E5) Article 3(3)	Provision in (E5) promotes cooperation with international funds for environmental protection.
C.5 Coordination, cooperation and integration									
C.7 Conflict management	20.	– Establish transparent and accessible mechanisms, bodies (including lower level authorities) or processes to: (a) support well-established management boundaries and governance structures on the basis of ecosystem considerations.	✓	X	X	✓*	✓*	(A4) Chapter 6 (Actions 74–85) (A6) Pages 33–34, 41 (A7) Pages 24–28 (D2) Articles 25–29 (E7) Article 3–4	
C.8 Integrated management of aquatic ecosystems									

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
	(c) facilitate coordination, cooperation and integration of management decisions, regulatory action, environmental policies, plans and programs.	✓	✓	X	✓*	✓*	(A6) Pages 33–34 (B1) Articles 2(1)(b), 6(1)(a), 10(2)(c), 16(2)(b), 19(2)(b) (D3) Article 30 (D6) Article 23 (E1) Article 2 (E8) Article 3(a)	
	(d) monitor, assess and align the various environmental policies and plans.	✓	X	X	X*	X*	(A6) Pages 33–34	
	(e) manage conflict over fisheries, relevant resource and ecosystem, including parameters for decision-making and resolving the conflict.	X	X	X	X*	X*		
	(f) ensure integrated management of aquatic ecosystems (e.g. integrated coastal zone) based on ecosystem delimitations.	✓	X	X	X*	X*	(A4) Chapter 6 (Actions 60, 79, 99)	
	(g) ensure periodic reviews of managed aquatic ecosystems that assess the state of aquatic resources, levels of pollution, habitat degradation and other factors.	X	X	X	X*	X*		
	(h) ensure periodic reviews of integrated management plans to assess objectives and indicators and to determine any potential needs for adjustment or revision.	X	X	X	X*	X*		
	(i) ensure periodic reviews of conflict management processes.	X	X	X	X*	X*		
21.	– Clearly outline powers, roles and responsibilities of all bodies, designated authorities, their relationships and processes, avoiding overlapping and conflicting mandates.	✓	✓	∅	✓*	✓*	(A7) Pages 29–30 (B1) Entire Decree-Law (C5) Article 5	Provision in (c5) cross-refers to regulation to provide details on

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
							(D2) Articles 11–13 (E5) Article 7 (E8) Articles 3–4 (E10) Article 5	the competence and functioning of the Regional Advisory Council for Artisanal Fisheries.
22.	– Outline mandates for the government institutions to: (a) coordinate efforts, cooperate and integrate approaches, from the local to the national levels.	✓	✓	✓	✓	✓	(A4) Chapter 6 (Action 101) (A7) Pages 29–30 (B1) Articles 2(1)(b), 6(1)(a), 10(2)(c), 16(2)(b), 19(2)(b) (C5) Articles 5, 7 (D2) Articles 14–18, 20 (D3) Articles 37–39 (E8) Article 3(a)	Provision in (C5) cross-refers to regulation to provide details on the competence and functioning of the Regional Advisory Council for Artisanal Fisheries.
	(b) coordinate, cooperate and integrate the regional and international processes and arrangements.	✓	✓	✓	✓	X	(A2) Pages 28–29 (A4) Chapter 6 (Actions 101, 124) (B1) Articles 5(2)(c) 10(2)(a) (B2) Articles 9(4), 13 (C5) Articles 5, 7 (D2) Articles 11 and 51	
	(c) allocate financial, human and material resources to ensure the integration of lower level authorities	✓	✓	X	∅	X	(A2) Pages 32–33, 37–38 (A4) Chapter 6 (Actions 98, 110) (A6) Page 47 (B1) Articles 11(1)(i)(k), 26 (D2) Articles 15(1) a), 35 and 38 (D3) Article 29 (D5) Article 35	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
		Stakeholder participation, coordination, cooperation and integration							
C.4 Stakeholder participation	23.	– Ensure bodies established are broadly representative (from industry, the artisanal sector, academia, civil society and local communities) and processes allow for stakeholder and institutional participation and coordination, engaging and integrating lower level authorities or bodies when resources are affected at local level.	✓	✓	X	✓	✓	(A7) Pages 29–30 (B1) Articles 11(1)(l), 22 (D2) Article 16 (E8) Article 8	
C.5 Coordination, cooperation and integration	24.	– Establish and properly publicize public meetings or hearings.	X	X	X	✓	✓	(D2) Article 8 (D4) Article 24 (E3) Article 14 (E6) Article 10	
C.6 Integration of lower level authorities, bodies and stakeholders	25.	– Allow for sufficient and reasonable time for comments on proposed management decisions or actions (e.g. in meetings and in writing).	X	X	X	✓	✓	(D2) Article 8 (D4) Article 23 (E6) Articles 9–11	
C.8 Integrated management of aquatic ecosystems	26.	– Promote international cooperation for effective integrated management of aquatic ecosystems.	✓	✓	X	✓	X	(A2) Pages 28–29 (A4) Page 109 (A8) Page 3 (B1) Articles 5(2)(c) 10(2)(a) (B2) Articles 9(4), 13 (D3) Article 5(h)	
		Fisheries management <i>Catch/output controls</i>							
C.9	27.	– Establish limits on the amount of fish that may be removed from a fishery in a given period of time (e.g. TAC), restrict the number of fish that may be landed in a day (e.g. bag limit) or	✓	X	X	N/A	N/A	(A1) Sections 6 and 7 (A3) Pages 78–79, 150	References in (A3) foster the

