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Legal report on the ecosystem approach to fisheries in Namibia

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

FAO EAF-Nansen Programme Report No. 64
EAF-N/PR/64 (En)



PROGRAMME REPORT

THE EAF-NANSEN PROGRAMME

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

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

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Legal report on the ecosystem approach to fisheries

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

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 Namibia 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 Namibia's policies and legislation relevant to the fisheries and other relevant sectors of the country (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 Ministry of Fisheries and Marine Resources (MFMR) officials in Namibia. The report was drafted in July 2021, and was submitted to the MFMR in October 2021 for revision. Based on the information provided by MFMR officials the report was revised and resubmitted in May and in October 2022. The Ministry of Fisheries and Marine Resources of Namibia endorsed this EAF Legal Report of Namibia in February 2023.

Contents

Acknowledgements	vii
Abbreviations and acronyms	viii
1. Introduction: legislating for the ecosystem approach to fisheries	1
1.1 A diagnostic tool for implementing the ecosystem approach to fisheries through national policy and legal frameworks	1
1.2 International legally binding instruments and non-legally binding instruments relevant to an ecosystem approach to fisheries	1
2. Legal report on the ecosystem approach to fisheries: assessing a country's policy and legal framework	3
2.1 Methodology and scope	3
2.1.1 Selection and collection of national policy and legal instruments of Namibia	3
2.1.2 Desk-based stepwise assessment of selected national policy and legal instruments	4
2.1.3 Filling in the Ecosystem Approach to Fisheries Legal Checklist of Namibia	4
2.1.4 Additional observations	5
2.1.5 EAF Legal Questionnaire of Namibia	6
2.2 Overview and main findings	6
2.2.1 Fisheries policy	6
2.2.2 Fisheries primary legislation	9
2.2.3 Fisheries secondary legislation	10
2.2.4 Other sectors primary legislation	11
2.2.5 Other sectors secondary legislation	13
2.2.6 Additional relevant information from the National EAF-Focal Point	13
3. Conclusion	15
3.1 Main gaps in the assessed policy and legal instruments	15
3.2 Level of alignment of the assessed policy and legal instruments with an ecosystem approach to fisheries	16
3.3 Final considerations and proposed way forward	16
4. References	18
Appendix A. List of national policy and legal instruments assessed in this report	19
Appendix B. Ecosystem Approach to Fisheries Legal Checklist applied against selected national policy and legal instruments	20

Tables

Table 1.	Status of Namibia in selected international legally binding instruments relevant to an EAF.....	2
Table 2.	Summary of the stepwise assessment.....	4
Table 3.	Meaning of the symbols used in the Ecosystem Approach to Fisheries Legal Checklist.....	5
Table 4.	Criteria for determining the level of alignment of assessed instruments with an EAF	16

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

Abbreviations and acronyms

ALC	automatic locator communicator
EAF	ecosystem approach to fisheries
EIA	environmental impact assessment
FAO	Food and Agriculture Organization of the United Nations
FMP	fishery management plan
FOA	Fisheries Observer Agency
IMO	International Maritime Organization
IUU	illegal, unreported and unregulated (fishing)
MCS	monitoring, control, surveillance
MCSE	monitoring, control, surveillance and enforcement
MFMR	Ministry of Fisheries and Marine Resources
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 an EAF, and/or amending the existing ones so that they are appropriately aligned with an EAF.

FAO's initiative to promote legislating for an EAF has been undertaken through the development of studies, guidance materials and tools (Skonhoft, 2011; FAO, n.d-b; FAO, 2016; FAO, 2021a, 2021b, 2021c, 2021d, 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 an EAF through national policy and legal frameworks, published in 2021, is [A diagnostic tool for implementing an ecosystem approach to fisheries through national policy and legal frameworks](#) (hereafter referred to as “EAF Legal Diagnostic Tool” [FAO, 2021a, 2021c]). This tool, which constitutes the basis for the development of the present report, provides important information about the EAF and should be read together with this report. Such relevant information includes a non-exhaustive list of international legal instruments that support an EAF (Appendix A of the EAF Legal Diagnostic Tool), and a non-exhaustive list of examples of selected national policy and legal instruments relevant for an EAF (Appendix B of the EAF Legal Diagnostic Tool).

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

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

There are several international legally binding and non-legally binding instruments that provide for 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 Namibia 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 Namibia 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)	Party
1995 United Nations Agreement for the Implementation of the Provisions of the LOSC relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks	Party
2009 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (Port State Measures Agreement)	Party

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

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

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

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

This section is divided into two subsections. Subsection 2.1 describes the methodology and scope, including the selection of the national policy and legal instruments relevant for an EAF and the assessment of the EAF legal requirements in such instruments by filling in the EAF Legal Checklist using the symbols under Table 3 below. Subsection 2.2 provides an overview of main findings, highlighting some specific parts of the policy instruments and legal provisions identified as good practice in legislating for or addressing an EAF, and summarizes the information provided by Namibia 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 Ministry of Fisheries and Marine Resources of Namibia (hereinafter referred to as “National EAF-Focal Point”) was contacted and provided additional information concerning the implementation of the EAF at national level, which has been included in this report.

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

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

The main source for the selection and collection of national policies and legal instruments was FAOLEX (FAO, n.d-b) which, besides the Constitutions of countries, provides a vast electronic repository of national policy and legal instruments on fisheries and other sectors relevant for an EAF, including on environment, sea, water, and wild species and ecosystems.¹

Additional relevant information was provided by the National EAF-Focal Point, which, together with the relevant information for the EAF available at FAOLEX in December 2022, is listed

¹ Notwithstanding the importance of certain cross-sectoral issues such as gender and climate change, these were not considered in this report.

under **Appendix A** and 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.

Table 2. Summary of the Stepwise Assessment		
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 Namibia

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 Namibia (FAO, 2021, Subsection 3.2). In filling it in, priority was given to assessing the EAF legal requirements in the fisheries policies

and primary/secondary legislation. In this process, the different symbols presented in Table 3 below were used.

Table 3. Meaning of the Symbols Used in the Ecosystem Approach to Fisheries Legal Checklist		
Symbol	Perceived level of alignment with the EAF legal requirement	
✓	Full or sufficient	Part(s) in the assessed fisheries policy or provision(s) in the assessed legislation <u>totally incorporates</u> the EAF legal requirement.
Ø	Partial or insufficient	Part(s) in the assessed policy or provision(s) in the assessed legislation <u>partially incorporates</u> the EAF legal requirement. <i>Note: A more in-depth analysis will be required to understand how EAF legal requirements filled in with the Ø symbol could be fully incorporated in legal and policy instruments or reflect potential contradictions between one legal and/or policy instrument and another. Such analysis goes beyond the scope of this desk-based preliminary assessment.</i>
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 Namibia.

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 Namibia Constitution of 1990, as last amended in 2014, were considered particularly relevant in incorporating the EAF legal requirements. These parts and legal provisions which, without prejudice to others that may also be relevant, were considered good examples of addressing an EAF (in the case of a policy instrument) or legislating for an EAF (in the case of a legal instrument), have been highlighted in the main findings under subsection 2.2 below as good practice in legislating for an EAF.

2.1.5 EAF Legal Questionnaire of Namibia

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 **Namibia** presented under **Appendix B** and a summary of the additional relevant information provided under the EAF Legal Questionnaire of Namibia.

2.2.1 Fisheries policy

The assessed six fisheries policies correspond to A1 to A6 in Appendix A. They cover **45** of the 82 EAF legal requirements.

These policies follow Namibia's Constitution of 1990, as last amended in 2014, which provides for the duty of the State to actively promote and maintain the welfare of the people by adopting, *inter alia*, policies aimed at maintaining ecosystems, essential ecological processes and biodiversity of Namibia, and the utilization of living natural resources on a sustainable basis for the benefit of the present and future generations (Article 95[I]).

