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An aerial photograph of a coastal village. The foreground shows a cluster of buildings with red and grey roofs, interspersed with green trees. A dirt road winds through the village. In the middle ground, a large number of fishing boats of various colors (blue, red, white) are docked at wooden piers along a sandy beach. The water is a clear, vibrant blue. In the upper right corner, a single larger boat is visible on the open water. A dotted yellow line forms a large arc across the top half of the image, framing the title text.

A diagnostic tool

for implementing an ecosystem
approach to fisheries through
policy and legal frameworks

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

developed by the Development Law Service of FAO's Legal Office (LEGN)
in collaboration with FAO's Marine and Inland Fisheries Branch (NFIF)
and the EAF-Nansen Programme

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Preface

In the last decade, the implementation of the ecosystem approach to fisheries (EAF) through policy and legal instruments has been promoted by the Food and Agriculture Organization of the United Nations (FAO) in various activities, including the preparation of studies, tools and guides. The *How-to Guide on legislating for an EAF*, published in 2016, brought some clarity to what the EAF entails in terms of policy and legislation. It identified 17 key components and associated recommendations which reflect the policy and legal frameworks that should be provided for when implementing an EAF. The *How-to Guide on Legislating for an EAF* recommends that, in addition to reviewing and enhancing fisheries policy and legislation, the policy and legal frameworks of other sectors (such as aquaculture, shipping and environment), with which the fisheries sector interacts or which have an impact on fisheries, ecosystems and habitats, should be similarly reviewed and strengthened.

Implementing the EAF through policy and legal frameworks is a complex undertaking which requires further facilitation through additional practical tools. A *diagnostic tool for implementing an EAF through policy and legal frameworks* was developed to help legal practitioners, policymakers and fisheries managers in assessing and implementing an EAF. It builds on the *How-to Guide on legislating for an EAF*, providing an overview of the essential elements of an EAF and taking into account that it may be used by stakeholders at all levels of governance and considering the differentiated technical capacity of all countries. The EAF Legal Diagnostic Tool provides an EAF Legal Checklist against which policies and legislation in force, or being drafted, should be assessed to ensure that the policy and legal requirements for implementing an EAF are provided for in a country. Specifically, it elaborates on how the 17 components for legislating for an EAF – as described in the *How-to Guide on legislating for an EAF* – could be reflected as EAF legal requirements in national fisheries policy and legal instruments, as well as in the legislation of other sectors.

The aim of this tool is to assist countries to take the necessary steps to improve EAF implementation through policy and legal frameworks.

Acknowledgements

A diagnostic tool for implementing an EAF through policy and legal frameworks is a product of the Development Law Service (LEGN) of the Legal Office of FAO, working in collaboration with the Marine and Inland Fisheries Branch (NFIF) and the EAF-Nansen Programme “Supporting the Application of the Ecosystem Approach to Fisheries Management considering Climate Change and Pollution Impacts” (EAF-Nansen GCP/GLO/690/NOR), funded by the Norwegian Agency for Development Cooperation (Norad). FAO is grateful to Norad for this assistance.

The initial draft of the EAF Diagnostic Tool was prepared by Julia Nakamura, under the supervision, counsel and technical input of Pio Manoa, and extensively reviewed by Teresa Amador. Further reviews and improvements were made by Blaise Kuemlanguan, Chief of LEGN, as well as Minmin Lei and Buba Bojang of LEGN. The revised version was presented in an FAO internal, online mock-training in April 2020, after which it was circulated as an advanced copy to representatives of all beneficiary countries for the purpose of gathering additional contributions. Appreciation is extended to Merete Tandstad of NFIF, the participants in the mock-training, and all other FAO colleagues who supported the development of the Diagnostic Tool.

Abbreviations and acronyms

ABJN	Areas beyond national jurisdiction
AIS	Automatic identification system
CBD	Convention on Biological Diversity
CCRF	Code of Conduct for Responsible Fisheries
COFI	Committee on Fisheries (of FAO)
EAF	Ecosystem approach to fisheries
EIA	Environmental impact assessment
EIS	Environmental impact statement
FAO	Food and Agriculture Organization of the United Nations
FMP	Fisheries management plan
IMO	International Maritime Organization
LEGN	Development Law Service (of FAO's Legal Office)
MCSE	Monitoring, control, surveillance and enforcement
N/A	Not applicable
NFIF	Marine and Inland Fisheries Branch (of FAO)
Norad	Norwegian Agency for Development Cooperation
OPT	Optional
RFMO/A	Regional fisheries management organization/arrangement
SDGs	Sustainable Development Goals
UNGA	United Nations General Assembly
VMS	Vessel monitoring system

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 EAF, taking into consideration the impacts of the climate and pollution.

The Programme is executed by FAO in close collaboration with the Institute of Marine Research of Bergen, Norway, and funded by Norad. The EAF-Nansen Programme’s current phase is from 2017 to 2021, under the Nansen Programme which started in 1975.

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

A new state of the art research vessel, the *Dr Fridtjof Nansen*, is an integral part of the Programme. A comprehensive science plan, covering a broad selection of research areas and directed at producing knowledge for informing policy and management decisions, guides the Programme’s scientific work.

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



1. CONTEXT: IMPLEMENTING THE ECOSYSTEM APPROACH TO FISHERIES

Inland and marine fisheries in national waters and areas beyond national jurisdiction (ABNJ) play a prominent role in providing food security, nutrition, livelihoods, cultural traditions, employment and economic benefits to societies worldwide, as well as contributing to poverty reduction, particularly in developing countries. Fish consumption is growing, but greater productivity in fisheries is not matched with the appropriate and efficient sustainable management of the sector. Recent estimates reveal an alarming scenario for fisheries long-term sustainability – the trends point to a decreasing fraction of marine fish stocks fished at sustainable levels, and unsustainable fishing continues to increase (FAO, 2020a; FAO, 2018). It is thus vital to establish and constantly improve responsible planning, development, management, monitoring, control, surveillance and enforcement (MCSE) in fisheries and fisheries-related activities, not only to promote the conservation and sustainable use of fish stocks and rebuild overfished stocks, but also to ensure the integrity and maintain the functioning of complex and dynamic ecosystems that coexist, depend on each other and are impacted by fisheries. Such an endeavour depends on the ability of the relevant stakeholders, at all levels of governance, from the fishing communities to fisheries managers, government authorities and institutions, to cooperate and coordinate their actions towards the effective implementation of an EAF.

1.1 The meaning of the ecosystem approach to fisheries

In simple terms, the EAF is a way of dealing with fisheries through integration and adaptation. It takes into account risk-based management planning processes, seeking to integrate and operationalize principles of sustainable development (FAO, 2011–2020a). It also supports the progressive evolution and adaptation of these processes and principles to tackle the known and unknown risks threatening the constantly changing environment and societies. The EAF is particularly relevant for developing countries with limited financial and technical capacity to implement sustainable development policies because it promotes cooperation and coordinated actions that can minimize costs and create opportunities in fisheries planning and management.

An EAF domain comprises the habitat of the fish; its ecosystems; other aquatic species with which the fish interacts and/or on which it depends; the climate impacts on the water and any other natural living and non-living resources that co-exist with the fishing and fishing related activities; all actors interacting with any of such elements and all potential risks threatening them. With the EAF, fisheries are managed in a holistic, integrative, participatory and adaptive way that takes into account all potential interactions of fisheries with fish, associated species, ecosystems, ecological structures, habitats, landscapes, as well as social, economic and cultural factors. The EAF considers fish stocks to be an integral part of aquatic ecosystems, in a relationship of interdependence, interconnection and indivisibility, within ecologically meaningful boundaries.

In other words, the EAF is defined as a concept or strategy that “delineates a way of taking ecosystem considerations into more conventional fisheries management” (FAO, 2003a, p. 6), and which “implies the introduction of ecosystem considerations into all dimensions of fisheries, not only in fisheries management” (FAO, 2003b, para. 9). The EAF “strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic, and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries” (FAO, 2003c). The EAF therefore promotes an improved understanding of fisheries and its interactions with biodiversity, ecosystems, habitats and humans, so that planning, management and other processes are able to provide the most appropriate measures for a cost-efficient, resilient and sustainable fisheries sector.

1.2 The ecosystem approach to fisheries implementation process

The EAF values the human element as an essential EAF component and part of the implementation process. With the EAF, the social, cultural, economic, political and institutional factors are integrated in decision-making processes in order to ensure participative, transparent, cooperative, coordinated and integrative mechanisms that enable the adoption and application of the EAF. The broad objective of an EAF implementation

process is to ensure the long-term sustainability of fisheries while promoting the appropriate management of all other ecological and social dimensions that form part of, and are impacted by, the sector.

There is a continuing need to manage and control fisheries, especially fishing capacity, to minimize undesired impacts on fish stocks and aquatic ecosystems and to foster their conservation and restoration. The EAF implementation process contributes to this goal, in line with international policy and legal instruments that support the integration of essential EAF concepts, principles and requirements at regional, sub-regional and national levels. Among the many ways or processes through which the EAF can be implemented is to review national policies and/or legislation to identify the gaps and/or needs for improvement, and present recommendations for enacting new policy and/or legal instruments that incorporate an EAF, and/or to amend the existing ones so that they are appropriately aligned with an EAF.

1.3 General international commitments in support of an ecosystem approach to fisheries

Since the 1970s, the international community has devoted attention to sustainable development, taking into account the importance of preserving a healthy environment and conserving scarce natural resources, including ecosystems, for the benefit of present and future generations. This concern is reflected in numerous international legally binding and non-binding instruments, many of which relate to the EAF. Some of them address the ecosystem approach in broad terms, not specifically mentioning their relevance for an ecosystem approach “to fisheries” in particular, but they may be considered applicable to the fisheries context. Others cover more specifically marine ecosystems and the EAF.

Such a broad, implicit reference to the EAF is found, for example, in the 1971 Ramsar Convention on Wetlands of International Importance and its decisions on the ecosystem approach; the 1972 Stockholm Declaration on the Human Environment; the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora; the 1979 Convention on the Conservation of Migratory Species of

Wild Animals; and the 1992 Convention on Biological Diversity (CBD) and its decisions on the ecosystem approach.

More specific reference to the EAF is made in the 1982 United Nations Convention on the Law of the Sea; the 1992 Agenda 21; the 1995 Agreement for the Implementation of the provisions of the Law of the Sea Convention of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks; and the 2009 Agreement on Port States Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Also of relevance is the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas which contains relevant provisions for an EAF, particularly in respect of MCSE to ensure compliance with applicable international rules by flag state vessels on the high seas.

The main international policy and legal frameworks currently in place in support of an EAF are identified in Appendix A, “Non-exhaustive list of selected international legal instruments in support of an EAF”, which presents a number of EAF-relevant policy and legal instruments that expressly mention “ecosystem” and the correspondent provisions or decisions. The list also makes reference to relevant non-binding instruments, including the 1982 World Charter for Nature, the 1992 Rio Declaration on Environment and Development, the 1995 FAO Code of Conduct for Responsible Fisheries (CCRF), the 2001 Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem, the 2002 Johannesburg Plan of Implementation, the 2012 Rio+20 outcome document “The future we want”, the United Nations General Assembly (UNGA) resolution on the Sustainable Development Goals (SDGs) and the decision adopted under the CBD on the Aichi Biodiversity Targets.