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
Controls on fishing operations		place limits on the amount of acceptable bycatch and/or discards from a fishery – all based on scientific data and maximum sustainable yield and the precautionary principle.						(A6) Page 92	establishment of fishing quotas.
C.10 Fishery management plans	28.	– Ensure authority to institute TACs and to allocate individual quotas is representative, including representatives from lower levels of government.	X	X	X*	N/A	N/A		
C.17 Monitoring and review	29.	– Ensure procedure for TACs outlines the category of vessels to which the TAC applies; period of time for which the TAC is declared; process for sub-dividing the TAC into individual quotas; timeline, authority and participatory process for periodic monitoring and review.	✓	✓	X	N/A	N/A	(A1) Section 6 (A6) Pages 92–93 (B2) Article 10(b)	
	30.	– Coordinate the TACs for shared stocks or highly migratory species with international or regional management measures.	X	X	X*	N/A	N/A		
	31.	– Monitor the catch in real-time and close a fishery when the TAC is reached.	X	X	X*	N/A	N/A		
	32.	– Attach catch controls to licenses and access agreements, including authority responsible for allocating, issuing and regulating quotas, and the procedure to be followed.	✓	✓	●*	N/A	N/A	(A6) Pages 92–93 (B2) Article 14(1)(a)	
	33.	– Outline the ability to institute additional catch controls (e.g. bag limits for recreational fishing), including the authority responsible for allocating, issuing and regulating quotas, and the procedure to be followed.	✓	✓	●*	N/A	N/A	(A6) Pages 92–93 (B2) Article 16	
		<i>Effort/input controls</i>							
C.9 Controls on fishing operations C.10	34.	– Define a broad fishing license scheme to regulate access to fisheries and fishing vessels with timeline, authority and process for renewing the license, monitoring and compliance, and permit suspension and revocation of the license for non-compliance.	∅	✓	✓*	N/A	N/A	(A3) Page 150 (B2) Articles 18–23 (C1) Articles 2, 4, 8–12 (C4) Articles 2, 4, 8	Reference in (A3) fosters the establishment of fishing licensing system.