The main fisheries policy is the *Namibia's Marine Resources Policy: Towards Responsible Development and Management of the Marine Resources Sector of 2004*, which is based on principles of sustainable development, the precautionary principle and broad participation to access resources on an equitable basis (Chapter 5[5.1]). This policy guides the government towards the maintenance of the fisheries management system comprising of fishing rights, setting annual total allowable catch (TAC) and allocation of quotas to right holders. The constant review of the quota levy, rebate system and regulatory measures by the government is meant to provide participants in the sector with stability for their planning and investment activities (Chapter 3[3.4]). Another important feature is the monitoring, control and surveillance (MCS) system regarding which the Policy sets the objective of monitoring and controlling the 1 500 km coastline, including all landing points and fishing activities at sea (Chapter 4[4.2]). The MCS capabilities are supplemented by the Fisheries Observer Agency (FOA) to provide fisheries observer coverage on board each licensed fishing vessel within and beyond areas under Namibia's jurisdiction. A vessel monitoring system (VMS) is in place to improve real time monitoring of the vessels' movements and activities and to assist in compliance and curbing illegal, unreported and unregulated (IUU) fishing (Chapter 4[4.2]).

Also, of relevance for an EAF are the strategies of this policy, which include establishing effective channels of communication between all marine resources stakeholders; facilitating regular dissemination of information on matters relevant to the marine resources sector; and

establishing working groups with both public and private sectors to facilitate cost effective collaboration in fisheries resources research and management (Chapter 6[6.1.1]). Another strategy provides for the responsibility of the ministry in charge of fisheries to undertake fisheries and environmental research to provide advice and information on the resources, their spatial and temporal distribution, catchability, appropriateness of fishing gear and vessels, building capability for advising on and recommending fisheries management measures, including total allowable catches (Chapter 6[6.1.3]). That ministry is also mandated to ensure that policies and strategies for the marine resources sector are harmonized with and complement those applied to the inland fisheries resources and aquaculture sector (Chapter 6[6.1.3]). This policy takes full account of an EAF, promoting the development and implementation of an EAF, including multi stock management with stock interdependence and shared and straddling stocks; implementing management measures to reduce incidental bycatch species in all fisheries as well as measures to constrain marine pollution (Chapter 6[6.2.1]). Cooperation with foreign interests on a mutually beneficial basis is also part of this Policy (Chapter 6[6.3.5]) as well as ensuring that socioeconomic benefits accruing through marine resource utilization are widely distributed to people of Namibia (Chapter 6[6.4.1]). The implementation of this policy is to be guided by the relevant provisions of the regional and international instruments to which Namibia is a Party (Chapter 5[5.4]).

The *Namibia's Second National Biodiversity Strategy and Action Plan 2013–2022* has five key strategic goals, including reducing the direct pressures on biodiversity and promoting the sustainable use of biological resources, improving the status of biodiversity by safeguarding ecosystems, species and genetic diversity, and enhancing the implementation of the Plan through participatory planning, knowledge management and capacity building (Chapter 3[3.1]). The strategic goals include various EAF relevant objectives such as the integration of biodiversity consideration into national, regional, local and sectoral policies, plans, strategies and budgets (Chapter 4[4.1]), ensuring that all living marine resources are conserved and utilized sustainably guided by the EAF (Chapter 4[4.2]), and that all protected areas are managed using participatory and science-based site planning processes that incorporate biodiversity objectives, management strategies and monitoring programmes (Chapter 4[4.3]).

The *Ministry of Agriculture, Water and Forestry Strategic Plan of 2017/18–2021/22* includes, within its core values, the provision of information about public services in a prompt straightforward and open manner that is readily understandable, ensuring transparency and regular consultation and communication with service users and taking their views and priorities into account, and transparency which requires public scrutiny in all actions taken in public office (Page 6). Major issues of strategic importance comprise the development of participatory research projects for efficient information and knowledge management; and promotion of integrated environmental management to ensure sustainable use and management of agriculture, water and forestry resources (Page 8).

The *National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (NPOA-IUU) of 2007* reinforces the MCSE related requirements as provided by the Marine Fisheries Resources Act, prioritising, *inter alia*, the following measures: enhancing fisheries observer programme, continuing inspection and monitoring of

all landing at ports, full implementation of a national VMS, and improving liaison with the FOA and vessel registration unit under the Ministry of Works, Transport and Communication (Part B, Chapter 2[2.2.7]). The NPOA-IUU also calls for coordination and cooperation between Namibia and other States with regard to various issues, including the harmonisation of policy and legal measures for combating IUU fishing and harmonisation of the relevant national fisheries observer programmes (Part B, Chapter 2[2.3]). Registration of all fishing vessels in the register maintained by the Directorate of Maritime Affairs at the Ministry of Works Transport and Communications is required under the NPOA-IUU as well, as the duty to keep such registration fully updated with regard to vessels specifications and ownership and to coordinate with the Ship's Registry Office to prevent and deter IUU fishing (Part B, Chapter 3[3.1.1] and [3.1.3]).

The *Namibia Vision 2030 – Policy Framework for Long-Term National Development of 2004* is based on the idea of operating an adaptive, dynamic system or process that can continuously improve, involving a full partnership between State and society for sustainable development, sharing of results and opportunities, transparent negotiations, cooperation and integrated planning within and between sectors and institutions (Chapter 2[2.13]). Under the broader vision there are sub-visions particularly relevant for an EAF such as those aimed at Namibia's freshwater resources to be kept free of pollution and used to ensure social wellbeing, support economic development and maintain natural habitats; the significant contribution of Namibia's marine species and habitats to the economy without threatening biodiversity or the functioning of natural ecosystems in a dynamic external environment (Chapter 5). The strategies under this sub-vision include setting TACs at conservative levels to promote the sustainability of resources and enhance the recovery of depleted stocks, including shared stocks; adopting and implementing well researched integrated coastal zone management plans for reducing conflicts of interests and ensuring coordination and cooperation between many stakeholders involved in coastal development (Chapter 5[5.2.4]).

The *Namibia's Aquaculture Strategic Plan of 2003* aims to provide guidance on the regulatory framework, business climate, public acceptability, and strategies to ensure training, research, marketing and infrastructure development. The Plan presents specific recommendations relevant for an EAF namely on environmental matters, education and training as well as research and development. These include: encouraging local communities and municipalities to develop land use and aquatic resource management plans and other coastal resource related managements plans and integration of collected data in a national aquaculture data base to be administrated by the Directorate of Aquaculture (Chapter 4.3 [4.3.2]); funding for aquaculture training, education, and extension at secondary, vocational, and college levels and developing public relations campaigns designed to enlighten citizens about aquaculture and its importance and benefits to the industry (Chapter 4.4[4.4.2]); and studying and mitigating the impacts that aquaculture may have on the daily lives of communities specially those depending on subsistence fishery (Chapter 4.5[4.5.2]).

2.2.2 Fisheries primary legislation

The assessed three fisheries primary legislation correspond to B1 and B3 in Appendix A. They cover **33** of the 82 EAF legal requirements.

The *Marine Resources Act of 2000*, as amended in 2015 (hereinafter referred to as “*Marine Resources Act*”) has some relevant provisions aligned with an EAF. It details relevant rules on MCSE, including the designation and powers of fisheries inspectors, the possibility of the minister in charge of fisheries to designate any staff member within the ministry to be a fisheries inspector to exercise prescribed functions (Sections 4 and 5) and to designate honorary fisheries inspectors (Section 6), the appointment of fisheries observers and the establishment and functions of the FOA (Sections 7–9). The Marine Resources Advisory Council is established, composed by, *inter alia*, five persons fairly representing the fishing industry or employees in the fishing industry (Section 25[1]). Pre-requisites for commercial harvesting includes obtaining a right, an exploratory right or a fisheries agreement (Section 32) and the Minister is required to, when considering an application for such a right, have regard to, among others: the conditions of persons in Namibia who have been socially, economically or educationally disadvantaged by discriminatory laws or practices, regional development within Namibia, cooperation with other countries and the conservation and economic development of marine resources, socioeconomic concerns and the contribution of marine resources to food security (Section 33[4][e]–[k]).