Both the UNGA resolution and the CBD decision embrace the spirit of an EAF, setting targets that aim to “sustainably manage and protect marine and coastal ecosystems” by 2020 (SDG 14.2; UNGA, 2015), and to ensure that “all fish and invertebrate stocks and aquatic plants are managed and harvested sustainably, legally and applying ecosystem-based approaches, so that overfishing is avoided, recovery plans and measures are in place for all depleted species,

fisheries have no significant adverse impacts on threatened species and vulnerable ecosystems and the impacts of fisheries on stocks, species and ecosystems are within safe ecological limits" (Aichi Target 6) (CBD, 2010).

1.4 FAO's specific contributions to adopt and implement an ecosystem approach to fisheries

In line with the international agenda for sustainability, FAO has taken significant steps over the past decades to support the adoption and implementation of improved approaches to fisheries management that take into account environmental, social and economic considerations. Though ecosystem considerations were reflected in many international policy and legal instruments since the 1970s, it was not until the adoption of the CCRF in 1995 that an ecosystem approach began to crystallize in the fisheries sector in terms of its concepts and principles. The CCRF contains many EAF-relevant provisions and expressly calls upon states to "conserve aquatic ecosystems" (Article 6.1) and to adopt conservation and management measures providing inter alia that "biodiversity of aquatic habitats and ecosystems is conserved and endangered species are protected" (Article 7.2.2.d).

FAO's Committee on Fisheries (COFI) promotes the implementation of an EAF for achieving responsible fisheries and restoring marine resources and ecosystems since the adoption of the 2001 Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem (FAO, 2003b). COFI has recognized the EAF as the appropriate and practical approach to fully implement the CCRF. Additionally, FAO has contributed to the implementation of an EAF through the adoption of the EAF Guidelines in 2003 (FAO, 2003c), further supplemented by the Human Dimensions Addendum in 2009 (FAO, 2008), the adoption of the EAF Toolbox in 2012 (FAO, 2011–2020a), the elaboration of a study on fisher's knowledge and EAF in Latin America published in 2015 (FAO, 2015a), and the implementation of a number of projects aimed at promoting and improving the sustainability of fisheries management on the basis of the EAF (FAO, 2011–2020b). Most recently, the EAF Implementation Monitoring Tool has been developed to support partner countries to improve fisheries management systems and operational planning (FAO, 2020b).

Other FAO international voluntary guidelines have also promoted the application of the EAF by, for instance, providing assistance to states and regional fisheries management organizations/arrangements (RFMO/As) on matters related to the management of deep-sea fisheries in the high-seas (FAO, 2009a), the effective management of bycatch and reduction of discards (FAO, 2011a), the effective implementation of flag states' responsibility in the high seas (FAO, 2015b), and by promoting an EAF in the sustainable planning, development and management of small-scale fisheries (FAO, 2015c). The importance of incorporating the EAF has also formed the basis of amendments promoted by FAO. For instance, the Guidelines for the Ecolabelling of Fish and Fishery Products From Marine Capture Fisheries were amended four years after their adoption in order to address, among other things, the serious impacts of fisheries on the ecosystem (FAO, 2009b). Similar guidelines were later endorsed to reflect the EAF in the ecolabelling of fish and fishery products from inland capture fisheries (FAO, 2011b).

1.5 Towards the practical implementation of the ecosystem approach to fisheries through national policy and legal frameworks

In the last 15 years, the implementation of the EAF through the analysis of policy and legal frameworks in particular has been intensively promoted by the EAF-Nansen Programme (FAO, 2020c). Over the period 2006 to 2017, the EAF-Nansen Project "Strengthening the Knowledge Base for and Implementing an Ecosystem Approach to Marine Fisheries in Developing Countries" focused on the implementation of the EAF in coastal African countries. The experience and knowledge gathered over a decade greatly contributed to the establishment of essential foundations to support the adoption and implementation of an EAF worldwide, including in developing countries that lack the EAF in their fisheries and ecosystem-related policy and legal frameworks (FAO, 2020d).

Important contributions by FAO towards the implementation of the EAF in national fisheries legislation and EAF-relevant and sector-specific legislation were provided through the study "*Legislating for an ecosystem approach to fisheries: a review of trends and options in Africa*"

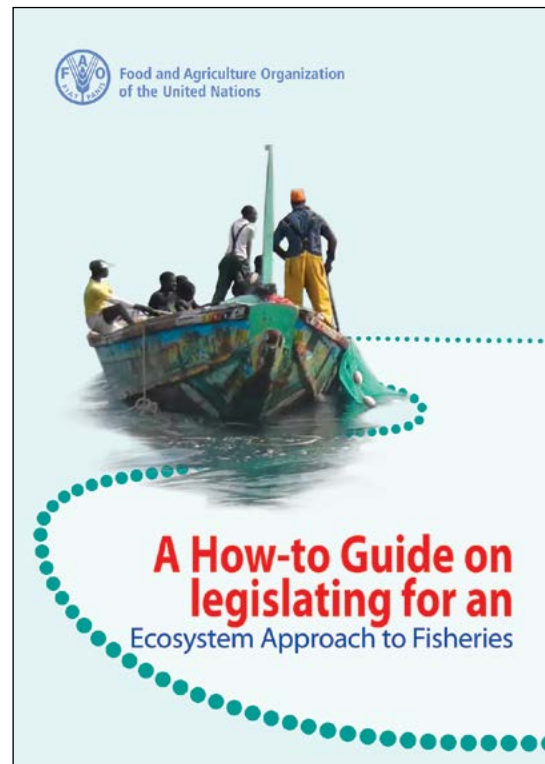
published in 2011 (FAO, 2011c), and “*A How-to Guide on legislating for an ecosystem approach to fisheries*” published in 2016, (the “How-to Guide for an EAF”) (FAO, 2016). The former (2011c) assessed the legal and institutional frameworks of 16 African countries¹ and provided recommendations for better aligning such frameworks with an EAF, while the How-to Guide for an EAF provided guidance on how those recommendations could be operationalized.

1.6 The How-to Guide on legislating for an ecosystem approach to fisheries

The How-to Guide for an EAF identified key components and legal requirements that should be implemented in national fisheries policies and legislation, EAF-relevant and sector-specific legislation, and provided guidance in the implementation process for an EAF.

The How-to Guide for an EAF advances the EAF implementation process by identifying 17 key minimum components that support such implementation (the “EAF components”), elucidating each of them and providing relevant examples of policies and legislation from 19 countries which demonstrate how the EAF components are provided for in existing policy and/or legal frameworks (see Table 1 below).

These examples are useful to inspire EAF-related legislative processes.² The specific provisions of the selected national policies and legislation provided in the How-to Guide for an EAF, together with other specific parts and provisions of national policies and legislation, are compiled in Appendix B, “List of examples of selected national legislation and policies organized by the 17 EAF components”.



¹ The 16 countries analysed in the study are Angola, Cameroon, Gabon, Ghana, Kenya, Liberia, Madagascar, Mauritius, Morocco, Mozambique, Namibia, Senegal, Seychelles, Sierra Leone, South Africa, United Republic of Tanzania.

² The 19 countries analysed in the How-to Guide for an EAF are Angola, Australia, Cameroon, Canada, Gabon, Ghana, Kenya, Liberia, Madagascar, Mauritius, Morocco, Mozambique, Namibia, Senegal, Sierra Leone, South Africa, United Republic of Tanzania and United States of America.

Table 1: List of the EAF components

17 EAF components	Scope
C1	The objectives and principles of EAF-relevant legislation should include key EAF concepts
C2	To the extent possible, the formation of management boundaries should be ecologically meaningful and management measures should be harmonized across boundaries and jurisdictions, locally, nationally and internationally, when ecologically relevant
C3	The precautionary approach should be outlined
C4	Mechanisms for stakeholder participation and transparency should be outlined
C5	Mechanisms for coordination, cooperation and integration of approach between the institution responsible for fisheries management and other relevant institutions should be established
C6	Lower level authorities, bodies and stakeholders should be integrated into management processes
C7	Mechanisms for conflict management should be outlined
C8	Mechanisms for the integrated management of aquatic ecosystems should be established
C9	Controls on fishing operations, such as catch/output controls, effort/ input controls, fishing gear controls, spatial controls and temporal controls, should be outlined
C10	The design, implementation, monitoring and review of fishery management plans (FMPs) should be mandated
C11	MCSE measures should be outlined
C12	Fisheries-related offences, penalties and administrative and judicial processes should be outlined
C13	EAF research should be promoted and provided for
C14	Mechanisms for habitat and biodiversity conservation and restoration should be outlined
C15	Energy expenditure, pollution, the introduction of species and other potentially harmful activities should be regulated in order to limit the impacts on aquatic ecosystems
C16	A requirement for the production, submission and review of environmental impact statements (EIS) or environmental impact assessments (EIA) for potentially impactful activities should be outlined
C17	The regular monitoring and review of management measures should be required

As mentioned in the How-to Guide for an EAF, the minimum components for legislating for an EAF should be formulated and reflected in the policy context first, enabling the governments to address its dimensions and cross-cutting issues. Then, in more specific terms, the legislation should provide for and elaborate on an EAF (FAO, 2016, p.10). The How-to Guide for an EAF also provides general guidelines to assist countries in drafting new or amending existing policies and laws, if a country decides to implement some or all of the 17 EAF components in its respective policy and legal frameworks (FAO, 2016, p. 10–11).

The importance of implementing the EAF in national policy and legal frameworks should not be understated. Fisheries are operated and managed on the basis of prescribed rules,

which are generally set out in fisheries policies and/or legislation, as well as in FMPs. Such rules should reflect the minimum international standards to ensure the long-term sustainability of the fisheries sector as a whole. The EAF facilitates this alignment by integrating all the relevant principles of sustainable development and adapting them to the fisheries context. The adoption of an EAF in policy and legal frameworks entails that those policies and rules take into account the interrelationship between fish, associated species, ecosystems and habitats, the interactions between the fisheries sector and other relevant sectors, and the importance of these to the well-being and livelihoods of fishing communities and fishers at all levels of governance.

2. ECOSYSTEM APPROACH TO FISHERIES LEGAL DIAGNOSTIC TOOL: INCORPORATING AN ECOSYSTEM APPROACH TO FISHERIES IN POLICY AND LEGAL FRAMEWORKS

2.1 Preliminary considerations and scope

On the basis of and as a supplement to the How-to Guide for an EAF, the EAF-Nansen Programme³ commissioned the development of *A Diagnostic Tool on implementing an EAF through national policy and legal frameworks* (the “EAF Legal Diagnostic Tool”). This work is an additional tool for the practical implementation of the EAF. It consolidates the 17 EAF components identified in the How-to Guide for an EAF in more precise legal requirements to be reflected in relevant national policies and laws.

The EAF Legal Diagnostic Tool translates the EAF components into a stepwise legal checklist for use by legal practitioners, policymakers and fisheries managers in a preliminary assessment of the EAF in selected national policy and legal instruments. By examining the fisheries policies, the fisheries primary and secondary legislation, as well as other EAF-related sectoral legislation, the user of the EAF Legal Diagnostic Tool can

preliminarily assess the level of implementation of the EAF and identify the gaps or insufficient coverage of the EAF components in the national policy and legal frameworks.

Based on such preliminary diagnosis, the users of the EAF Legal Diagnostic Tool will be in a better position to support the process of incorporating an EAF into existing national policies and legislation, determining whether specific EAF legal requirements should be incorporated in national policy and legal frameworks, and taking corrective actions, as appropriate. The outcome of this process may result in amendments to existing national policies and/or legislation, or the development of new policy and legal instruments that are fully aligned with an EAF.