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
Fishery management plans C.17 Monitoring and review								(c5) Articles 24–34 (c8) Articles 17–30	
	35.	– Designate authority responsible for allocating, issuing and regulating licenses, specified license duration, requirement of a fee and conditions that may be attached to licenses.	∅	✓	✓*	N/A	N/A	(A6) Pages 92–93 (B2) Articles 18–23 (c1) Articles 2, 4, 8–12, and annexes	Reference in (A6) concerns the licensing fees and conditions.
	36.	– Outline process for establishing provisions for effort controls (e.g. limitation on vessel capacity, on expansion of fishing fleet, on allowable days spent at sea).	✓	∅	✓*	N/A	N/A	(A1) Section 6 (A6) Page 92 (B2) Article 16(3)(d)(i) (c1) Articles 3, 6, 9	Provision in (B2) cross-refer to regulation the fishing efforts details.
	37.	– Outline specific details of fishing license scheme (e.g. number of licenses to be allocated, permit conditions for each fishery).	✓*	X*	∅	N/A	N/A	(A6) Pages 92–93 (c1) Articles 8 9	Provisions in (c1) concerns special conditions of access of national and foreign chartered fishing vessels but does not outline the nº of licenses to be allocated.
	38.	– Empower the designated authority to establish additional regulations for licensing.	X*	✓	●*	N/A	N/A	(B2) Article 16(1)	
	39.	– Empower authority to regulate effort controls and respective parameters.	✓*	✓	●*	N/A	N/A	(A6) Page 92 (B2) Article 10(d)	
	Fishing gear and method controls								

Perceived level of alignment with the EAF legal requirement

✓ full	∅ partial	X none	● not assessed	N/A not applicable	* optional
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EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
C.9 Controls on fishing operations C.10 Fishery management plans C.17 Monitoring and review	40.	– Establish requirements on fishing gear and methods that are permitted for use within a given fishery or area, including related technical specifications (e.g. general prohibitions on types of gear, methods, specifications on gear design, minimum mesh sizes).	✓	✓	✓	N/A	N/A	(A1) Section 10(f), (j) (B2) Article 31 (C5) Article 17 (C8) Articles 57–60	
	41.	– Outline prohibitions on highly destructive gear and fishing methods (e.g. fishing by toxic substance, explosives, electricity, fishing with the use of light).	X	✓	✓*	N/A	N/A	(B2) Article 25 (C5) Article 14	
	42.	– Outline requirements aimed at reducing negative impacts of fishing methods and gear (e.g. prohibition of trawling in areas with sensitive seabed habitat, require use of biodegradable nets, restrict the use of FADs or require use of bycatch reduction devices).	✓	∅	✓	N/A	N/A	(A4) Chapter 6 (Actions 39–40) (B2) Article 16(3)(i) (C8) Articles 57–60	Provision in (B2) cross-refer to regulation the establishment of additional conditions on prohibited fishing methods or gear.
	Spatial and temporal controls								
C.9 Controls on fishing operations c.10 Fishery management plans c.17 Monitoring and review	43.	– Regulate area and time in which fishing operations may or may not take place (e.g. closed areas/seasons), closed or restricted-use areas, which prohibit or limit fishing operations (e.g. protection of artisanal fishing).	✓	✓	✓*	N/A	N/A	(A1) Sections 8, 10 (k) (B2) Article 16(3)(a) and 24 (C5) Articles 8, 13, 21–23 (C8) Article 63	Provision in (B2) cross-refer to regulation to establish closed areas/seasons.
	44.	– Empower authority to define spatial and temporal controls and the procedure.	X	✓	●*	N/A	N/A	(B2) Articles 10(f), 16(3)(a)	
	45.	– Ensure stakeholder and institutional consultation, both at national and lower levels, in the process of defining spatial and temporal controls.	X	X	X*	N/A	N/A		