The *Marine Resources Act* also empowers the Minister to require the applicant of an exploratory right to carry out or cause to be carry out environmental impact studies as necessary (Section 34[3]). It also provides for the adoption, by notice in the Gazette, of TACs from time to time by the minister based on best scientific evidence available and upon advice of the Marine Resources Advisory Council (Section 38) and establishes a broad licensing scheme for fishing vessels managed by the Minister (Sections 40–44). A Marine Resources Fund is regulated by the *Marine Resources Act*, allowing the Minister to utilize the moneys for research, development, training and education relating to marine resources (Section 45). The act also establishes the Fisheries Observers Fund to finance the activities of the FOA (Section 46). It further provides requirements on transshipping and landing as well as the protection or regeneration of marine resources through the establishment of marine reserves by the Minister after consultation with interested persons (Section 51). This act also establishes offences and the correspondent sanction schemes and determines the judicial proceedings (Sections 52–60).

The *Inland Fisheries Resources Act of 2003* (hereinafter referred to as “*Inland Fisheries Act*”) requires the Minister to formulate, on a regular basis, the conservation and utilization of inland fisheries resources policy, based on economic, social and environmental factors and the best scientific information available, with a view to manage, protect and conserve inland aquatic ecosystems; promote, sustainably use and protect inland fisheries resources; and promote cooperation with other countries for research, management and development of shared resources (Section 2[1]). The Minister is required to consult with the regional council and any local authority councils or traditional authorities when determining that policy

(Section 2[2]), and to promote sustainable harvesting, management, conservation and protection arrangements for freshwater fish and their ecosystems in accordance with international law, agreements and arrangements (Section 2[3]).

The Inland Fisheries Act also provides for a broad fishing licensing scheme for fishing in inland waters (Sections 11–15) and requires the marking of fishing nets according to prescribed requirements (Section 16). Restriction on fishing gears, prohibited methods and spatial controls are provided by this act (Sections 17–18) which also establishes requirements for introducing or causing to introduce, from one water system to another, any species of fish (Section 19). The construction of a dam, or erection or installation of any structure in a river or stream requires permission granted by the competent authority after consultation with the minister (Section 20). The Inland Fisheries Act requires the minister to consult with the regional council, local authority council or traditional authority concerned when declaring an area of inland waters as a fisheries reserve for, *inter alia*, protecting, preserving or rehabilitating the natural environment of fish, related ecosystems which are essential to maintaining the integrity of an ecosystem, species or assemblages of species, promoting the regeneration of fish stocks (Section 22[1]).

The *Aquaculture Act of 2002* also has some relevant provisions for an EAF. The minister is required to, on a regular basis and in consultation with the Aquaculture Advisory Council, established under Section 3, formulate the aquaculture policy based on economic, social and environmental factors and the best scientific information available, with a view to, *inter alia*: manage, protect and conserve marine and inland aquatic ecosystems (Section 2[1]). The Aquaculture Advisory Council is composed of representatives from the Ministry, Association of Regional Councils, Association of Local Authorities, Council of Traditional Leaders, as well as persons with knowledge in matters relating to aquaculture, fisheries and ecosystems (Section 4[1]). The minister is required to, for aquaculture purposes, cause to establish and maintain a water quality monitoring system to provide timely information to licensees of the occurrence or imminent occurrence of any pollution or natural phenomenon that may have a harmful or detrimental effect on the aquatic environment (Section 26[1]).

2.2.3 Fisheries secondary legislation

The assessed seven fisheries secondary legislation corresponds to C1 to C7. They cover **24** of the 82 EAF legal requirements.

The *Marine Resources Act* is regulated by the *Regulations Relating to the Exploitation of Marine Resources of 2001*, as amended in 2018 (hereinafter referred to as “*Marine Fisheries Regulations*”) and other four regulations concerning respectively the inspection of register, the marine protected area, the licensing of foreign flag vessels, and vessel monitoring. The *Marine Fisheries Regulations* provide detailed rules on marine fisheries management. Relevant additional catch controls are provided therein such as daily bag limits, prohibiting a person, for recreational purposes, in one day to harvest more than 30 fish of the species barbell, 20 fish of the species snoek and one shark (Regulation 8[1]). Spatial control provisions include prohibition on the harvesting of marine resources for recreational purposes within a

distance of two nautical miles seaward from the high-water line in specified areas (Regulation 10[1]). The use of fishing gear in the harvest of marine resources for commercial purposes requires authorisation by a right, exploratory right, quota or licence (Regulation 12[1]). Trawling is subject to authorisation from the Permanent Secretary (Section 14). Provisions regarding conservation measures include general prohibitions, with exceptions, the prohibition of harvesting any species of marine mammal or any species of marine turtle (Regulation 18[1][a]), on entering or remaining in any marine reserves declared by the minister (Regulation 22) and on abandonment of fishing gear or any other non-biodegradable object used for harvesting marine resources on or in the sea or on the seashore (Regulation 23[1]).

In relation to the other four regulations, it is worth noting the *Regulation on vessel monitoring of 2005* which requires any licensed fishing vessels pursuant to Section 40(1) of the *Marine Resources Act* to have an automatic locator communicator (ALC) installed on board (Regulation 2) and the respective requirements and approval of the ALC (Regulation 3) as well as the duties of the master of the vessel, including in case of a defective ALC (Regulation 4). It also provides for the establishment of a Fisheries Monitoring Centre to receive and record information transmitted by the ALC (Regulation 5) which may treat as confidential all the information received and recorded (Regulation 6). The *Regulation on licensing of foreign flag vessels for the purpose of harvesting Namibia's share of marine resources* which applies to any person who intends to use or uses a foreign flag vessel to harvest Namibia's share of marine resource in the ICCAT Convention area (Regulation 2). And the *Regulations Relating to Namibian Islands Marine Protected Areas of 2012 (NIMPA)* which delineates the specific boundaries of such protected areas (Regulations 2–4), provides various prohibition on the use of fishing gears in certain areas (Regulations 5–12), and regulates prospecting and mining in specified areas (e.g. Regulations 15[1][3][c]).

The Inland Fisheries Act is regulated by the *Inland Fisheries Resources Regulations of 2003*, as amended in 2004, which provide rules on: registration of nets (Regulations 2–13); prohibitions on certain methods of fishing, including bashing and use of hydroelectricity (Regulations 15 and 21); fishing gear restrictions (Regulations 17–20); prohibited fishing areas and closed seasons (Regulations 21–23); and details the offences and respective sanctions (Regulation 42).

The Aquaculture Act is regulated by the *Aquaculture Licensing Regulations of 2003*, which provides rules for, *inter alia*, the application procedure for aquaculture licenses and the maintenance of the respective records and registration (Regulations 3–8) as well as requirements on discharge of waste and introduction of species (Regulations 20–21). Offences and sanctions are established under Regulation 22.

2.2.4 Other sectors primary legislation

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

EAF related principles and objectives are addressed by the *Environmental Management Act of 2007*. The objectives of this act include ensuring opportunities for timeous participation of interested and affected parties throughout the assessment process and that the findings of such assessments are taken into account before any decision is made in respect of activities that have a significant effect on the environment (Section 2). The principles include fostering the participation of all interested and affected parties whose interest, needs and values must be taken into account in decision-making and the promotion of sustainable development in all aspects relating to the environment, ensuring the protection of biological diversity for the benefit of present and future generations (Section 3[2][c][f][g]). Another relevant provision of this act is the establishment of the Sustainable Development Advisory Council, responsible for *inter alia* promoting cooperation and coordination between organs of state, NGOs, community-based organisations, private sector and funding agencies, on environmental issues relating to sustainable development (Section 7[a]). The coordination and harmonization of environmental policies, plans, programmes and decisions of the various organs of state are within the objects of the environmental plans provided therein (Section 23[a]). Procedures for obtaining an environmental clearance certificate and the need to produce an EIA for activities with potential significant effect on the environment are also provided by this Act (Sections 27–42).

The *Access to Biological and Genetic Resources and Associated Traditional Knowledge Act of 2017* aims to providing for the conservation, evaluation and sustainable use of biological and genetic resources and associated traditional knowledge to, *inter alia*, maintain and improve their diversity as a means of sustaining life support systems; and ensure the effective participation of concerned local communities, with a particular focus on women, in making decisions on the distribution of benefits arising from the use of their biological and genetic resources and associated traditional knowledge (Section 2). The Biological and Genetic Resources and Associated Traditional Knowledge Office, to be designated by the minister, is empowered to, *inter alia*, promote, building and developing technological capacity of national and grassroots level on scientific capabilities in the fields of conservation and sustainable use of biological and genetic resources and associated traditional knowledge (Section 6[1] and [3][j]). The monies of the Environmental Investment Fund, created under section 2 of the Environmental Investment Fund of Namibia Act, 2001, are devoted to creating awareness about and providing training and education in the field of biological and genetic resources and associated traditional knowledge (Section 7[2]).