2.2 Methodology

The development of the EAF Legal Diagnostic Tool was based on the stepwise methodology presented below.

³ Within the project “Strengthening the Knowledge Base for and Implementing an Ecosystem Approach to Marine Fisheries in Developing Countries (EAF-Nansen GCP/INT/003/NOR)” and the programme “Supporting the Application of the Ecosystem Approach to Fisheries Management considering Climate Change and Pollution Impacts” (EAF-Nansen GCP/GLO/690/NOR).

Table 2: Summary of the stepwise methodology

Steps	
1	Reassessing the 17 EAF components and the general guidelines provided in the How-to Guide for an EAF
2	Detailed analysis of each of the EAF components and identification of the key recommendations under each of them
3	Structuring these key recommendations as legal requirements and placing them in a checklist (the “EAF Legal Checklist”) presented under section 3 below.
4	Organizing the legal requirements (the “EAF legal requirements”) in the typical outline of a fisheries primary legislation, as presented in subsection 3.1 below.

3. HOW TO USE THE ECOSYSTEM APPROACH TO FISHERIES LEGAL DIAGNOSTIC TOOL

3.1 Introducing the ecosystem approach to fisheries Legal Checklist

The EAF Legal Checklist emphasizes the fisheries policy and legislation, but also takes into account the legislation of other sectors. The EAF is very broad in scope covering a wide range of issues; this holistic perspective requires drafting policy decisions and legal provisions, or amending existing ones, governing a broad range of subjects, not only those related to fisheries (e.g. aquaculture, environment, water) but also those that regulate activities that have an impact on fisheries and aquatic ecosystems (e.g. shipping, mining, petroleum extraction, etc.) (FAO, 2016, pp.10–11). An assessment focused only on fisheries policy and legislation may result in not meeting certain key EAF components. For example, EAF component 16 on EIA is usually found in environmental legislation.

The EAF components 4 and 6 – which respectively address stakeholder participation and transparency, and the integration of lower level authorities, bodies and stakeholders – may require that other fields of law are assessed and addressed, such as protection of local communities. Hence, where appropriate, the primary and secondary legislation of other relevant sectors should be considered when carrying out a gap assessment, in order to ensure that the EAF is fully implemented.

The How-to Guide for an EAF makes reference to *primary* legislation and *subsidiary* legislation

and provides guidance on how they should be drafted (FAO, 2016, p. 10). This difference was taken into account when formulating the EAF Legal Checklist, clarifying as much as possible the key legal requirements of each category of rules. In this EAF Legal Diagnostic Tool, *subsidiary* legislation is referred to as *secondary* legislation. Secondary legislation normally includes any regulation, decree, directive, regulatory instruction, ordinance, normative ruling or statutory instrument that has the purpose of elaborating and implementing primary legislation.

The level of detail and comprehensiveness of legal provisions in primary or secondary legislation and the related process for their adoption, depend on a country's legal system and legislative practice. The enactment of primary legislation is by legislature or higher law-making authorities and involves a more arduous process. As a result, primary legislation is usually less subject to substantial modifications over time. Secondary legislation, in turn, usually regulates specific issues or a particular activity within a sector, contains more detailed provisions, and may be amended from time to time in order to adapt to current needs or changes of a sector or other economic, social and political circumstances. Secondary legislation is usually promulgated by an authority or decision maker identified in the primary legislation.⁴

⁴ For example, the Aquatic Biological Resources Law (2004) of Angola sets general rules for fishing and fishing-related activities that are regulated, in more detail, by the Fisheries General Decree (2005) which among other things provides for the types of fishing gears allowed to be used in marine waters.

3.2 Structure of the ecosystem approach to fisheries Legal Checklist

With the focus on the fisheries sector, the EAF Legal Checklist was structured according to the typical outline of a fisheries primary legislation, which usually contains the subjects listed below. This typical outline should be considered without prejudice to the particular structure of the fisheries primary legislation of the assessed country.⁵

- Scope and definitions
- Principles and objectives
- Institutional arrangements
- Stakeholder participation, coordination, cooperation and integration
- Fisheries management (catch/output controls, effort/input controls, fishing gears and methods controls, spatial/temporal controls, fisheries management plans)
- Conservation measures
- Fisheries monitoring and research
- MCSE
- Enforcement processes and sanctions scheme.

For each of these subjects, the EAF Legal Checklist provides the respective EAF legal requirements, with an indication of the EAF component to which they relate. These EAF legal requirements can be directly implemented into national policy and legal instruments.

3.3 Using the ecosystem approach to fisheries Legal Checklist

The EAF Legal Checklist should be used as a diagnostic tool to assess the level of alignment of a country's policy and legal frameworks with the EAF. The focus of the assessment should be on the fisheries policy framework, the fisheries primary legislation and the fisheries secondary

legislation. The primary and secondary legislation of other relevant sectors is also important and should be considered in tandem with the fisheries policy and legal frameworks.

The EAF legal requirements are fundamental to the implementation of an EAF and should therefore be included in the fisheries policy, fisheries primary and secondary legislation and other sector's primary and secondary legislation. In certain instruments, however, the EAF legal requirement can be optional (OPT.) considering the level of detail that it provides for or the specific issue that it addresses. For instance, the EAF legal requirements concerning principles are mandatory in the fisheries primary legislation, but they do not need to be replicated in the fisheries secondary legislation, for which they are optional.

Some EAF legal requirements, which cover fisheries management, MCSE, and almost all those under enforcement processes and sanction scheme, are exclusively relevant to fisheries. Therefore, such EAF legal requirements are not applicable (N/A) to other sector's primary and secondary legislation.

For the convenience of the user in assessing the relevant national policy and legal instruments, the EAF Legal Checklist has been organized in the form of a template in Appendix C, "EAF Legal Checklist for assessment and implementation of the EAF in policy and legal frameworks". It contains 82 EAF legal requirements, which set the minimum standards in legislating for an EAF, notwithstanding that such EAF legal requirements may be further elaborated and improved in advancing the implementation of an EAF. In this checklist, the EAF legal requirements that were considered optional or not applicable, were indicated respectively by "OPT" and "N/A".

The EAF Legal Checklist should be filled in by indicating the symbols in Table 3 below.

⁵ In common law countries, for instance, a subject entitled "miscellaneous" is usually found in the last part of the fisheries primary legislation which inter-alia empowers the relevant authority to establish additional requirements through regulation. Such mandates were taken into account under the subject "fisheries management".

Table 3: Meaning of the symbols used in filling in the EAF Legal Checklist

Symbol	Perceived level of alignment with the EAF legal requirement	
✓	Full or sufficient	Part(s) of the assessed fisheries policy or provision(s) in the assessed legislation <u>totally incorporate(s)</u> the EAF legal requirement.
∅	Partial or insufficient	Part(s) of the assessed policy or provision(s) in the assessed legislation <u>partially incorporate(s)</u> the EAF legal requirement. ⁶
X	None or non-existent	No part of the assessed policy, and no provision in the assessed legislation was found that incorporates the EAF legal requirement.
●	Not considered	The EAF legal requirement was fully or sufficiently found in the primary fisheries policy/legislation, or in the primary legislation of another 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, MCSE and almost all of those under enforcement processes and sanctions scheme) and therefore not applicable to other sectors' legislation.
OPT	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 should be filled in by indicating: (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.

In using the EAF Legal Checklist, the user should also take into account the background information provided under appendices A and B. The outcome of the use of the EAF Legal Checklist should indicate the level of implementation of the EAF legal requirements in the assessed country. This could result in either the development and enactment of new policy and legal instruments or the amendment of existing ones in order to improve the alignment of the relevant national policy and legal framework with an EAF.

⁶ A more in-depth analysis will be required to understand how EAF legal requirements filled in with the ∅ symbol could be fully incorporated in legal and policy instruments, or reflect potential contradictions between one legal and/or policy instrument and another. Such analysis goes beyond the scope of this desk-based preliminary assessment.

4. CONCLUDING REMARKS

This EAF Legal Diagnostic Tool essentially structures the 17 EAF components identified in the How-to Guide for an EAF into a stepwise Legal Checklist in accordance with the subjects identified under section 3.1 above. This checklist facilitates, in a practical way, the diagnosis and integration of the EAF in national policy and legal frameworks. Where fisheries policies and legislation and other sectoral or related legislation are already in place, the EAF Legal Checklist can be used to assess the relevant policy and legal instruments to ensure that they fully implement an EAF. Eventually this process should result in identifying potential gaps or amending existing policy and legal instruments through the applicable policymaking or legislative procedures. Where there is no relevant policy and/or legislation in place, the essential legal requirements may serve as a basis for drafting provisions that implement an EAF in the national policy and legal frameworks.

As highlighted in the How-to Guide for an EAF, the implementation of the EAF faces many challenges, including the limited flexibility for accommodating the EAF by already well-established institutional management structures (FAO, 2016, p. 54). This barrier relates, in particular, to the difficulty of legislating for an EAF, since its implementation is not achieved by putting in place a single EAF-

specific policy and/or legal instrument. It involves facing the challenge of embedding the EAF components in numerous policy and legal instruments that are relevant not only to fisheries, but also to fisheries-related activities, EAF-relevant issues and other subjects (e.g. aquaculture, environment, water). It also requires placing provisions in primary legislation, and in secondary legislation and other sectoral legislation, regulating diverse activities (e.g. shipping, oil and gas production, mining) that may impact on fisheries and its ecosystem. It is a complex task that requires the coordinated engagement of relevant stakeholders from all levels of governance that should consider the broad range of matters related to the EAF and appropriately address them.

The real challenges, such as the rigid institutional and management structures, should not prevent the use of the How-to Guide for an EAF and this EAF Legal Diagnostic Tool in initiating the operationalization of the EAF through policy and legal frameworks. Ultimately, the objective of implementing the EAF in national policy and legal frameworks is to improve the conservation and sustainable use of marine resources, biodiversity and ecosystems in a holistic approach that covers all ecological and human dimensions.