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
	46.	– Establish technical details and specifics on spatial controls.	✓*	✓*	✓	N/A	N/A	(A1) Section 8 (B2) Article 24 (C5) Articles 8, 13 (C8) Article 63	
		<i>Fishery management plans</i>							
C.9 Controls on fishing operations	47.	– Designate authority with power and responsibility to develop, approve, adopt and publicize a FMP, clearly outlining the roles and responsibilities.	X	✓	●*	N/A	N/A	(B1) Article 14(1)(d)-(i) (B2) Article 9	
	48.	– Ensure FMPs and measures comply with established integrated management plans for aquatic ecosystems involving e.g. protected areas or critical habitat.	X	✓	✓	●*	●*	(B2) Article 9(4) (C5) Article 23	
	49.	– Establish process for approval, adoption and publication of FMP with its periodic review.	X	✓	●*	N/A	N/A	(B2) Article 9	
	50.	– Detail process of drafting FMP, including multi-level and multi-sector collaboration and consultation with stakeholders, and a participatory transparent process for monitoring and reviewing the FMP at a minimum within five years of their development.	X	✓	✓*	N/A	N/A	(B2) Article 9 (C5) Articles 21–23	
C.10 Fishery management plans	51.	– List the minimum requirements in the FMPs:	X	∅	X*	N/A	N/A	(B2) Article 10(c)	Provision in (B2) does not mention the EAF.
		(a) management objectives that take into account EAF;	X	∅	X*	N/A	N/A	(B2) Article 10(c)	
		(b) biological description of fishery and ecosystem in which it takes place;	X	✓	●*	N/A	N/A	(B2) Article 10(a)	
		(c) social, economic and institutional aspects of the fishery;	X	✓	●*	N/A	N/A	(B2) Article 10(a)	
C.17 Monitoring and review	51.	(d) species composition and levels of bycatch, both retained and discarded;	X	✓	●*	N/A	N/A	(B2) Article 10(b)	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
	(e) ecological relationships between harvested, dependent and associated species;	X	∅	X*	N/A	N/A	(b2) Article 10(g)	Provision in (b2) does not specify this requirement but allows for the inclusion of any other that may be necessary to optimize the rational and sustainable management of aquatic biological resources.
	(f) impact of other anthropogenic activities on the ecosystem; and	X	∅	X*	N/A	N/A	(b2) Article 10(g)	
	(g) a review of the relationship with other coastal or marine resource management plans.	X	∅	X*	N/A	N/A	(b2) Article 10(g)	
	Conservation measures							
C.14 Habitat and biodiversity conservation and restoration	52. – Incorporate the consideration of habitat and biodiversity in the processes for establishing management measures (e.g. outline habitats and species related to the fishery and take measures to limit the negative impacts of fishing on them) or gear regulations.	✓	✓	✓*	✓*	X	(A1) Section 10(g) (A4) Pages 110–147 (A6) Page 32 (b2) Article 27 (c5) Articles 19, 20 (c8) Articles 57–63 (d2) Entire Law	
	53. – Ensure special protection for marine mammals, sea turtles and other particularly vulnerable marine life (e.g. set prohibitions or limitations), in coordination with other national designations or	✓	✓	✓*	✓*	X	(A1) Section 10(g) (A4) Chapter 6 (Action 40) (b2) Article 27 (c5) Article 19	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
	protections and regional and international conservation and management measures.						(c8) Article 62, Annex V (p5) Articles 14 and 16	
54.	– Ensure coordination between the various authorities involved in marine environment protection.	✓	X	✓*	●*	X	(A6) Page 34 (c5) Article 23	
55.	– Establish mechanisms and designation of authority responsible for establishing: (a) designation and protection of threatened and endangered species, ensuring cooperation among the authorities throughout the listing process, definition and qualifying factors of each designation, process for listing, including steps for consultation and the special protections associated with the designations.	∅	X	∅*	X*	X	(A1) Section 10(g) (A4) Chapter 6 (Actions 86–89) (A6) Page 52 (c8) Article 62, Annex V	References in (A1), (A4), (A6) and (c8) do not specify the process for designating the protected species.
	(b) protected areas, ensuring the outline of the type of protected areas, description of their levels of protection (e.g. marine reserve, parks, sanctuaries or MPAs), the process for nominating, establishing and managing a protected area, including stakeholder participation particularly of local communities, consultation and coordination with various authorities, both at national and local levels.	∅	X	X*	✓*	X	(A4) Chapter 6 (Actions 74–85) (p2) Articles 3-10	References in (A4) do not specify the process.
	(c) the restoration of damaged habitat and ecosystems, ensuring the process through which it is decided when, where and how a damaged habitat/ecosystem shall be restored, and the establishment of funds that may be used to engage in restoration activities.	∅	X	X*	✓*	✓	(A4) Chapter 6 (Actions 28, 32, 33) (A6) Pages 48–49 (p3) Articles 12(2)(a) and 52 (E1) Article 32 (E2) Article 27 (E3) Article 31 (E4) Article 3(c) and Article 20	References in (A4) and (A6) do not specify the process.