The *Water Resources Management Act of 2013*, also contains relevant provisions for an EAF. It aims to ensure that the national water resources, including the sea, are managed, developed, used, conserved and protected in a manner consistent with fundamental principles, many of which are aligned with an EAF. For example, the harmonisation of human water needs with the water requirements of environmental ecosystems and the species that depend on them, recognizing that the water resource quality for those ecosystems must be maintained, and the availability of open and transparent information on water resources to the public (Section 3[c][e]). This act also requires the minister to participate with neighbouring and other riparian States in the establishment, development and maintenance of a common database system on information for the protection, sustainable use and management of

internationally shared water resources, and to establish or negotiate the revision of mechanisms for the management, prevention and resolution of disputes relating to internationally shared water resources (Section 28). This act also subjects the minister responsible for water affairs to the obligation of preparing an Integrated Water Resources Management Plan, which shall include, *inter alia*, provision for the protection of water resources and resource quality (Section 32[1][c]) and is subject to review at any time by the minister and mandatorily at the end of ten years following the approval of the plan by the cabinet (Section 34[1][3]).

The regulation of extractive activities which may impact on fisheries is, in turn, provided by the *Minerals (Prospective and Mining) Act of 1992*, and the *Petroleum (Exploration and Production) Act of 1991*, as amended, and the *Marine Traffic Act of 1981*, as amended. There are also important provisions on the *Merchant Shipping Act of 1951*, as amended, with respect to the registration of fishing vessels (Sections 10–37).

2.2.5 Other sectors secondary legislation

The other sectors secondary legislation corresponds to E1 to E3 in Appendix A.

The *Environment Impact Assessment Regulations of 2011* apply to the activities listed in the Government Notice No. 29 of 2012 that require an environmental clearance certificate and include aquaculture activities, providing details on the process for obtaining such certificate (Regulation 2). It outlines the duties of the proponent (Regulation 3), the requirements and the process for application for an environmental clearance certificate (Regulations 6-9), the requirements and information necessary for the assessment report (Regulation 15), and the notifications on public hearings (Regulations 17, 21 and 36). In this respect, it requires that the person conducting the public consultation process give notice to all potential and affected parties of the application subject to such consultation through various means, including fixing a notice board at a place conspicuous to the public at the boundary or on the fence of the site where the activity to which the application relates is, or is to be undertaken, or giving written notice to relevant people with interest in or affected by the project (Regulation 21[2][a][b]). Opportunity for submitting comments of the interested and affected parties is ensured and such comments are recorded in the reports (Regulation 24).

The *Nature Conservation Ordinance of 1975*, as last amended in 2017, empowers the competent minister to grant concessions authorizing other persons to provide services related to the conducting of tourism or the use of wildlife resources, on behalf of the State, in protected areas or other areas of State land, with a view to enhance the conservation of biodiversity and maintenance of ecological integrity of protected areas (Section 17[3][5]).

2.2.6 Additional relevant information from the National EAF-Focal Point

Namibia is committed to the sustainable management of shared and straddling fish stocks, being a party to the Benguela Current Convention, and the Convention on the Conservation and Management of Fisheries Resources in the South East Atlantic Ocean (SEAFO).

In Namibia, the fisheries sector interacts with the following sectors: mine and energy (Ministry of Mines and Energy), tourism (Ministry of Environment, Forestry and Tourism), transport (Ministry of Works and Transport, Directorate of Maritime Affairs), agriculture (Ministry of Agriculture, Water and Land Reform) and urban and rural development (Ministry of Urban and Rural Development). Inter-sectoral activities carried out between the fisheries sector and these other sectors include: seabed mining and exploration activities, which require the undertaking of an EIA and interaction with the Ministry of Mines and Energy, Ministry of Environment and Tourism; sport fishing by tourists (catch and release), also concerning interactions with the Ministry of Environment and Tourism; pollution from fishing and registration of vessels, which require interaction with the Ministry of Works and Transport; and coastal development issues, which concerns interactions with the Ministry of Urban and Rural Development and the Ministry of Environment and Tourism.

The following Committees at technical and Cabinet level meet on a quarterly basis, or when the need arises, to deal with cross cutting issues: the National Inter-Sectoral Committee on Ocean Governance (NISCOG), which was established to promote communication, collaboration and cooperation between key Benguela Current Commission (BCC) sector ministries; the Technical Committee on Blue Economy, established to develop the Namibian Blue Economy Policy; the National Marine Spatial Planning Working Group (MSP-NWG), established to develop Marine Spatial Plans and MSP Framework; and the Cabinet Committee on Trade and Economic Development (CCTED).

The main activities carried out in Namibia that reflect the implementation of an EAF are: annual surveys and research projects to determine TAC, environmental research to monitor the state of the ecosystems, research projects on seabirds and collection of data, such as by-catch and diet to determine ecosystem interactions and the Namibian Management Plan for the Hake Fishery 2014–2018, under review, as well as the declaration of fishing reserves in rivers.

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 Namibia identified under **Appendix A**. This subsection summarizes the main gaps from the desk-based preliminary assessment without prejudice to others that may be identified in a comprehensive analysis of the national policy and legal frameworks at country level.

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

The results obtained in this Report indicate a fairly satisfactory alignment of the policy and legal frameworks of Namibia with an EAF. Namibia has sector policies and primary and secondary legislation on marine resources, inland fisheries, and aquaculture. Yet, some key EAF legal requirements have not been found in the assessed instruments.

The assessed policy and legal instruments did not provide for the parameters for decision-making in the management of conflict over fisheries nor its associated review processes, lacking alignment with EAF Component 7. The comprehensive regulation of TACs could be improved with provisions on monitoring the catch in real-time, as required under EAF Component 9. Other aspects of this component that require review is the provision of effort controls, specific details on fishing license scheme and stakeholder and institutional consultation in the process of defining spatial and temporal controls.

While the FMP for hake fishery is being reviewed, the general requirements on FMP were not found in the assessed policy and legal instruments, which do not designate the authority with power to develop, approve, adopt and publicize an FMP, ensure that their measures comply with integrated management plans, detail the process for approval, adoption, publication and review of FMPs, considering multilevel and multisector collaboration and consultation, and list minimum requirements on FMPs, as required under EAF Component 10.

The assessed legislation and policies do not establish transparent and equitable administrative processes, which makes the EAF Component 12 not fully met. Certain requirements related to habitat and biodiversity conservation, including the designation and process for listing protected species, and provisions for restoration of damaged habitats and ecosystems were not found in any of the assessed policy and legal instruments, indicating an insufficient coverage of EAF Component 13. Also, there is lack of regulation of activities potentially

harmful to aquatic ecosystems, under EAF Component 15. The sanction scheme in place is judicial not including transparent and equitable administrative processes as required under Component 12.

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

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

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

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

3.3 Final considerations and proposed way forward

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

The incorporation in the national policy and legal frameworks of all the EAF relevant provisions from international legally binding instruments² to which Namibia is a Party, as identified under subsection 1.2 above, should be a priority in the improvement of the EAF implementation at the national level. The relevant EAF provisions from the international non-binding instruments that reflect principles of international law should also be incorporated in the national policy and legal frameworks.

With respect to the assessed policy and legal instruments, some gaps have been identified which should be addressed to ensure full implementation of an EAF in the country. The following subjects could benefit from a detailed review and update in the relevant policy and legal instruments: “institutional arrangements” (especially conflict management), “fisheries

² See Appendix A of the EAF Legal Diagnostic Tool.

management” (especially TACs and efforts control), “fisheries management plans”, “conservation measures” (especially process for listing protected species and restoration of ecosystems), “enforcement processes and sanction scheme” (with respect to administrative procedures).