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APPENDIX A – NON-EXHAUSTIVE LIST OF SELECTED INTERNATIONAL POLICY AND LEGAL INSTRUMENTS IN SUPPORT OF AN ECOSYSTEM APPROACH TO FISHERIES

Instrument	Ecosystem approach to fisheries-related relevant decision or provision
1971 Ramsar Convention on Wetlands of International Importance	See COP12 – Resolution XII.2 that adopted the 4th Ramsar Strategic Plan 2016–2024 (Strategic Goal 1(1) Wetland benefits are featured in national/ local policy strategies and plans relating to key sectors such as water, energy, mining, agriculture, tourism, urban development, infrastructure, industry, forestry, aquaculture, fisheries at the national and local level. Strategic Goal 3(13) Enhanced sustainability of key sectors such as water, energy, mining, agriculture, tourism, urban development, infrastructure, industry, forestry, aquaculture and fisheries, when they affect wetlands, contributing to biodiversity conservation and human livelihoods).
1972 Stockholm Declaration on the Human Environment	Principle 2 – The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.
1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora	Article IV. 3. A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens. Whenever a Scientific Authority determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the Scientific Authority shall advise the appropriate Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.
1979 Convention on the Conservation of Migratory Species of Wild Animals	Article I. 1. For the purpose of this Convention: (...) c) “Conservation status” will be taken as “favourable” when: (...) (1) population dynamics data indicate that the migratory species is maintaining itself on a long-term basis as a viable component of its ecosystems; (...) (4) the distribution and abundance of the migratory species approach historic coverage and levels to the extent that potentially suitable ecosystems exist and to the extent consistent with wise wildlife management; (...).
1982 World Charter for Nature	Paragraph I. General Principles. (...) 3. All areas of the earth, both land and sea, shall be subject to these principles of conservation; special protection shall be given to unique areas, to representative samples of all the different types of ecosystems and to the habitats of rare or endangered species. 4. Ecosystems and organisms, as well as the land, marine and atmospheric resources that are utilized by man, shall be managed to achieve and maintain optimum sustainable productivity, but not in such a way as to endanger the integrity of those other ecosystems or species with which they coexist. Section III. Implementation. (...) 16. All planning shall include, among its essential elements, the formulation of strategies for the conservation of nature, the establishment of inventories of ecosystems and assessments of the effects on nature of proposed policies and activities; all of these elements shall be disclosed to the public by appropriate means in time to permit effective consultation and participation. (...) 19. The status of natural processes, ecosystems and species shall be closely monitored to enable early detection of degradation or threat, ensure timely intervention and facilitate the evaluation of conservation policies and methods.
1982 United Nations Convention on the Law of the Sea	Article 61 (...) (2) The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and competent international organizations, whether subregional, regional or global, shall cooperate to this end. (...) (4) In taking such measures the coastal State shall take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened. (...) Article 192. States have the obligation to protect and preserve the marine environment. (...) Article 194. Measures to prevent, reduce and control pollution of the marine environment (...) (5) The measures taken in accordance with this Part shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.
1992 Rio Declaration on Environment and Development	Principle 7. States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

Instrument	Ecosystem approach to fisheries-related relevant decision or provision
1992 Agenda 21	<p>Chapter 17 – 17.30 (a)(v), 17.71 Fisheries in many areas under national jurisdiction face mounting problems, including local overfishing, unauthorized incursions by foreign fleets, ecosystem degradation, overcapitalization and excessive fleet sizes, under evaluation of catch, insufficiently selective gear, unreliable databases, and increasing competition between artisanal and large-scale fishing, and between fishing and other types of activities. (...) 17.85 States should identify marine ecosystems exhibiting high levels of biodiversity and productivity and other critical habitat areas and should provide necessary limitations on use in these areas, through, inter alia, designation of protected areas. (...) 17.94 Coastal States, with the support of relevant subregional, regional and global agencies, where appropriate, should: (...) (b) Provide support to local fishing communities, in particular those that rely on fishing for subsistence, indigenous people and women, including, as appropriate, the technical and financial assistance to organize, maintain, exchange and improve traditional knowledge of marine living resources and fishing techniques, and upgrade knowledge on marine ecosystems; (...) See also Chapter 5 – 5.23, 5.25, 5.29 and 5.41; Chapter 9 – 9.21 (d); Chapter 15 – 15.4. (i), 15.5. (e)(f)(g)(h)(m), 15.6 (c); Chapter 16 – 16.7 (c); and Chapter 17 – 17.72, 17.74, 17.128 (h).</p>
1992 Convention on Biological Diversity	<p>Article 8. (d)(f)(h), Article 9. (c). See also the CBD–COP2–Decision II/10 that adopted the ‘Jakarta Mandate’ on marine and coastal biological diversity; CBD–COP5–Decision V/6 that endorses the description of the ecosystem approach and the 12 principles of the ecosystem approach; and CBD–COP7–Decision that provides guidance on the implementation of these principles.</p>
1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas	<p>Article III. 1. (a) Each Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures. (...) 6. Each Party shall ensure that all fishing vessels entitled to fly its flag that it has entered in the record maintained under Article IV are marked in such a way that they can be readily identified in accordance with generally accepted standards, such as the FAO Standard Specifications for the Marking and Identification of Fishing Vessels. 7. Each Party shall ensure that each fishing vessel entitled to fly its flag shall provide it with such information on its operations as may be necessary to enable the Party to fulfil its obligations under this Agreement, including in particular information pertaining to the area of its fishing operations and to its catches and landings. 8. Each Party shall take enforcement measures in respect of fishing vessels entitled to fly its flag which act in contravention of the provisions of this Agreement, including, where appropriate, making the contravention of such provisions an offence under national legislation. Sanctions applicable in respect of such contraventions shall be of sufficient gravity as to be effective in securing compliance with the requirements of this Agreement and to deprive offenders of the benefits accruing from their illegal activities. Such sanctions shall, for serious offences, include refusal, suspension or withdrawal of the authorization to fish on the high seas.</p> <p>Article V. 1. The Parties shall cooperate as appropriate in the implementation of this Agreement, and shall, in particular, exchange information, including evidentiary material, relating to activities of fishing vessels in order to assist the flag State in identifying those fishing vessels flying its flag reported to have engaged in activities undermining international conservation and management measures, so as to fulfil its obligations under Article III.</p> <p>Article VI. (...) 8. (a) Each Party shall report promptly to FAO all relevant information regarding any activities of fishing vessels flying its flag that undermine the effectiveness of international conservation and management measures, including the identity of the fishing vessel or vessels involved and measures imposed by the Party in respect of such activities. Reports on measures imposed by a Party may be subject to such limitations as may be required by national legislation with respect to confidentiality, including, in particular, confidentiality regarding measures that are not yet final. (b) Each Party, where it has reasonable grounds to believe that a fishing vessel not entitled to fly its flag has engaged in any activity that undermines the effectiveness of international conservation and management measures, shall draw this to the attention of the flag State concerned and may, as appropriate, draw it to the attention of FAO. It shall provide the flag State with full supporting evidence and may provide FAO with a summary of such evidence. FAO shall not circulate such information until such time as the flag State has had an opportunity to comment on the allegation and evidence submitted, or to object as the case may be.</p>

Instrument	Ecosystem approach to fisheries-related relevant decision or provision
1995 FAO Code of Conduct for Responsible Fisheries	Article 2. Objectives of the Code. The objectives of the Code are to: (...) (i) promote research on fisheries as well as on associated ecosystems and relevant environmental factors; (...) Article 6. General Principles. 6.1 States and users of living aquatic resources should conserve aquatic ecosystems. (...) 6.2 (...) Management measures should not only ensure the conservation of target species but also of species belonging to the same ecosystem or associated with or dependent upon the target species. (...) 6.4 (...) States should assign priority to undertake research and data collection in order to improve scientific and technical knowledge of fisheries including their interaction with the ecosystem. In recognizing the transboundary nature of many aquatic ecosystems, States should encourage bilateral and multilateral cooperation in research, as appropriate. (...) 6.6 Selective and environmentally safe fishing gear and practices should be further developed and applied, to the extent practicable, in order to maintain biodiversity and to conserve the population structure and aquatic ecosystems and protect fish quality. Where proper selective and environmentally safe fishing gear and practices exist, they should be recognized and accorded a priority in establishing conservation and management measures for fisheries. States and users of aquatic ecosystems should minimize waste, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species. (...) 6.8 All critical fisheries habitats in marine and fresh water ecosystems, such as wetlands, mangroves, reefs, lagoons, nursery and spawning areas, should be protected and rehabilitated as far as possible and where necessary. (...) Article 7. Fisheries Management. (...) 7.2.2. Such measures should provide inter alia that: (...) (d) biodiversity of aquatic habitats and ecosystems is conserved and endangered species are protected; (...) 7.2.3. States should assess the impacts of environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks, and assess the relationship among the populations in the ecosystem. See also 9.1.2, 9.2, 9.2.1, 9.2.2, 9.2.3, 9.3.1, 10.1.1, 12.4, 12.5, 12.10 and 12.11.
1995 United Nations Fish Stocks Agreement	Article 5. General Principles. In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention: (...) (d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks; (e) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened; (...).
2001 Reykjavik Declaration	See the entire declaration.
2002 Johannesburg Plan of Implementation	Chapter IV – 30. Oceans, seas, islands and coastal areas form an integrated and essential component of the Earth's ecosystem and are critical for global food security and for sustaining economic prosperity and the well-being of many national economies, particularly in developing countries. Ensuring the sustainable development of the oceans requires effective coordination and cooperation, including at the global and regional levels, between relevant bodies, and actions at all levels to: (...) (d) Encourage the application by 2010 of the ecosystem approach, noting the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem and decision V/6 of the Conference of Parties to the Convention on Biological Diversity. (...) 32. In accordance with chapter 17 of Agenda 21, promote the conservation and management of the oceans through actions at all levels, giving due regard to the relevant international instruments to: (...) (c) Develop and facilitate the use of diverse approaches and tools, including the ecosystem approach, the elimination of destructive fishing practices, the establishment of marine protected areas consistent with international law and based on scientific information, including representative networks by 2012 and time/area closures for the protection of nursery grounds and periods, proper coastal land use and watershed planning and the integration of marine and coastal areas management into key sectors. See also Chapter II – 7(e)(l), Chapter III – 15. Chapter IV – 24, 25(d), 26(c), 32(e), 36, 38 and 44(b)(e)(f), 65(d), 66(d), 70(b) and 81.
2003 FAO EAF Guidelines	See the entire guidelines and the 2009 Human Dimensions Addendum.