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
	56. – Ensure educational and awareness-raising activities for promoting habitat and biodiversity conservation and restoration with the establishment of special funds to support such activities.	✓	X	X*	X*	✓	(A4) Pages 123, 129, 139–140 (E4) Article 3(g)	
C.15 Regulation of activities potentially harmful to aquatic ecosystems	57. – Adopt measures to: (a) regulate and reduce pollution of the aquatic ecosystems which should apply to all activities that might have an impact (including fishing, mining, shipping, etc.) and cover all types of pollution including bycatch, discharge of waste, vessel emissions, coastal runoff.	✓	✓	✓	✓	X	(A4) Chapter 6 (Actions 40,42, 46–52) (B2) Article 26 (C5) Article 18 (D3) Articles 19–25 (D6) Articles 33–34	
	(b) promote energy efficiency and reduce emissions that are applicable to fishing vessels, merchant shipping vessels and extractive industries, including through fuel efficiency standards, vessel size limitations and equipment restrictions for fishing vessels.	X*	X*	X*	X	X		
	(c) prevent and eliminate ghost fishing with the prohibition of the abandonment of fishing gear, notification of authorities when fishing gear is lost, regulation of materials used in the manufacture of gear.	X	X	X	X	X		
	58. – Require authorization prior to the planned introduction of any species, including species meant for aquaculture or fish stocking, taking into account the precautionary approach, and establish measures to prevent the escape of exotic species into the wild.	✓	X	X	X	X	(A4) Chapter 6 (Actions 53–59) (D3) Article 12(2)(c)	
C.16 EIS or EIA	59. – Regulate marine extractive activities (e.g. marine mining for minerals or petroleum, harvesting of marine plants) and other potentially harmful activities, including the construction of	✓	X	X	X	X	(A4) Chapter 6 (Action 27)	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
		installations for use by industry, laying of underwater cables, military exercises, shipping.							
	60.	– Require EIS or EIAs for activities that have the potential to affect ecosystems that support fisheries (e.g. fishing, aquaculture, mining, petroleum extraction, coastal development).	✓	X	X	✓	✓	(A4) Chapter 6 (Actions 11, 19) (A8) Page 6 (D3) Article 32 (D4) Articles 2, 7, 8, 15, Annex II and III (E4) Article 3	Reference in (A4) is about integrating biodiversity in EIA and not specifically on the activities that may affect fisheries.
	61.	– Detail components of EIS or EIA, which should at least discuss the purpose/need for the activity, the ecosystem that may be affected, potential impacts of the proposed activity and potential alternatives or mitigation and rehabilitation measures.	X	X*	X*	✓	X	(D4) Articles 16-18	
	62.	– Establish process for submission, review and decision-making on the EIS or EIA, with designation of authority responsible for receiving, reviewing and deciding upon the EIS or EIA (e.g. the minister responsible for environment), opportunity for public participation (e.g. comment periods and hearings), consultation with other relevant government institutions or localities, and determination of adequate mitigation measures.	∅	X*	X*	✓	✓	(A4) Chapter 6 (Action 65) (D4) Articles 16–25 (E3) Articles 10–20 (E4) Articles 8–15	Reference in (A4) requires participation in the process of EIA of projects that may affect the mangroves ecosystems.
		Fishery monitoring and research							
C.13 EAF research	63.	– Establish research programme for furthering the knowledge and understanding of EAF.	✓	∅	X*	X	X*	(A4) Chapter 6 (Action 41) (B2) Articles 32–33	Provision in (B2) establishes the legal regime for scientific research but does not refer to EAF in specific.