The review of policy and legal instruments with respect to “fisheries management”, “fisheries management plans” and “enforcement processes and sanction scheme” could be led by the MFMR whereas others, such as “institutional arrangement” and “conservation measures” 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, policymakers and fisheries managers in taking the necessary steps for improving the EAF implementation in their country.

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

4. References

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

Identification	Instruments of NAMIBIA
A	Fisheries Policies
A1	2017/18–2021/22 Ministry of Fisheries and Marine Resources Strategic Plan
A2	2013 Namibia's Second National Biodiversity Strategy and Action Plan 2013–2022
A3	2007 National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
A4	2004 Namibia's Marine Resources Policy: Towards Responsible Development and Management of the Marine Resources Sector
A5	2004 Namibia Vision 2030 – Policy Framework for Long-Term National Development
A6	2003 Namibia's Aquaculture Strategic Plan
B	Fisheries Primary Legislation
B1	Act No. 1/2003 on Inland Fisheries Resources
B2	Act No. 18/2002 on Aquaculture
B3	Act No. 27/2000 on Marine Resources, as amended in 2015
C	Fisheries Secondary Legislation
c1	Government Notice No. 238/2015 on Regulations relating to inspection of register
c2	Government Notice No. 316/2012 on Regulations relating to the Namibian Islands' Marine Protected Area
c3	Government Notice No. 27/2006 on licensing of foreign flag vessels for the purpose of harvesting Namibia's share of marine resources
c4	Government Notice No. 65/2005 on vessel monitoring regulations, as amended in 2014
c5	Government Notice No. 245/2003 on aquaculture licensing regulations
c6	Government Notice No. 118/2003 on inland fisheries resources regulations, as amended in 2004
c7	Government Notice No. 241/2001 on Regulations relating to the exploitation of marine resources as amended in 2018
D	Other Sector's Primary Legislation
D1	Act No. 2/2017 on Access to Biological and Genetic Resources and Associated Traditional Knowledge
D2	Act No. 332/2013 Water Resources Management
D3	Act No. 7/2007 on Environmental Management
D4	Act No. 2/1994 on the Namibian Port Authority
D5	Act No. 33/1992 on Minerals (Prospecting and Mining)
D6	Act No. 2/1991 on Petroleum (Exploration & production), as amended in 1998
D7	Act No. 2 /1981 on Marine Traffic, as amended in 1983 and 1991
D8	Act No. 6/1981 on the Prevention and Combatting of Pollution of the Sea by Oil, as amended in 1985, 1987 and 1990
D9	Act No. 57/1951 on Merchant Shipping, as amended
E	Other Sector's Secondary Legislation Relevant for an EAF
E1	Government Notice No. 29/2012 on the List of activities that may not be undertaken without Environmental Clearance Certificate
E2	Government Notice No. 30/2011 on Environmental Impact Assessment Regulations
E3	Ordinance No. 4/1975 on Nature Conservation, as amended in 1990, 1996 and 2017

Perceived level of alignment with the EAF legal requirement

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

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

EAF components	EAF legal requirement		Fish. Policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
		Scope and definitions							
General guidelines	1.	– Clearly outline the geographic and substantive scope of the application.	✓	X	X	✓	X	(A2) Chapter 3 (D1) Sections 3 and 4	
		Principles and objectives							
C.1 EAF concepts C.3 Precautionary approach C.4 Stakeholder participation C.6 Integration of lower level authorities C.7 Conflict management and C.11, C.13, C.14 and C.17	2.	– Clearly define and apply the precautionary approach.	∅	X	•*	✓	•	(A4) Chapter 5(5.1[5]) (D3) Section 2(k)	Reference in (A4) lacks clear definition of the precautionary approach.
	3.	– Broaden stakeholder participation with integration of lower level authorities and bodies.	✓	X	•*	✓	•	(A1) Page 8 (A2) Chapter 3(3.1[5]) (A4) Chapter 5(5.1[6]) and 5.3) (A5) Chapter 2(2.12) (D1) Section 2(b)-(g) (D2) Section 3(a)(b) (D3) Sections 2(b) and 3(2)(b)(c)(i)	Note that in (B1) and (B2), the power is vested in the Minister and because these instruments do not follow a participatory approach their references are not relevant for this legal requirement.
	4.	– Ensure the right of access to fair and transparent information.	✓	∅	•*	✓	•	(A1) Page 6 (B2) Sections 24(2) and 48 (2) (D2) Section 3(e)	Provisions in (B2) allow any person to have access to the register of licenses for inspection purposes, upon payment of fees as

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		
									may be prescribed and require the Minister to make available every aquaculture code of practice
5.	– Promote institutional coordination, cooperation and integration.		✓	✓	•*	•	•	(A4) Chapter 6(6.1) (A5) Chapter 2(2.13) (A6) Chapter 4.3 (4.3.2) and Annex I (B1) Section 2(1)(c)	
6.	– Maintain ecological relationships among harvested, dependent and associated species.		✓	X	X*	X	X	(A4) Chapter 6(6.2.1)	
7.	– Promote sustainable development and avoid overexploitation of marine living resources.		✓	✓	•*	✓	•	(A2) Chapters 3(3.1(2)) and 4(4.2) (A4) Chapter 5(5.1(1), 5.2 and 5.3) (A5) Chapter 2(2.11) (B1) Section 2(1)(b) (B2) Section 2(1)(a) (B3) Title and Section 2 (D2) Section 3(d) (D3) Section 3(2)(a)(f)	
8.	– Preserve marine habitat, conserve and restore marine living resources and biodiversity.		✓	X	•*	✓	•	(A2) Chapter 3(3.1(1)-(3)) (D1) Section 2(a) (D3) Section 3(2)(g)	
9.	– Promote ecosystem well-being, including the human biotic and abiotic components.		✓	✓	•*	✓*	•*	(A2) Chapters 3(3.1(3)(4)) AND 4(4.2)	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. Policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
								(A4) Chapter 6(6.2.1) (B1) Section 2(1)(a) (B2) Section 2(1)(b) (D2) Section 3(c)	
	10.	– Promote adaptive management measures, including their regular monitoring and review.	✓	∅	•*	•*	•*	(A4) Chapter 6(6.2.1) (A5) Chapter 2(2.13) (B1) Section 2(1)	Provision in (B1) concerns the adoption on a regular basis of plans for inland fisheries resources.
	11.	– Harmonize management measures, including those for shared resources.	✓	✓	✓*	✓*	•*	(A2) Chapter 3(3.3.8) (A4) Chapters 5(5.4) and 6(6.1.3) (B1) Section 2(1)(c) (C3) Entire regulation (D2) Section 3(c)(d)(h)(j)	
	12.	– Reduce and manage conflict between users and stakeholders over fisheries resources and ecosystems.	✓	∅	•*	∅*	•*	(A2) Chapters 3(3.3) and 4(4.3) (A4) Chapter 6(6.1.1)(D2) Section 28(g)	Provision in (B3) empowers the Minister to make regulations prescribing rules for harvesting operations and measures aimed at preventing conflict between such operations. Provision in (D2) concerns mechanisms and revision of mechanisms for

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		
									disputes relating internationally shared water resources.
	13.	– Consider socioeconomic contexts (e.g. employment, livelihoods, equity, poverty, gender) when designing and implementing management measures.	✓	✓	●*	✓*	●*	(A1) Page 10 (A4) Chapters 5(5.1(3)(4) and 5.2), and 6(6.3.3, 6.3.4 and 6.4.1) (A5) Chapter 3(3.3) (B3) Section 33(4)(e)(j)(k) (D1) Section 2(i) (D2) Section 3(f)(g)	
	14.	– Promote management measures, designate the authority and outline the timeline and process for their monitoring and review.	✓	X	●*	✓*	●*	(A2) Chapter 6 (A4) Chapter 6(6.2.1) (D2) Section 34(1)	
	15.	– Provide for the establishment of MCSE measures.	✓	X	●*	●*	●*	(A4) Chapters 4(4.2) and 6(6.2.1)	
	16.	– Promote ecosystem-based research plans/priorities, designate the authority and outline the timeline and process for their monitoring and review.	✓	X	●*	●*	●*	(A1) Pages 13-18 (A2) Chapter 6 (A4) Chapter 6(6.1.2 and 6.2.1)	
	17.	– Promote the right of access to education and awareness raising on EAF.	∅	X	X*	∅*	●*	(A2) Chapter 4(4.1) (A4) Chapter 6(6.2.1) (D3) Section 48(e)	Reference in (A2) is focus on education and awareness raising on issues related to biodiversity. Reference in (D3) grants the Minister