Instrument	Ecosystem approach to fisheries-related relevant decision or provision
2005 FAO Guidelines for the Ecolabelling of Fish and Fishery Products from Marine Capture Fisheries	Paragraph 31. Requirement: Adverse impacts of the fishery on the ecosystem should be appropriately assessed and effectively addressed. ¹³ Much greater scientific uncertainty is to be expected in assessing possible adverse ecosystem impacts of fisheries than in assessing the state of target stocks. This issue can be addressed by taking a “risk assessment/risk management approach”. For the purpose of development of ecolabelling schemes, the most probable adverse impacts should be considered, taking into account available scientific information, and traditional, fisher or community knowledge provided that its validity can be objectively verified. Those impacts that are likely to have serious consequences should be addressed. This may take the form of an immediate management response or further analysis of the identified risk. In this context, full recognition should be given to the special circumstances and requirements in developing countries and countries in transition, including financial and technical assistance, technology transfer, and training and scientific cooperation. The following criteria are to be interpreted in the context of avoiding high risk of severe adverse impacts: (...) See further paragraphs 26, 27, 28.2, 29.3, 31.1, 31.2, 31.3, 31.4 and 40.
2009 FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas	Paragraph 6. The role of the Guidelines is to provide tools, including guidance on their application, to facilitate and encourage the efforts of States and RFMO/As towards sustainable use of marine living resources exploited by deep-sea fisheries, the prevention of significant adverse impacts on deep-sea vulnerable marine ecosystems and the protection of marine biodiversity that these ecosystems contain. (...) Paragraph 12. In order to achieve these objectives, States and RFMO/As should: i. adopt and implement measures: (...) in accordance with an ecosystem approach to fisheries (EAF); (...) See also paragraphs 14, 15, 16, 17, 18, 19, 21, 22, 23, 42, 46, 47, 49, 63, 65, 67, 70, 71, 78 and 82.
2009 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing	Article 2. The objective of this Agreement is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures, and thereby to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems.
2011 FAO International Guidelines on Bycatch Management and Reduction of Discards	<p>Paragraph 2 – 2.2. The purpose of these Guidelines is to assist States and RFMO/As in implementing the Code and an ecosystem approach to fisheries through effective management of bycatch and reduction of discards. (...) Paragraph 3 – 3.1.2 (...) Governance and legal frameworks should enable, inter alia: (i) the application of an ecosystem approach to fisheries; (...) Paragraph 4 – 4.1.1. States and RFMO/As should ensure that all significant sources of fishing mortality in a fishery are addressed in fisheries management planning and that such planning is based on an ecosystem approach to fisheries and is consistent with the Code. Paragraph 7 – 7.1. States and RFMO/As should ensure that bycatch management and discard reduction measures are: (v) ecosystem-based; (...) Paragraph 8.1. States and RFMO/As should consider measures to address the impact of pre-catch losses and ghost fishing on living aquatic resources. Possible actions to assess and mitigate such impacts include, inter alia: (...) (ii) improving the scientific information on the magnitude and causes of pre-catch losses and effects of ghost fishing, so that they can be included in stock, fishery and ecosystem assessments.</p> <p>Paragraph 41. Requirement: Adverse impacts of the fishery and any associated culture and enhancement activity on the ecosystem should be appropriately assessed and effectively addressed. Enhanced fisheries will be managed to ensure biodiversity of aquatic habitats and ecosystems are conserved and endangered species protected. Any modifications to the habitat for enhancing the “stock under consideration” are reversible and do not cause serious or irreversible harm to the natural ecosystem’s structure and function. Significant scientific uncertainty is to be expected in assessing possible adverse ecosystem impacts of fisheries, including culture and enhancement activities. This issue can be addressed by taking a “risk assessment/risk management approach”. For the purpose of development of ecolabelling schemes, the most probable adverse impacts should be considered, taking into account available scientific information and traditional, fisher or community knowledge, provided that their validity can be objectively verified. Those impacts that are likely to have serious consequences should be addressed. This may take the form of an immediate management response or further analysis of the identified risk. In this context, full recognition should be given to the special circumstances and requirements in developing countries and countries in transition, including financial and technical assistance, technology transfer, and training and scientific cooperation. The following criteria are to be interpreted in the context of avoiding high risk of severe adverse impacts: (...) See further paragraphs 41.1, 41.2, 41.3, 41.4, 41.4, paragraphs 29, 34, 35.2, 36.4, 36.9, 37, 38 and 51.</p>

Instrument	Ecosystem approach to fisheries-related relevant decision or provision
2012 Rio+20 outcome document “The future we want”	Paragraph 158. We therefore commit to protect, and restore, the health, productivity and resilience of oceans and marine ecosystems, to maintain their biodiversity, enabling their conservation and sustainable use for present and future generations, and to effectively apply an ecosystem approach and the precautionary approach in the management, in accordance with international law, of activities having an impact on the marine environment, to deliver on all three dimensions of sustainable development. See also paragraphs 4, 30, 39, 40, 56, 61, 111, 113, 122, 130, 163, 164, 166, 168, 176, 177, 197, 201, 204 and 228.
2014 FAO Voluntary Guidelines for Flag State Performance	Paragraph 29. The flag State has in place a regime for authorizing fishing and fishing related activities (e.g. licensing), which ensures that no vessel is allowed to operate unless so authorized in a manner consistent with international law and with the sustainability of the relevant stocks, including: (a) appropriate scope for authorization of fishing and fishing related activities, including conditions for the protection of marine ecosystems.
2014 FAO Voluntary Guidelines for Securing Sustainable Small- scale Fisheries	Paragraph 1.1 The objectives of these Guidelines are: (...) e) to provide guidance that could be considered by States and stakeholders for the development and implementation of ecosystem friendly and participatory policies, strategies and legal frameworks for the enhancement of responsible and sustainable small-scale fisheries. (...) Paragraph 3. Guiding Principles (...) 11. Holistic and integrated approaches: recognizing the ecosystem approach to fisheries (EAF) as an important guiding principle, embracing the notions of comprehensiveness and sustainability of all parts of ecosystems as well as the livelihoods of small-scale fishing communities, and ensuring cross-sectoral coordination as small-scale fisheries are closely linked to and dependent on many other sectors. See also paragraphs 5.1, 5.5, 5.16, 6.1, 7.5, 10.3, 10.4, 10.5, 10.7, 11.1 and 11.7.
2015 UNGA Resolution 70/1 “Transforming our world: the 2030 Agenda for Sustainable Development”	SDG 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development. (...) 14.2. By 2020, sustainably manage and protect marine and coastal ecosystems to avoid significant adverse impacts, including by strengthening their resilience, and take action for their restoration in order to achieve healthy and productive oceans. See also SDGs targets 2.4, 6.6, 15.1, 15.8, 15.9 and 15.a.

APPENDIX B – LIST OF EXAMPLES OF SELECTED NATIONAL LEGAL AND POLICY INSTRUMENTS ORGANIZED BY THE 17 ECOSYSTEM APPROACH TO FISHERIES COMPONENTS

EAF C.1 – The objectives and principles of ecosystem approach to fisheries-relevant legislation should include key ecosystem approach to fisheries concepts

Instrument	Provision or reference
<p><i>Fisheries law</i> Australia 1991 Fisheries Management Act</p>	<p>Part 1 – Preliminary. 3. Objectives. “(1) The following objectives must be pursued by the Minister in the administration of this Act and by AFMA (Australian Fisheries Management Authority) in the performance of its functions: (...) (b) ensuring that the exploitation of fisheries resources and the carrying on of any related activities are conducted in a manner consistent with the principles of <u>ecologically sustainable development</u> (which include the exercise of the <u>precautionary principle</u>), in particular the need to have regard to the impact of fishing activities on non target species and the long term sustainability of the marine environment”.</p> <p>“3A. Principles of ecologically sustainable development. The following principles are principles of ecologically sustainable development: (a) decision making processes should effectively <u>integrate both long term and short term economic, environmental, social and equity considerations</u>; (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation; (c) the principle of inter generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations; (d) the conservation of biological diversity and <u>ecological integrity</u> should be a fundamental consideration in decision making.”</p>
<p><i>Fisheries law</i> South Africa 1998 Marine Living Resources Act</p>	<p>Chapter 1 – Introductory Provisions. Objectives and principles.</p> <p>“2. The Minister and any organ of state shall in exercising any power under this Act, have regard to the following objectives and principles: (a) The need to achieve optimum utilisation and ecologically sustainable development of marine living resources; (b) the need to conserve marine living resources for both present and future generations; (c) the need to apply precautionary approaches in respect of the management and development of marine living resources; (d) the need to utilise marine living resources to achieve economic growth, human resource development capacity building within fisheries and mariculture branches, employment creation and a <u>sound ecological balance</u> consistent with the development objectives of the national government; (e) the need to <u>protect the ecosystem as a whole, including species which are not targeted for exploitation</u>; (f) the need to <u>preserve marine biodiversity</u>; (g) the need to <u>minimise marine pollution</u>; (h) the need to achieve to the extent practicable a <u>broad and accountable participation in the decision-making processes</u> provided for in this Act; (i) <u>any relevant obligation</u> of the national government or the Republic in terms of any international agreement or applicable rule of international law; and (j) the need to restructure the fishing industry to <u>address historical imbalances and to achieve equity</u> within all branches of the fishing industry.”</p>
<p><i>Fisheries policy</i> Costa Rica 2013 National Plan for the Development of Fisheries and Aquaculture, approved by Decree No. 37587-MAG</p>	<p>“I. Introduction. The National Plan for the Development of Fisheries and Aquaculture is an interdisciplinary instrument that allows optimizing the full benefits of the fisheries management, conducting investigation based on an <u>ecosystem approach</u>, the planning and right to development of the dependent populations, organizing and fostering the production, in balance with the sustainability of the fisheries and aquaculture resources”. “IV. Policies for Implementation. The present National Plan for the Development of Fisheries and Aquaculture will be implemented with <u>wide participation of diverse State Institutions</u> that have shared responsibilities in the management of the fisheries and aquaculture resources and the Marine Governance, whose programs, activities and actions will be conducted in coordination with the Costa Rican Fisheries and Aquaculture Institute, as the institution in charge of operationalizing this Plan, in accordance with the guidelines of the National Marine Commission and the board of the Ministry of Agriculture and Livestock, in relation to the utilization and production of hydro-biological resources.”</p>

EAF C.2 – To the extent possible, the formation of management boundaries should be ecologically meaningful and management measures should be harmonized across boundaries and jurisdictions, locally, nationally and internationally, when ecologically relevant

Instrument	Provision or reference
<p><i>Fisheries law</i> United States of America 1976 Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2007</p>	<p>“Section 302 – Regional Fishery Management Councils (h) FUNCTIONS. – Each Council shall, in accordance with the provisions of this Act – (1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);”</p> <p>“Section 304. Action by the Secretary (...) (g) ATLANTIC HIGHLY MIGRATORY SPECIES. – (1) PREPARATION AND IMPLEMENTATION OF PLAN OR PLAN AMENDMENT. – The Secretary shall prepare a fishery management plan or plan amendment under subsection (c) with respect to any highly migratory species fishery to which section 302(a)(3) applies. In preparing and implementing any such plan or amendment, the Secretary shall – (...); (F) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and (G) ensure that conservation and management measures under this subsection – (i) promote international conservation of the affected fishery.”</p>
<p><i>Fisheries law</i> Ghana 2002 Fisheries Act</p>	<p>Part IV – Fisheries Management and Development, Sub-Part I – Fishery Plans. “45. Consultation on international fisheries management (1) The Minister may and shall on the advice of the Commission consult with foreign governments and in particular with governments of states sharing the same or interrelated fish stocks, with a view to (a) ensuring the closest practicable harmonisation or co-operation of their respective fisheries management and development plans and regulations; (...) (d) providing, for the formulation of subregional or regional fisheries management and development plans including monitoring, control and surveillance, for the allocation of fishing effort and catch for the formation or promotion of joint fishing among states sharing the same stocks, and for taking subregional or regional joint conservation measures.”</p>
<p><i>EAF-related policies</i> Canada 2005 Ocean Action Plan 2011 National Framework for Canada’s Network of Marine Protected Areas</p>	<p>“The implementation of Integrated Management Planning for Phase I of the Oceans Action Plan is focused in five priority areas.”</p> <p>“LOMAs (large ocean management areas) were defined based on a blend of ecological and administrative considerations.”</p>
<p><i>Environmental law</i> Liberia 2002 Environment Protection and Management Law</p>	<p>Part II – General Principles and Objectives – Section 4 – Principles of Environmental Management and Objectives “1) This Law in its administration shall be guided by: (...) f) The principle of international cooperation in the management of environmental resources shared by two or more states”. Part X – International Obligations – Section 98 – Harmonization of Regional Environmental Agreements “1) The Agency shall advise the State on the harmonization of regional environmental agreements; 2) The Agency shall enter into consultation with other State Agencies in the region and develop Action Plans for the co-operation and harmonization of the management of shared natural resources.”</p>