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
	64.	– Designate authority for conducting and involving stakeholders in the research programme.	X	✓	X*	X	X*	(b1) Article 14(1)(g) (b2) Article 34	Provision in (b2) designates the scientific research authority and the involvement of national researchers on scientific research in general.
	65.	– Ensure the research programme’s objectives are based on EAF principles, which may include research on inter-species interactions, the impact of fishing on target and non-target stocks, the identification of spawning and nursery areas, areas of critical habitat, rates of bycatch and discards per fishery, the incidence and effect of pollution on fisheries, the status of ecosystem biodiversity, the social and economic dimensions (such as employment, food security), income distribution and other considerations.	X	X	X*	X	X*		
	66.	– Consider the findings of the EAF research in the adoption of conservation and management measures.	X	✓	X*	X	X*	(b1) Article 14(1)(c), 16(2)(b), 19(2)(b)	
		MCSE							
C.11 MCSE	67.	– Outline an observer scheme with details on the categories of vessels/fisheries that it applies to and the role that observers play (which may be tailored to the category of vessel or the type of fishery and may be limited to the collection of catch/effort data and the collection of scientific samples, or may include the authority to register and/or report violation of management measures).	∅	∅	✓	N/A	N/A	(a1) Section 10(e) (b2) Articles 16(3)(j) and 21(2) (c8) Articles 46–52	Reference in (a1) refers to scientific observers and does not provide details on the observer scheme. Provision in (b2) cross-refer to the statute of fishing observers, which

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
									provides more details on the observer scheme.
68.	– Ensure observers have full access to all parts of the vessel and its equipment and to any place in the country where fish that have been caught in national waters are uploaded, processed, stored or transshipped.		X	∅	✓	N/A	N/A	(b2) Articles 16(3)(j) and 21(2) (c8) Articles 48-52	Provision in (b2) cross-refer to the statute of fishing observers, which provides more details on the observer scheme.
69.	– Design the scheme in line with regional or international requirements, taking into account relevant regional observer programs.		X	X	X	N/A	N/A		
70.	– Ensure VMS is required for vessels licensed to fish in national waters and ABNJ, detailing specific categories of fishing vessels and/or fisheries to which it applies.		∅	∅	X	N/A	N/A	(A2) Pages 23 and 51 (b2) Article 43(3)	Provisions in (A2) foresees the future adoption of VMS to be connected with a regional system but does not specify its coverage and (b2) cross-refers to regulation to provide further details on VMS.
71.	– Ensure reporting of catch and effort data, clearly identifying the vessels that are expected to report (at least all commercial fishing vessels that fish within national waters and all nationally-flagged vessels authorized to fish within waters under national jurisdiction and in ABNJ), to whom they are required to report (the designated authority), the frequency and timing of their reports, and the method or format in which they are required to report (e.g. weight of fish caught, including percentage of		X	∅	✓	N/A	N/A	(B1) Article 12 (b2) Article 14(1)(c) (c4) Article 11 (c8) Article 45	Provisions in (b1) cross refers to an Order of the Minister the conditions and the measures for catch control and in (b2) concerns reporting