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		
									with the power to introduce legislation in Parliament regarding education, awareness raising and capacity building to give effect to international environmental agreements to which Namibia is a Party. It does not refer specifically to EAF.
		Institutional arrangements							
C.2 Management boundaries and measures	18.	– Ensure new management boundaries, measures and plans are: (a) ecologically meaningful considering resource ranges, habitats and other ecological factors.	✓	✓	✓	●*	●*	(A2) Chapter 4(4.3.1) (B1) Section 22 (B3) Section 51 (C2) Regulations 2-4	
C.4 Stakeholder participation		(b) overlapped closely and are harmonized with well-established management boundaries and governance structures.	✓	✓	✓	●*	●*	(A2) Chapter 4(4.3.1) (B3) Section 51(1)(b)(2) (C2) Regulations 2-4	
C.5 Coordination, cooperation and integration	19.	– Promote states cooperation on the harmonization of management measures and plans (bilaterally, regionally and internationally).	✓	✓	●	✓*	●*	(A2) Chapter 3(3.3.8) (A4) Chapters 3(3.2 and 3.3) and 6(6.1.2 and 6.3.5) (B1) Section 2(2)(3) (D2) Sections 28 and 29	
C.7 Conflict management	20.	– Establish transparent and accessible mechanisms, bodies (including lower level authorities) or processes to:	✓	✓	∅	●*	●*	(A2) Chapter 4(4.2.2) (A4) Chapter 6(6.2.1)	Provision in (B3) lacks explicit reference to

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.8 Integrated management of aquatic ecosystems	(a)	support well-established management boundaries and governance structures on the basis of ecosystem considerations.						(b1) Section 22 (b3) Section 51 (c2) Regulations 2-4	ecosystems considerations. Provisions in (c2) lack details on the processes for establishing the protected areas
	(b)	outline conservation and management measures, including FMPs, at local and national levels.	✓	∅	●	●*	●*	(A4) Chapter 6(6.4.1) (b1) Section 2(2)	Provision in (b1) does not outline FMP at local nor national levels.
	(c)	facilitate coordination, cooperation and integration of management decisions, regulatory action, environmental policies, plans and programs.	✓	X	X	●*	●*	(A2) Chapter 3(3.3.5– 3.3.7) (A4) Chapter 6(6.1) (A6) Chapter 4.3 (4.3.2)	
	(d)	monitor, assess and align the various environmental policies and plans.	✓	X	X	✓*	●*	(A2) Chapter 4(4.2) (b3) Sections 4(b)(c), 24–26	
	(e)	manage conflict over fisheries, relevant resource and ecosystem, including parameters for decision-making and resolving the conflict.	∅	∅	X	X*	X*	(A2) Chapters 3(3.3) and 4(4.3) (A5) Chapter 5(5.2.4) (b3) Section 61(1)(q)	References in (A2) and (A5) do not provide for parameters for decision-making and resolving the conflict. Provision in (b3) empowers the Minister to make regulations prescribing rules for harvesting operations and measures aimed at preventing conflict between such operations.

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		
	(f) ensure integrated management of aquatic ecosystems (e.g. integrated coastal zone) based on ecosystem delimitations.	✓	X	X	✓*	●*	(A1) Page 8 (A2) Chapter 4(4.2.2) (A5) Chapter 5(5.2.4) (D2) Sections 31–33	
	(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*	(A2) Chapter 6	
	(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	✓*	●*	(A2) Chapter 6 (D2) Section 34	
	(i) ensure periodic reviews of conflict management processes.	X	X	X	X*	X*		
21.	– Clearly outline powers, roles and responsibilities of all bodies, designated authorities, their relationships and processes, avoiding overlapping and conflicting mandates.	✓	✓	X	✓*	●*	(A2) Chapter 3(3.2) (B1) Sections 3, 4, 9 (B3) Sections 8–10, 24, 30 (D3) Sections 4, 6, 7, 16, 17 (D4) Sections 13–19	
22.	– Outline mandates for the government institutions to: (a) coordinate efforts, cooperate and integrate approaches, from the local to the national levels.	✓	✓	X	✓	●	(A4) Chapter 6(6.1) (A6) Chapter 4.5(4.5.1) (B1) Section 2(2) (B3) Section 33(4)(e) (D3) Section 7(a)	
	(b) coordinate, cooperate and integrate the regional and international processes and arrangements.	✓	✓	X	✓	●	(A2) Chapter 3(3.3.8) (A4) Chapters 5(5.4) and 6(6.1.2)	

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		
								(b1) Sections 2(2)(3) and 25 (b3) Section 33(4)(f)(g) (p2) Sections 28 and 29	
		(c) allocate financial, human and material resources to ensure the integration of lower level authorities	✓	X	X	✓	●	(A4) Chapter 6(6.4.1) (A6) Chapter 4.2(4.2.2) (p1) Section 6(3)(j)	
		Stakeholder participation, coordination, cooperation and integration							
C.4 Stakeholder participation C.5 Coordination, cooperation and integration	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	✓	●	(A4) Chapter 6(6.1) (b1) Section 4 (b2) Section 4(1) (b3) Sections 13–16, 25–27 (p2) Section 8 (p3) Section 8	References in (A4) promote communication among the bodies but does not establish processes for stakeholder coordination and participation.
C.6 Integration of lower level authorities, bodies and stakeholders	24.	– Establish and properly publicize public meetings or hearings.	✓	X	X	✓	✓	(A4) Chapter 6(6.1) (p2) Section 74(1)(c)(2) (p3) Section 44 (E1) Regulation 21 (E3) Regulations 17 and 21	
C.8 Integrated management of aquatic ecosystems	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	✓	✓	(p2) Section 31(2)(b) (p3) Section 44(2) (E1) Regulation 21 (E3) Regulations 23–24	
	26.	– Promote international cooperation for effective integrated management of aquatic ecosystems.	✓	✓	✓	✓	●	(A4) Chapters 3(3.2 and 3.3) and 5(5.4)	

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		
								(b1) Section 2(2)(3) (b3) Sections 33(4)(g) and 37 (c3) Regulation 7 (d2) Sections 28 and 29	
		Fisheries management <i>Catch/output controls</i>							
C.9 Controls on fishing operations	27.	– Establish limits on the amount of fish that may be removed from a fishery in a given period of time (e.g. TAC), restrict the number of fish that may be landed in a day (e.g. bag limit) or place limits on the amount of acceptable bycatch and/or discards from a fishery – all based on scientific data and maximum sustainable yield and the precautionary principle.	✓	✓	✓	N/A	N/A	(A3) Chapter 5(5.2, 5.3 and 5.8) (A4) Chapters 3(3.4) and 6(6.2.1) (A5) Chapter 5(5.2.4) (b3) Sections 34(4), 38 and 39 (c6) Regulation 30 (c7) Regulations 8, 31, Annexures C, J, K	
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*	N/A	N/A	(A4) Chapter 3(3.4) (b3) Sections 38 and 39	
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	(A3) Chapter 5(5.3) (A4) Chapter 6(6.3.1) (A5) Chapter 5(5.2.4) (c7) Regulation 2(1)(c) and Annexure C	Reference in (A4) requires the government to ensure catching capacity is kept below the potential of the stocks. References in (A3) and (A5) do not detail the procedures for TACs.