EAF C.3 – The precautionary approach should be outlined

Instrument	Provision or reference
<i>Fisheries law</i> Sierra Leone 1994 Fisheries (Management and Development) Decree	Part III – Management and Development of the Fisheries of Sierra Leone. “11. (5) Each fishery plan shall (...) (f) where there is <u>insufficient information and advice</u> to set a total allowable catch, <u>identify a plan for determining such information</u> and take appropriate conservation and management measures taking into account the advice of any committee established and performing its functions under section 10 and applying precautionary principles.”
<i>EAF-related law</i> South Africa 1998 Marine Living Resources Act	Chapter 1 – Introductory Provisions “2. Objectives and principles. The Minister and any organ of state shall in exercising any power under this Act, have regard to the following objectives and principles: (...) (c) the need to <u>apply precautionary approaches</u> in respect of the <u>management and development of marine living resources.</u> ”
<i>Environmental law</i> Cameroon 1996 Law on Environmental Management	Chapter III – The Fundamental Principles “Article 9 – The rational management of the environment and natural resources shall be guided, in accordance with the laws and regulations in force, by the following principles: (...) – the precautionary principle, according to which the <u>lack of certainty</u> , taking into account current scientific and technical knowledge, shall <u>not postpone</u> the adoption of <u>effective and proportionate measures</u> to prevent a <u>serious risk and irreversible damage</u> to the environment at an <u>economically acceptable cost.</u> ”
<i>Environmental law</i> United Republic of Tanzania 2004 Environmental Management Act	Part II – General principles “(3) Principles of Environmental Management. In achieving the objective of this Act, every person exercising powers under this Act shall observe the principle that: (...) (c) the precautionary principle, which requires that where there is <u>risk of serious irreversible adverse effects</u> occurring, a <u>lack of scientific certainty</u> should <u>not prevent or impair</u> the taking of <u>precautionary measures</u> to protect the environment.”
<i>Fisheries regulation</i> Liberia 2010 Fisheries Regulations	Part II – Fisheries Conservation and Management “3. Principles for fisheries management. The Bureau (of National Fisheries, established in the Ministry of Agriculture of the Government of the Republic of Liberia) shall evaluate which types of management measures are necessary to ensure sustainable management of fisheries, and shall attach importance to the following principles: a. a <u>precautionary approach</u> , in accordance with international agreements and guidelines; b. an <u>ecosystem approach</u> that takes into account habitats and biodiversity.”

EAF C.4 – Mechanisms for stakeholder participation and transparency should be outlined

Instrument	Provision or reference
<p><i>Fisheries law</i> United States of America 1976 Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2007</p>	<p>Section 302 – Regional Fishery Management Councils (...)“(g) COMMITTEES AND ADVISORY PANELS – (1)(A) Each Council shall establish, maintain, and appoint the members of a <u>scientific and statistical committee</u> to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council’s development and amendment of any fishery management plan. (B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices. (C) Members appointed by the Councils to the scientific and statistical committees shall be <u>Federal employees, State employees, academicians, or independent experts</u> and shall have strong scientific or technical credentials and experience.”</p> <p>“(h) FUNCTIONS – Each Council shall, in accordance with the provisions of this Act – (...) (3) conduct <u>public hearings</u>, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act (and for purposes of this paragraph, the term "geographical area concerned" may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area).”</p> <p>“(i) PROCEDURAL MATTERS – (2) The following guidelines apply with respect to the conduct of business at meetings of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g): (C) “<u>Timely public notice</u> of each regular meeting and each emergency meeting, including the <u>time, place, and agenda</u> of the meeting, shall be provided by any means that will result in <u>wide publicity</u> in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient. <u>Timely notice of each regular meeting shall also be published in the Federal Register</u>. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such <u>modification is to address an emergency action under section 305(c)</u>, in which case <u>public notice shall be given immediately</u>; (D) <u>Interested persons shall be permitted to present oral or written statements</u> regarding the matters on the agenda at meetings. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.”</p> <p>Section 304 – Action by the Secretary. “(a) REVIEW OF PLANS – (1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall – (A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and (B) immediately <u>publish in the Federal Register</u> a notice stating that the plan or amendment is available and that written information, views, or <u>comments of interested persons on the plan or amendment</u> may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.”</p> <p>“(b) REVIEW OF REGULATIONS – (1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and – (A) if that determination is affirmative, the Secretary shall <u>publish such regulations in the Federal Register</u>, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days.”</p>
<p><i>Fisheries law</i> United Republic of Tanzania 2003 Fisheries Act</p>	<p>Part II – Administration, Information to members of the public, 7. “The Director and all officers appointed under this Act may, where it is appropriate to do so, <u>provide and disseminate information and guidance, in writing by order or notice to members of the public</u> in connection with the implementation of this Act.”</p>

Instrument	Provision or reference
<p><i>Fisheries law</i> Gabon 2005 Code of Fisheries and Aquaculture</p>	<p>Title 3 – The protection of the aquatic species and ecosystems, Section 3 – The aquatic protected areas. “Article 65. The initiative of classifying or declassifying the aquatic protected areas are <u>jointly owned by the Department of Fisheries and Aquaculture and the population of the area concerned</u>. In all cases, the Department of Fisheries and Aquaculture, <u>in collaboration with the representatives of the riparian populations</u>, is responsible for the recognition of the perimeter to be classified or decommissioned, customary rights of use and all other activities practiced within this parameter”. “Article 66. In order to classify or declassify the aquatic protected areas, an <u>advisory commission</u> shall be established in each zone for the classification or declassification of aquatic protected areas, whose composition, organization and functioning shall be provided for in regulations.”</p>
<p><i>Environmental law</i> Cameroon 1996 Law on Environmental Management</p>	<p>Chapter III – The Fundamental Principles. “Article 9. The rational management of the environment and natural resources shall be guided, in accordance with the laws and regulations in force, by the following principles: (...) – the principle of participation, according to which: – each citizen shall have access to information related to the environment, including those regarding dangerous substances and activities; – each citizen has the obligation to ensure the safeguard of the environment and to contribute to its protection; – <u>the public and private people shall, in all their activities, comply with the same requirements</u>; – the decisions concerning the environment shall be taken after <u>consultation with the concerned stakeholders and groups, or after a public debate of general scope</u>.”</p>
<p><i>Fisheries Regulation</i> Senegal 2015 Regulation for Marine Fisheries Code</p>	<p>Chapter II – Marine Fisheries Entities – Section 1 – National Advisory Council for Marine Fisheries. “Article 3. The National Advisory Council for Marine Fisheries (...) has the following missions: (...) – <u>contribute to information and raising awareness of fisheries stakeholders from all areas of the sector</u>; – give an opinion on any question submitted to it by the <u>local councils for artisanal fishing</u>.”</p> <p>“Article 4. The National Advisory Council for Marine Fisheries is chaired by the Director of Maritime Fisheries. Members of the Council are: the Director of Fishing Transformation Industries; the Director of Inland Fisheries; the Director of Management and Exploitation of the Seabed; the Director of Fisheries Protection and Surveillance; the Director General of the National Agency for Maritime Affairs; the Director General of the National Aquaculture Agency; the Director General of the National Society of the Autonomous Port of Dakar; the Director of the Ocean Research Center of Dakar – Thiaroye; the Coordinator of the Study and Planning Unit; a representative of the Ministry in charge of the Armed Forces; a representative of the Ministry of the Interior; a representative of the Ministry of Finance; a representative of the Ministry of the Environment; a representative of the Ministry of Local Government; four representatives of shipowners and industrialists of sea fishing; three representatives of local artisanal fisheries councils; three representatives of the artisanal fishery; a representative of the organizations of the society; a representative of the aquaculturists; a representative of the Senegalese Fishing Federation.”</p> <p>“Article 6. The local councils of artisanal fishing have for missions: (...) – <u>participate in the development and implementation of local development plans</u>; <u>promote local initiatives in co-management of fisheries</u>; to request an opinion from the National Consultative Council of Maritime Fisheries on all matters relating to fishing, in their respective localities; to seek the assistance of the National Advisory Council for Maritime Fisheries to resolve fishing problems in their respective localities.”</p>

EAF C.5 – Mechanisms for coordination, cooperation and integration of approach between the institutions responsible for fisheries management and other relevant institutions should be established

Instrument	Provision or reference
<p><i>Fisheries law</i> United Republic of Tanzania 2003 Fisheries Act</p>	<p>Part II – Administration, Relationship between the Ministry, Local authorities and fisheries management authorities. “8.(1) The Director shall use his best endeavours to ensure that all the local government authorities and associations of local authorities and other fisheries management authorities are consulted and kept informed of management of fisheries under this Act and any other written laws related to the management of fisheries. (2) Where there is any conflict between the local authority management plan and other local authority applicable to a water body, the Director and other relevant officers and members of the local authority shall <u>consult together</u> and use their best endeavours to reconcile any such variances”. Part III – Development of the fishing industry, Development and sustainable use of aquatic resources. “9.(1) The Director shall, in cooperation with other appropriate agencies and divisions or departments of the Government, promote, encourage and support all initiatives leading to the development and sustainable use of the fish stock and aquatic resources (...).”</p>
<p><i>Fisheries law</i> Ghana 2002 Fisheries Act</p>	<p>Part I – Fisheries Commission, Object and functions of the Commission. “2. (1) The object of the Commission is to regulate and manage the utilization of the fishery resources of Ghana and <u>coordinate</u> the policies in relation to them. (2) Without prejudice to the general effect of subsection (1), the Commission shall in relation to fisheries perform the following functions: (...) (f) promote <u>subregional, regional and international cooperation</u> in fisheries management; (h) carry out research and survey work for the assessment of stock of the fisheries resources; (i) <u>correlate fisheries with other water uses and environmental protection</u> particularly with respect to the fish resources and food chain in the rivers, lagoons, lakes and the continental shelf along the coast of the country.”</p>
<p><i>EAF-related law</i> Namibia 2002 Aquaculture Act</p>	<p>Part VIII – Management and Control Measures, Marine reserves. “51. (1) The Minister may, by notice in the Gazette describing the boundaries of any area of (a) Namibian waters; (b) with the consent of the Minister under whose authority an area of State land falls, such State land; and (c) upon appropriate <u>consultation with the competent authorities</u>, land subject to the jurisdiction of a traditional authority, declare such area to be a marine reserve for the protection or regeneration of marine resources. (2) Prior to the declaration of each reserve, the Minister shall, <u>after consultation with interested persons</u>, establish objectives for the management of the reserve (...).” Part IV – Aquaculture Development Zones, Creation. “33. (2) Before declaring a place as an aquaculture development zone, the Minister must <u>consult with the advisory council and any Ministry having jurisdiction in the proposed aquaculture development zone</u> and undertake an environmental impact assessment with regard to the aquaculture development zone and establish the development objectives of the aquaculture development zone.”</p>
<p><i>Environmental law</i> Mauritius 2002 Environment Protection Act</p>	<p>Part II – Administration – 6. Functions and powers of the Commission. “(1) The [National Environment] Commission shall – (a) set national objectives and goals, and determine policies and priorities for the protection of the environment, having due regard to the recommendations of the Minister; (b) review progress made by public departments on any aspect of environmental management projects and programmes; (c) ensure <u>coordination and cooperation between public departments, local authorities, and other government organisations engaged in environmental protection programmes</u>; (d) make such recommendations and issue such directions as it may determine to public departments.”</p>
<p><i>Other-sector law</i> Namibia 1991 Petroleum (Exploration and Production) Act</p>	<p>Part IV – Provisions relating to exploration of licenses. “38. Obligations of holder of exploration licence. (1) It shall be a term and condition of an exploration licence that the holder of an exploration licence shall – (d) “remove from such exploration area, or otherwise deal with as directed by the Minister in consultation with the Minister or Ministers responsible for environment, fisheries and finance, all installations, equipment, pipelines and other facilities, whether on-shore or offshore, not used or intended to be used in connection with such exploration operations.”</p>