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
	bycatch, species, dates of fishing, fishing zones, gear/methods employed, type of vessel, time of departure from national waters and catch status at that time).							obligations under fishing access agreements.
72.	– Ensure the establishment and maintenance of a record of fishing vessels licensed to fish in waters under national jurisdiction and nationally flagged vessels authorised to fish in ABNJ with the designation of the authority responsible for its maintenance and information to be recorded for each category of vessel.	X	∅	✓	N/A	N/A	(b2) Article 12 (1) (c8) Article 53	Provision in (b2) concerns registration for fishing in areas under national jurisdiction, but not ABNJ.
73.	– Ensure the records of industrial fishing vessels include the name of the vessel, the flag state and any previous flag states, the radio call sign, the International Maritime Organization (IMO) number, the automatic identification system (AIS) and the VMS, if relevant the vessel length and tonnage, if relevant the fishing methods and gear used, the name and nationality of operator and beneficial owners of the vessel, and any transgressions of fisheries legislation associated with the vessel.	X	∅	∅	N/A	N/A	(b2) Article 12 (3) (c8) Article 53	Provisions in (b2) and (c8) do not include all the detailed information required to be registered.
74.	– Broadly detail the registration process and ensure registration of all fishing vessels with the relevant fisheries or maritime authority, including information on the name of vessel, the flag state and any previous flag states, the radio call sign, if relevant the IMO number, the AIS and VMS, if relevant the vessel length and tonnage, the name and nationality of the beneficial owners of the vessel, and any transgressions of fisheries legislation associated with the vessel.	X	∅	∅	N/A	N/A	(b2) Article 12(2) (c8) Article 53	Provisions in (b2) and (c8) do not include all the detailed information required to be registered.
75.	– Detail the specifications for marking vessels and fishing gear in accordance with internationally approved standards.	X	∅	∅	N/A	N/A	(b2) Articles 29–30 (c5) Articles 15–16 (c8) Article 55–56	Provisions in (b2) and (c5) cross-refer to regulation to provide further details on the marking of fishing

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
								vessels and gears and (c8) does not provide for the marking of fishing gear.
	76. – Ensure cooperation and coordination between fisheries and maritime authorities throughout the registration process.	X	X	X	N/A	N/A		
	77. – Ensure authorized officers have enforcement powers, allowing them to board and search vessels (at sea and in port) and other premises related with fishing, to examine logbooks, records, gear and catch, to investigate and collect evidence, to seize fish, gear and vessels, and to interrogate, detain and arrest persons associated with reasonably suspected violations.	X	✓	✓	N/A	N/A	(b2) Articles 46–48 (c5) Articles 38–39	
	78. – Ensure the controls placed on landing and transshipping of fish, both at sea and in port, and by national and foreign vessels, is in accordance with regional and international instruments.	X	✓	✓	N/A	N/A	(b2) Article 35 (c1) Articles 6, 11 (c2) Entire order (c3) Entire regulation (c4) Article 10 (c5) Article 35 (c7) Paragraphs 1–5 (c8) Article 12	
	79. – Provide additional VMS specifications and specific details on the registration process.	X*	∅	X	N/A	N/A	(b2) Article 43(3)	Provision in (b2) cross-refers to regulation to provide further details on VMS.
	Enforcement processes and sanctions scheme							

Perceived level of alignment with the EAF legal requirement

full
 partial
 none
 not assessed
 N/A not applicable
 * optional

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
C.12 Offences, penalties and administrative and judicial processes	80.	– Detail the fisheries-related offences (civil or criminal) and corresponding penalties, weighted depending on the level of severity of the offence but outlined in a way that maintains their strength over time (e.g. utilize formulas such as a percentage of the total market value of the sale of the illegal catch, or penalty units).	X	✓	✓	✓	X	(b2) Articles 63–73 (c5) Articles 42–54 (c6) Articles 62–66 (c8) Articles 64–65 (d2) Articles 46–49	
	81.	– Establish transparent and equitable administrative processes for determining and confirming offences, applying relevant penalties, with provision for compounding of offences/out-of-court settlement.	X	✓	✓	✓	✓	(b2) Articles 77–78 (c5) Articles 55–56 (c6) Articles 67–78 (c8) Article 66 (d2) Articles 44–50 (d3) Article 51 (e1) Articles 28–31 (e2) Articles 22–25 (e3) Articles 26–29 (e4) Articles 16–19 (e6) Articles 13–14	
	82.	– Establish judicial processes used for determining and confirming offences and applying relevant penalties to the offending parties, allowing for a right of appeal.	X	✓	✓	✓	✓	(b2) Articles 77–78 (c5) Articles 55–56 (d3) Articles 49–51 (e1) Articles 33 and 34 (e2) Articles 27 and 28 (e3) Articles 31 and 32 (e4) Articles 21 and 22 (e6) Article 15	

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

For more information:

The EAF-Nansen Programme

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