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		
									Provision in (c7) lacks regulation on participatory process for periodic monitoring and review of TACs.
	30.	– Coordinate the TACs for shared stocks or highly migratory species with international or regional management measures.	✓	✓	X*	N/A	N/A	(A3) Chapters 5(5.3) and 6 (A4) Chapter 5(5.4) (A5) Chapter 5(5.2.4) (B3) Section 37	Reference in (A4) is achieved through RFMO/As to which Namibia is a member such as ICCAT.
	31.	– Monitor the catch in real-time and close a fishery when the TAC is reached.	X	∅	X*	N/A	N/A	(B3) Section 47(3)(d)	Provision in (B3) grants the Minister with the power to prescribe measures to limit the amount of harvesting capacity.
	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	(A3) Chapter 5(5.3) (B3) Sections 35(3) and 39 (C7) Regulations 8, 31, Annexures C and J	
	33.	– Outline the ability to institute additional catch controls (e.g. bag limits for recreational fishing), including the authority responsible for allocating, issuing and regulating quotas, and the procedure to be followed.	✓	X	X*	N/A	N/A	(A5) Chapter 5(5.2.4)	
		Effort/input controls							
C.9 Controls on fishing operations	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	∅	✓	✓*	N/A	N/A	(A4) Chapter 6 (6.1.3) (B1) Sections 11–15 (B3) Sections 32–34, 40–44	Provision in (A4) requires de licensing system to be based 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		
C.10 Fishery management plans C.17 Monitoring and review		permit suspension and revocation of the license for non-compliance.						(c3) Entire regulation (c6) Regulations 4–10, 24–28 (c7) Regulations 2–7, Annexures A, B, D-H, L	furnished statistic but does not define the licensing scheme
	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.	X	✓	X*	N/A	N/A	(b3) Sections 32–34, 40–44 (c7) Regulation 2	
	36.	– Outline process for establishing provisions for effort controls (e.g. limitation on vessel capacity, on expansion of fishing fleet, on allowable days spent at sea).	X	X	X*	N/A	N/A		
	37.	– Outline specific details of fishing license scheme (e.g. number of licenses to be allocated, permit conditions for each fishery).	X*	X*	X	N/A	N/A		
	38.	– Empower the designated authority to establish additional regulations for licensing.	X*	✓	X*	N/A	N/A	(b3) Section 61(1)(d)	
	39.	– Empower authority to regulate effort controls and respective parameters.	X*	∅	X*	N/A	N/A	(b3) Section 47(3)(d)	Provision in (b3) does not define the parameters for regulating effort controls
		Fishing gear and method controls							
C.9 Controls on fishing operations C.10 Fishery management plans C.17	40.	– Establish requirements on fishing gear and methods that are permitted for use within a given fishery or area, including related technical specifications (e.g. general prohibitions on types of gear, methods, specifications on gear design, minimum mesh sizes).	X	✓	✓	N/A	N/A	(b1) Section 17(2) (b3) Section 47 (c6) Regulations 14–20, 29–31 (c7) Regulations 12, 15–16, 29, 31, Annexure D, E, F and G	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. Policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
Monitoring and review	41.	– Outline prohibitions on highly destructive gear and fishing methods (e.g. fishing by toxic substance, explosives, electricity, fishing with the use of light).	X	✓	✓*	N/A	N/A	(b1) Section 17(1) (b3) Section 47(1) (c2) Regulation 14 (c6) Regulation 21	
	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(6.2.1) (b1) Section 17(2) (b3) Section 47(2) (c7) Regulations 14, 17, 23, 31	
		Spatial and temporal controls							
C.9 Controls on fishing operations c.10 Fishery management plans c.17 Monitoring and review	43.	– Regulate area and time in which fishing operations may or may not take place (e.g. closed areas/seasons), closed or restricted-use areas, which prohibit or limit fishing operations (e.g. protection of artisanal fishing).	X	✓	✓*	N/A	N/A	(b1) Sections 18 and 22 (b3) Section 51 (c2) Regulations 5–34 (c6) Regulations 22–23 (c7) Regulations 10, 19, 22	
	44.	– Empower authority to define spatial and temporal controls and the procedure.	X	∅	X*	N/A	N/A	(b3) Section 47(3)(a)	Provision in (b3) does not define the procedure for defining spatial and temporal controls.
	45.	– Ensure stakeholder and institutional consultation, both at national and lower levels, in the process of defining spatial and temporal controls.	X	∅	X*	N/A	N/A	(b1) Section 22 (b3) Section 51(1)(c)	Provisions in (b1) and in (b3) are limited to determination of marine reserves
	46.	– Establish technical details and specifics on spatial controls.	X*	✓*	✓	N/A	N/A	(b1) Sections 18 and 22 (c7) Regulations 10, 19, 22	
		Fishery management plans							

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.9 Controls on fishing operations C.10 Fishery management plans C.17 Monitoring and review	47.	– Designate authority with power and responsibility to develop, approve, adopt and publicize a FMP, clearly outlining the roles and responsibilities.	✓	X	X*	N/A	N/A	(A4) Chapter 6(6.2.1)	
	48.	– Ensure FMPs and measures comply with established integrated management plans for aquatic ecosystems involving e.g. protected areas or critical habitat.	✓	X	X	X*	X*	(A4) Chapter 6(6.2.1)	
	49.	– Establish process for approval, adoption and publication of FMP with its periodic review.	∅	X	X*	N/A	N/A	(A4) Chapter 6(6.2.1)	Reference in (A4) does not detail the process.
	50.	– Detail process of drafting FMP, including multilevel and multisector collaboration and consultation with stakeholders, and a participatory transparent process for monitoring and reviewing the FMP at a minimum within five years of their development.	∅	X	X*	N/A	N/A	(A4) Chapter 6(6.2.1)	Reference in (A4) does not detail the process.
	51.	– List the minimum requirements in the FMPs: (a) management objectives that take into account EAF;	∅	X	X*	N/A	N/A	(A4) Chapter 6(6.2.1)	Reference in (A4) does not specifically refer to these minimum requirements.
		(b) biological description of fishery and ecosystem in which it takes place;	X	X	X*	N/A	N/A		
		(c) social, economic and institutional aspects of the fishery;	X	X	X*	N/A	N/A		
		(d) species composition and levels of bycatch, both retained and discarded;	X	X	X*	N/A	N/A		
		(e) ecological relationships between harvested, dependent and associated species;	X	X	X*	N/A	N/A		
		(f) impact of other anthropogenic activities on the ecosystem; and	X	X	X*	N/A	N/A		

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. Policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
	(g) a review of the relationship with other coastal or marine resource management plans.	X	X	X*	N/A	N/A		
	Conservation measures							
C.14 Habitat and biodiversity conservation and restoration	52. – Incorporate the consideration of habitat and biodiversity in the processes for establishing management measures (e.g. outline habitats and species related to the fishery and take measures to limit the negative impacts of fishing on them) or gear regulations.	✓	✓	✓*	∅*	X	(A2) Chapter 4(4.1) (A4) Chapter 6(6.2.1) (B3) Section 47 (C7) Regulations 23–31 (D3) Section 7(b)(ii)	Provision in (B3) establishes the functions of the Sustainable Development Advisory Council to advise the Minister in charge of environmental issues on the conservation of biodiversity and the use of components of environment in a way and at a rate that does not lead to long-term decline of the environment.
	53. – Ensure special protection for marine mammals, sea turtles and other particularly vulnerable marine life (e.g. set prohibitions or limitations), in coordination with other national designations or protections and regional and international conservation and management measures.	X	X	✓*	X*	X	(C7) Regulations 9, 18, 20	
	54. – Ensure coordination between the various authorities involved in marine environment protection.	✓	X	X*	X*	X	(A4) Chapter 6(6.1)	
	55. – Establish mechanisms and designation of authority responsible for establishing: (a) designation and protection of threatened and endangered species, ensuring cooperation among the	✓	∅	X*	X*	X	(A2) Chapter 3(3.2) (B1) Section 21	Provision in (B1) allows the Minister to declare any species of fish as

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		
		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.							endangered species, without detailing the process.
		(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.	∅	✓	∅*	✓*	✓	(A2) Chapter 4(4.3) (B1) Section 22 (B3) Section 51 (C7) Regulation 22 (D2) Sections 85–87, 101 and 103 (E3) Section 17(4)(a)(5)	Reference in (A2) do not specify the levels of protection and process for nominating and establishing the protected areas. Provision in (C7) does not provide any details on the process for establishing marine reserves.
		(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	X*	X*	X		
56.		– Ensure educational and awareness-raising activities for promoting habitat and biodiversity conservation and restoration with the establishment of special funds to support such activities.	✓	∅	X*	✓*	X	(A2) Chapter 4(4.5) (B3) Section 45 (D1) Section 7(2) c (D3) Section 48(e)	Provision in (B3) requires the Minister to utilize the moneys in the Marine Resources Fund for expenses on research, development, training and education relating to marine resources. Provision in (D3) empowers the