EAF C.6 – Lower level authorities, bodies and stakeholders should be integrated into management processes

Instrument	Provision or reference
<p><i>Fisheries law</i> United States of America 1976 Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2007</p>	<p>Section 302. Regional Fishery Management Councils. "(b) VOTING MEMBERS.– (1) The voting members of each Council shall be: (A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official. (B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member. (C) The members required to be appointed by the Secretary in accordance with paragraphs (2) and (5). (2) (A) The members of each Council required to be appointed by the Secretary <u>must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned.</u> Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph."</p> <p>"(c) NONVOTING MEMBERS – (1) The nonvoting members of each Council shall be: (A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee. (B) The commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard. (C) The Executive Director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee. (D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee."</p>
<p><i>Fisheries law</i> Gabon 2005 Code of Fisheries and Aquaculture</p>	<p>Title 3 – The protection of the aquatic species and ecosystems, Section 3 – The aquatic protected areas. "Article 65. The initiative of classifying or declassifying the aquatic protected areas are jointly owned by the Department of Fisheries and Aquaculture and the population of the area concerned. In all cases, the Department of Fisheries and Aquaculture, <u>in collaboration with the representatives of the riparian populations,</u> is responsible for the recognition of the perimeter to be classified or decommissioned, customary rights of use and all other activities practiced within this parameter."</p>
<p><i>Fisheries law</i> United Republic of Tanzania 2003 Fisheries Act, Beach Management Units</p>	<p>Part V – Management and Control of the Fishing Industry. "18.–(1) The Director may enter into a management agreement with <u>beach management units</u> of the whole or part of or some specific fishery matter or activity within any water body or with any one or more <u>local authorities</u> having jurisdiction within the vicinity of any water body and deriving the whole or a part of their livelihood from that water body."</p>
<p><i>Fisheries regulation</i> United Republic of Tanzania 2005 Fisheries Act Regulations</p>	<p>Part VIII – General Provisions. "104.– (1) There shall be established Beach Management Unit (BMU), in every freshwater bodies and marine coastlines in accordance with Beach Management Unit Guidelines to be made by the Director. (2) The jurisdictional area on land of every Beach Management Units shall be as <u>agreed upon by fisher community, local government authority and the Government;</u> and may include more than one fish landing station. (3) Every person engaging in fisheries activities including fish processors, traders, gear repairers and suppliers and boat builders within the Beach Management Units area shall be <u>registered as members</u> of such Beach Management Units. (4) The functions of the BMU shall include, but not limited to: (a) develop a BMU fisheries management and landing station development plan in consonance with higher level fisheries management plans; (b) develop annual and quarterly work plans and budgets to implement the management and development plans; (c) collaborate in the collection of fisheries catch, effort and value information; (d) engage in monitoring, control and surveillance in such a way to reduce the incidence of illegal gears, fishing and fish trading practices within the BMU area; (e) ensure hygienic, health and safe conditions at the landing stations within the BMU area, in accordance with standards set by the Government; (f) conflict resolution; (g) participate in selection processes for the issue of fishing vessels licence and fishing permits within the BMU jurisdictional area to ensure equitable access to resources by BMU members; (h) ensure fisheries licences and permits fees are paid by BMU members in a timely manner; and (i) arbitrate to settle fisheries disputes amongst BMU members, between BMUs and between the BMU and other institutions."</p>

Instrument	Provision or reference
<p><i>Fisheries regulation</i> Madagascar 1993 Ordinance Regulating Fisheries and Aquaculture</p>	<p>Title III – Management of Fisheries. “Article 5. It is established the National Inter-ministerial Commission of Fisheries and Aquaculture of which the functions, composition and modalities of operation are determined by regulation. It is established for each Faritany an advisory council for fisheries and aquaculture composed by <u>representatives from ministries, local government and the industry</u>. Each council shall advise on any matter referred to them by the Department of Fisheries and Aquaculture or the Inter-ministerial Commission. The terms of operation and participation of the councils are to be determined by regulation.”</p>
<p><i>EAF-related law</i> Madagascar 1996 Law on Local Management of Renewable Natural Resources</p>	<p>“Article 1. With a view to enabling the effective <u>participation of rural populations</u> in the sustainable conservation of renewable natural resources, the <u>basic community</u> may be entrusted, under the conditions provided for by this Law, with the management of some of these resources included in the limits of their territory. Art. 2. The <u>renewable natural resources whose management can entrust to the community of base</u>, according to the article 1 of this law, are those falling in the domain of the State or the Local authorities. This category includes forests, aquatic and terrestrial fauna and flora, water and rangelands. Article 3. The community of base is constituted by any voluntary grouping of individuals united by the same interests and obeying rules of common life. It gathers, as the case may be, the inhabitants of a hamlet, a village or a group of villages. The grassroots community has legal personality and functions as an NGO according to the regulations in force. Article 4. The benefit of the <u>transfer of management</u> provided for by this article is <u>recognized to the community of base</u> which has received the approval of the competent administrative authority; This competence is determined by the applicable laws and regulations according to the category of membership and the nature of the resources considered.”</p>
<p><i>Fisheries law</i> Mozambique 2013 Fisheries Law</p>	<p>Title II – Fisheries Activities and related fisheries activities, Chapter II – Marine and Inland Fisheries, Section II – Planning and Management. “Article 23. In order to ensure fisheries planning and fisheries management, the <u>participatory management model</u> is adopted through the establishment of mechanisms that allow the representation of those interests concerned. 2. The implementation of the participatory management model takes into account the need to <u>ensure</u>: (a) the <u>right of fishing communities</u> to have access to fisheries resources and their <u>participation in the fisheries planning and management</u>; b) the <u>coordination among the Fisheries Department and the artisanal fishermen, fishing keeper, traders, transporters, those in charge of processing fishery products and other stakeholders with indirect interests</u>; c) the sustainability of fishery resources and its responsible use; d) the <u>benefit-sharing of percentage of the revenues to the local fishing communities</u>. ”</p>

EAF C.7 – Mechanisms for conflict management should be outlined

Instrument	Provision or reference
<i>Fisheries law</i> Ghana 2002 Fisheries Act	Part I – Fisheries Commission, Fisheries Settlement Committee. “Section 10. (1) Without limiting the scope of section 9, there shall be appointed by the Commission from among its members a Fisheries Settlement Committee composed of not less than three nor more than five members to hear and settle complaints from persons aggrieved in respect of matters arising from or related to the fishing industry. (2) Subsection (1) is without prejudice to any right of action to the courts. (3) The Fisheries Settlement Committee may co-opt any specialist to assist it in the settlement of any issue before it. (4) The Fisheries Settlement Committee shall regulate its own procedures and shall in its deliberations act with fairness and in accordance with natural justice.”
<i>Fisheries regulation</i> Sierra Leone 1994 Fisheries (Management and Development) Decree	Part III – Management and Development of the Fisheries of Sierra Leone. “12. Objectives and purposes for management and development of fisheries. The Director shall take into account the following objectives and purposes in the preparation of fisheries management and development plans and otherwise in management decisions – (...) d) <u>minimise, to the extent possible, fishing gear conflicts among users.</u> ”
<i>Fisheries regulation</i> Mozambique Fisheries Law Decree no. 43/2003	Article 24 Chapter II – Fisheries Management and Planning, Section – Participatory Management “Article 19 (1) The Ministry of Fisheries, upon requests from interested stakeholders, with a view to ensure the participatory management of fisheries, to implement the management measures in place and <u>manage the conflicts resulting from fishing activities</u> , shall authorize that the non-recognized associations named <u>Community Fisheries Council</u> develop its activities”.
<i>Fisheries regulation</i> United Republic of Tanzania 2005 Fisheries Act Regulations	Part VIII – General Provisions. 104. “(4) The functions of the BMU shall include, but not limited to: (...) (f) <u>conflict resolution</u> ; (g) participate in selection processes for the issue of fishing vessels licence and fishing permits within the BMU jurisdictional area to ensure equitable access to resources by BMU members.”
<i>Fisheries law</i> Guinea 2015 Marine Fisheries Code	Title II – Fisheries Management and Planning, Chapter II – Regulatory measures for implementation. “Article 42 – Without prejudice to other provisions of special application contained in this Code, the regulatory measures shall be adopted, as necessary, by the Minister in charge of Marine Fisheries in meeting the objectives and provisions. These measures relate, in particular, to: (...) t) the definition of <u>measures to prevent and settle conflicts of interests among different fisheries.</u> ” Title IV – Provisions applicable to marine fisheries activities, Chapter I – General Provisions, Section 13 – Conflicts between fisheries. Article 113. “The Ministry of Marine Fisheries shall take the necessary <u>practical and legal measures to prevent and resolve conflicts between fishermen, including artisanal fishermen and industrial fishermen or fishermen using different fishing systems or gear.</u> These measures may include: a. the definition of areas reserved for certain types of fishing; b. the identification and signaling of fishing gear; c. the underwriting by shipowners of industrial fishing vessels of an insurance intended to guarantee the repair of the damages which could be caused to artisanal fishermen; d. the conduct of missions of good offices or the establishment of commissions of investigation and, or conciliation and the adoption of measures of application of the decisions adopted; e. the <u>establishment of appropriate arrangements between artisanal fishermen and industrial fishermen.</u> ”

EAF C.8 – Mechanisms for the integrated management of aquatic ecosystems should be established