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		
									Minister responsible for environmental issues to introduce legislation and regulations on research, education and awareness raising.
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	(A2) Chapter 4(4.2.4) (A4) Chapter 6(6.2.1) (B2) Section 26 (B3) Section 52 (C5) Regulation 20 (C7) Regulations 23, 24, 31 (D2) Sections 68–84 (D3) Section 5 (D8) Entire Act	
		(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	✓	●	●	(C7) Regulation 23	
	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.	✓	✓	✓	✓	●	(A2) Chapter 4(4.2.5) (B1) Section 19 (B2) Section 27 (C5) Regulation 21 (D2) Section 102	

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.16 EIS or EIA	59.	– Regulate marine extractive activities (e.g. marine mining for minerals or petroleum, harvesting of marine plants) and other potentially harmful activities, including the construction of installations for use by industry, laying of underwater cables, military exercises, shipping.	X	✓	✓	✓	●	(b1) Section 20 (c2) Regulations 14, 15, 17, 24, 29 and 30 (d2) Section 92–100 (d6) Entire Act (d7) Entire Act (d7) Entire Act	
	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	✓	✓	(A2) Chapter 4(4.2.3) (B2) Section 33(2) (B3) Section 34(3) (D3) Regulations 27–29, 35 (E1) Annexure (E2) Regulation 2	Reference in (A2) is limited to address EIA for agricultural developments.
	61.	– Detail components of EIS or EIA, which should at least discuss the purpose/need for the activity, the ecosystem that may be affected, potential impacts of the proposed activity and potential alternatives or mitigation and rehabilitation measures.	X	X*	X*	X	✓	(E2) Regulation 15	
	62.	– Establish process for submission, review and decision-making on the EIS or EIA, with designation of authority responsible for receiving, reviewing and deciding upon the EIS or EIA (e.g. the minister responsible for environment), opportunity for public participation (e.g. comment periods and hearings), consultation with other relevant government institutions or localities, and determination of adequate mitigation measures.	X	X*	X*	✓	✓	(D3) Regulations 27–42, 44–47 (E2) Entire Regulation	
		Fishery monitoring and research							

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.13 EAF research	63.	– Establish research programme for furthering the knowledge and understanding of EAF.	✓	∅	X*	X	X*	(A4) Chapter 6(6.1.3) (B3) Section 61 (1) (t)	Provision in (B3) generally grants the Minister with the power to provide for the regulation of and exercise of control over research and development activities in connection with the harvesting and protection of marine resources.
	64.	– Designate authority for conducting and involving stakeholders in the research programme.	✓	X	X*	X	X*	(A4) Chapter 6(6.1.1) (A6) Chapter 4.5(4.5.2)	
	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*	(A4) Chapter 6(6.1.3 and 6.2.1)	
	66.	– Consider the findings of the EAF research in the adoption of conservation and management measures.	✓	X	X*	X	X*	(A4) Chapter 6(6.1.3 and 6.2.1)	
		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	✓	✓	X	N/A	N/A	(A3) Part B, Chapter 2(2.2.7) (A4) Chapter 4(4.2)	Reference in (A3) indicates the categories of vessels

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		
		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).						(b3) Sections 7–9	required to have observers on board but does not outline the role played by observers.
	68.	– Ensure observers have full access to all parts of the vessel and its equipment and to any place in the country where fish that have been caught in national waters are uploaded, processed, stored or transshipped.	X	✓	X	N/A	N/A	(b3) Section 7(2)	
	69.	– Design the scheme in line with regional or international requirements, taking into account relevant regional observer programs.	✓	X	X	N/A	N/A	(A3) Part B, Chapter 2(2.3)	
	70.	– Ensure VMS is required for vessels licensed to fish in national waters and ABNJ, detailing specific categories of fishing vessels and/or fisheries to which it applies.	✓	X	✓	N/A	N/A	(A3) Part B, Chapter 2(2.3) (A4) Chapter 4(4.2) (c4) Regulation 2	
	71.	– Ensure reporting of catch and effort data, clearly identifying the vessels that are expected to report (at least all commercial fishing vessels that fish within national waters and all nationally-flagged vessels authorized to fish within waters under national jurisdiction and in ABNJ), to whom they are required to report (the designated authority), the frequency and timing of their reports, and the method or format in which they are required to report (e.g. weight of fish caught, including percentage of bycatch, species, dates of fishing, fishing zones, gear/methods employed, type of vessel, time of departure from national waters and catch status at that time).	X	✓	✓	N/A	N/A	(b3) Section 48 (c7) Regulations 25–28, 34, 35	
	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	(A3) Part B, Chapters 3(3.1.1) and 4(4.1) (b3) Section 43	The provision in (b3) generally entitles the Permanent Secretary to keep a record but does not specify to which vessels it

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		
									applies cross-referring the details to regulation.
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	(A3) Part B, Chapter 3(3.1.and 3.2) (c7) Regulations 25–28	
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	(A3) Part B, Chapter 3(3.2.1) (c7) Regulations 25–28	
75.	– Detail the specifications for marking vessels and fishing gear in accordance with internationally approved standards.		∅	∅	✓	N/A	N/A	(A3) Part B, Chapter 2(2.2.7) (B1) Section 16 (B3) Section 61 (f) (c7) Regulations 37, 38 and Annexures N and O	Provision in (A3) is limited to required compliance with vessel and gear marking requirements. Provision in (B1) is limited to marking of fishing nets and in (B3) cross refers to regulation.
76.	– Ensure cooperation and coordination between fisheries and maritime authorities throughout the registration process.		✓	X	X	N/A	N/A	(A3) Part B, Chapters 2(2.2.7, 2.3) and 3(3.1.3)	

Perceived level of alignment with the EAF legal requirement

✓ full Ø 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		
	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.	Ø	✓	✓	N/A	N/A	(A3) Part B, Chapters 2(2.2.7, 5.1.2) (A4) Chapter 4(4.1) (B1) Sections 23–25 (B3) Sections 4–6 (C7) Regulations 32–33	Provision in (A3) is limited to identify the powers of enforcement powers in the Law. Provision in (A4) is limited to the powers of enforcement officers with regard to the vessel not including the other premises related with fishing.
	78.	– Ensure the controls placed on landing and transshipping of fish, both at sea and in port, and by national and foreign vessels, is in accordance with regional and international instruments.	✓	✓	✓	N/A	N/A	(A3) Part B, Chapters 2(2.2.7) and 4(4.1) (B3) Section 50 (C7) Regulation 36	
	79.	– Provide additional VMS specifications and specific details on the registration process.	X*	X	✓	N/A	N/A	(C4) Entire regulation	
	Enforcement processes and sanctions scheme								
C.12 Offences, penalties and administrative and judicial processes	80.	– Detail the fisheries-related offences (civil or criminal) and corresponding penalties, weighted depending on the level of severity of the offence but outlined in a way that maintains their strength over time (e.g. utilize formulas such as a percentage of the total market value of the sale of the illegal catch, or penalty units).	X	✓	✓	✓	✓	(B1) Sections 26–28 (B2) Sections 39–42 (B3) Sections 52 and 53 (C2) Regulation 35 (C5) Regulation 22 (C6) Regulation 42 (C7) Regulation 39 (D2) Sections 127–128 (D3) Sections 22 and 43	

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		
	81.	– Establish transparent and equitable administrative processes for determining and confirming offences, applying relevant penalties, with provision for compounding of offences/out-of-court settlement.	X	X	X	✓	X	(D4) Entire Act	
	82.	– Establish judicial processes used for determining and confirming offences and applying relevant penalties to the offending parties, allowing for a right of appeal.	X	✓	X	✓	●	(B3) Sections 54–60 (D2) Sections 117–121 (D4) Entire Act	

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 Namibia. Based on this preliminary assessment, policymakers, legal practitioners and fisheries managers can take the necessary steps for improving the EAF implementation in their country. These steps could involve the amendment of existing legislation and/or enactment of new legislation and development of new policies to bring fully in line with an EAF.

For more information:

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