Instrument	Provision or reference
<p><i>EAF-related law</i> Canada 1997 Ocean Act</p>	<p>Part II – Ocean Management Strategy. Development and implementation strategy. “29. The Minister, in collaboration with other ministers, boards and agencies of the Government of Canada, with provincial and territorial governments and with affected aboriginal organizations, coastal communities and other persons and bodies, including those bodies established under land claims agreements, shall lead and facilitate the development and implementation of a national strategy for the management of estuarine, coastal and marine ecosystems in waters that form part of Canada or in which Canada has sovereign rights under international law.”</p> <p>Integrated management plans. “31. The Minister, in collaboration with other ministers, boards and agencies of the Government of Canada, with provincial and territorial governments and with affected aboriginal organizations, coastal communities and other persons and bodies, including those bodies established under land claims agreements, shall lead and facilitate the development and implementation of plans for the integrated management of all activities or measures in or affecting estuaries, coastal waters and marine waters that form part of Canada or in which Canada has sovereign rights under international law.”</p>
<p><i>EAF-related policies</i> Canada 2002 Ocean Strategy 2005 Ocean Action Plan</p>	<p>“The Canadian approach to Integrated Management recognizes that management objectives and planning practices must reflect that ecosystems nest within other ecosystems. As a result, the governance model proposed for Integrated Management is one of collaboration. It involves ocean management decisions based on shared information, on consultation with stakeholders, and on their advisory or management participation in the planning process. It is also based on institutional arrangements that bring together all stakeholders. Participants take an active part in designing, implementing and monitoring the effectiveness of coastal and ocean management plans, and partners enter into agreements on oceans management plans with specific responsibilities, powers and obligations.”</p> <p>“The Oceans Action Plan is based on four interconnected pillars: • International Leadership, Sovereignty and Security; • <u>Integrated Oceans Management for Sustainable Development</u>; • Health of the Oceans; and • Ocean Science and Technology.”</p>
<p><i>Environmental Law</i> Australia 1999 Environment Protection and Biodiversity Conservation Act</p>	<p>Chapter 5 – Conservation of biodiversity and heritage, Part 12 – Identifying and monitoring biodiversity and making bioregional plans, Division 2 – Bioregional plans. “176 (1) The Minister may prepare a bioregional plan for a bioregion that is within a Commonwealth area. In preparing the plan, the Minister must carry out public consultation on a draft of the plan in accordance with the regulations. (...) (4) A bioregional plan may include provisions about all or any of the following: (a) <u>the components of biodiversity, their distribution and conservation status</u>; (b) <u>important economic and social values</u>; (ba) <u>heritage values of places</u>; (c) objectives relating to biodiversity and other values; (d) priorities, strategies and actions to achieve the objectives; (e) mechanisms for community involvement in implementing the plan; (f) measures for monitoring and reviewing the plan. (4A) A bioregional plan prepared under subsection (1) or (2) is not a legislative instrument. (5) Subject to this Act, the Minister must have regard to a bioregional plan in making any decision under this Act to which the plan is relevant.”</p>
<p><i>Environmental law</i> South Africa 2008 National Environmental Management: Integrated Coastal Management Act</p>	<p>Part 1 – National Coastal Committee. “35 (...) (3) The National Coastal Committee must promote integrated coastal management in the Republic and effective co-operative governance by co-ordinating the effective implementation of this Act and of the national coastal management programme, and in particular must – (a) promote integrated coastal management – (i) within each sphere of government; (ii) between different spheres of government; and (iii) <u>between organs of state and other parties concerned with coastal management</u>; (b) promote the integration of coastal management concerns and objectives.”</p> <p>“39. (1) Each MEC must within 12 months of the commencement of this Act establish a Provincial Coastal Committee for the province. (2) A Provincial Coastal Committee must – (a) <u>promote integrated coastal management</u> in the province and the coordinated and effective implementation of this Act and the provincial coastal management programme; (b) advise the MEC, the provincial lead agency and the National Coastal Committee on matters concerning coastal management in the province; (c) advise the MEC on developing, finalising, reviewing and amending the provincial coastal management programme; (d) promote a coordinated, inclusive and integrated approach to coastal management within the province by providing a forum for, and promoting, dialogue, co-operation and co-ordination between the key organs of state and other persons involved in coastal management in the province; (e) promote the integration of coastal management concerns and objectives into the plans, programmes and policies of other organs of state whose activities may have caused or may cause adverse effects on the coastal environment; and (f) perform any function delegated to it.”</p>
<p><i>Fisheries law</i> Zambia 2011 Fisheries Act</p>	<p>Part IV – Fisheries Management Areas. “29. (1) The Minister may, by statutory instrument, appoint a committee for a fisheries management area declared under section twenty-six: Provided that where the fisheries management area is in a game management area, the Minister shall appoint the committee in consultation with the community resources board for that area. 30. (1) The functions of a committee are to promote and <u>develop an integrated approach to the management and sustainable utilisation of natural and fisheries resources in a fisheries management area under its jurisdiction.</u>”</p>

EAF C.9 – Controls on fishing operations, such as catch/output controls, effort/input controls, fishing gear controls, spatial controls and temporal controls, should be outlined

Instrument	Provision or reference
<p><i>Fisheries law</i> Ghana 2002 Fisheries Act</p>	<p>Part IV – Fisheries Management and Development, Sub-Part IV – Foreign Fishing Vessels, Access arrangement. “64(1) The Minister may on the advice of the Commission enter into international access arrangement on behalf of the Government with any foreign government, foreign association or other legally constituted foreign body which has power and authority to enforce compliance with the terms of the access agreement. (2) An access arrangement shall provide for the allowable allocation of fish which shall not exceed a level consistent with the conservation and management of fishery resources, provide for the protection of local fishermen and shall also be consistent with any fishery plan.”</p>
<p><i>Fisheries law</i> United Republic of Tanzania 2003 Fisheries Act, Beach Management units</p>	<p>Part V – Management and Control of the Fishing Industry, Management and Control Measures. “17. The Minister shall by notice published in the Gazette impose conditions that are necessary for the proper management of fisheries which are – (...) (e) restricting the number, size, and age of fishing vessels in any fishery; (f) prohibiting the use of certain types of fishing vessels and gears; (g) imposing closed season for designated areas, species of fish and methods of fishing; (h) prohibiting fishing in designated areas; (...) (n) examining the performance of the existing fishing gear, methods and substituting for them those which are consistent with responsible fishing; (...) (p) ensuring that traditional practices, which are consistent with responsible fisheries, needs and interests of indigenous people and local fishing communities which are highly dependent of fisheries resources for their livelihood are given due regard.”</p>
<p><i>Fisheries law</i> Morocco 1973 Maritime Fisheries</p>	<p>Title II: Prohibition of fisheries, general rules on the exercise of marine fisheries. “Article 6 Fishing is permanently prohibited: a. On those parts of the coast that are subject to exploitation by the State or regularly authorized concessions. The conditions of the ban are made known to the public by poster; b. In the protection zone granted by the concession decree to certain fishing establishments such as traps, provided that the prohibited areas will be indicated to navigation by visible marks; c. In the interior of the ports and ponds, with the exception of angling with two hooks. However, the Minister of Public Works may, by order of the Minister for Maritime Fisheries, authorize certain special fisheries.”</p>
<p><i>Fisheries law</i> Mauritius 2007 Fisheries and Marine Resources Act</p>	<p>Part IV – Control of fishing activities. “14 Closed periods (1) No person shall fish with, or have in his possession at sea, any river, lake or dam – (a) a large net, a pocket net or a gill net from 1 October in a year to the last day of February of the following year; (b) a canard net from – (i) 1 May to 31 July in a year; (ii) 1 October in a year to the last day of February of the following year. (2) Subject to subsection (1), no person shall fish with, or have in his possession at sea, any river, lake or dam – (a) a large net or canard net between 1800 hours and 0600 hours; (b) a gill net between 0600 hours and 1800 hours. (3) Subject to subsection (4), no person shall – (a) fish oysters; or (b) have in his possession fresh oysters, from the 1 October in a year to the last day of March of the following year. (4) Subsection (3) does not apply to oysters which are – (a) caught in a fish farm; or (b) imported for sale. (5) Notwithstanding subsection (1), the Minister may, in any year, authorise by regulations, fishing at sea, any river, lake or dam with a large net, a pocket net, a gill net or a canard net for a period of not more than 10 days starting from the 1 October in that year where weather conditions prevented respectively, for 5 days consecutively, the operation of – (a) a large net, a pocket net or a gill net during the period 1 March to 30 September in that year; (b) a canard net during the periods 1 March to 30 April and 1 August to 30 September in that year.”</p> <p>Part VI – Licensing, Sub-Part A – Gears “30 Limitation on number of licences (1) Subject to subsection (2), the Permanent Secretary shall not at any time issue licences for more than – (a) 10 large nets, 10 pocket nets, 10 canard nets, 5 gill nets and 100 shrimp nets for fishing in the lagoon of the island of Mauritius; (b) 8 large nets, 8 pocket nets, 8 canard nets and 15 shrimp nets for fishing in the lagoon of the island of Rodrigues; (c) 2 large nets for fishing in the lagoon of the island of Agalega. (2) Where a gear licensee at the commencement of this Act applies, on the expiry of his licence, for renewal, the Permanent Secretary shall grant the renewal notwithstanding that the limits specified in subsection (1) may be exceeded. 31 (1) A gear licence issued under this Sub-Part shall not be transferable.” Sub-Part B – Mauritian fishing boats and Mauritian fishing vessels, 46. “Transfer and modification of fishing boat (1) No person shall modify the size of a registered Mauritian fishing boat without the written approval of the Permanent Secretary.”</p>

Instrument	Provision or reference
Fisheries law Kenya 1989 Fisheries Act	Part II – Administration. “5. Fisheries management measures (1) The Director may with the approval of the Minister, by notice in the Gazette, impose any of the following measures that are necessary for the proper management of any fishery – (a) <u>closed seasons for designated areas, species of fish or methods of fishing.</u> ”
<i>Fisheries regulation</i> Cameroon Decree 95/413	Chapter II – The exercise of fisheries rights, Section III – Fisheries Permits and Authorizations. “Article 16 The growth in the industrialized and <u>semi-industrialized fleet is subject to the authorization</u> from the Ministry in charge of fisheries. This authorization shall take into account an assessment of marine resources.”
<i>EAF-related law</i> Angola 2004 Aquatic Biological Resources Act	Chapter II – Fisheries Planning, Section II – Total Allowable Catch and Fishing Quotas. “Article 19 (1) It is the responsibility of the competent Ministry to establish, by executive decree and after hearing the technical council of the competent Ministry and the Council for the Integrated Management of Biological Aquatic Resources, the total allowable catch. (2) The total allowable catch shall be established annually and if no different TAC is adopted, it is considered automatically renewed until new TACs are published. Article 20 (1) The total allowable catch of a fishery may be reduced by Executive Decree of the competent ministry, after hearing the technical council of the ministry, based on the following arguments: (a) in the event of new scientific data that show the proven danger of reduction, extinction or non-sustainable renovation of the species in question or in the fisheries zones; (b) when unpredicted events occur that justify emergence measures for the preservation of the resources and/or the environment. Article 21 (1) The total allowable catches are <u>disaggregated</u> in quotas distributed for <u>industrial and semi-industrial</u> right holders.”
<i>EAF-related law</i> Cameroon 1994 Law on Forestry, Wildlife and Fisheries	Title IV – Wildlife Chapter I – The Protection of Wildlife and Biodiversity. “Article 80 Without special authorization from the authority in charge of fauna, it is <u>prohibited</u> : – pursuit, approach and shooting of game in a motor vehicle; – night hunting, including headlight hunting, headlamp and, in general, by means of all illuminating devices whether or not designed for hunting; – hunting with the help of drugs, poison baits, anesthetic rifles and explosives; – hunting with <u>non-traditional gear</u> ; – fire hunting; – the import, sale and circulation of hunting lamps; – the hunting of the fixed rifle and the milking rifle; – modern net hunting.”
<i>EAF-related law</i> Namibia 2000 Marine Resources Act	Part VI – Commercial Harvesting of Marine Resources, Total allowable catch, 38.(1) “The Minister may, from time to time in accordance with subsection (2), set a <u>total allowable catch</u> to limit the quantity which may be harvested in respect of any marine resource in a given period. (2) Where, under subsection (1), the Minister decides to determine a total allowable catch, he or she shall, on the basis of the best scientific evidence available, and having requested the advice of the advisory council, determine the total allowable catch by notice in the Gazette”.
<i>Fisheries law</i> Guinea-Bissau 2011 Fishing Legislation	Part IV – Fishing Activities, Section I – Conditions for the practice. “Article 24.1. The practice of industrial fishing in inland waters and the territorial sea of Guinea-Bissau is prohibited. 2. Fishing in inland waters and in the territorial sea is reserved for artisanal fishing vessels. Article 25. It is expressly forbidden: (a) the use, in the course of fishing activities, of equipment, explosive materials or toxic substances liable to weaken, stun, excite or kill marine species; (b) the use of mesh obstruction devices in the course of fishing; (c) the transport and holding on board of fishing vessels of equipment, materials and substances mentioned in the previous paragraphs without authorization.”

EAF C.10 – The design, implementation, monitoring and review of fisheries management plans should be mandated

Instrument	Provision or reference
<p>Fisheries law Australia 1991 Fisheries Management Act</p>	<p>Part 3 – Regulation of fishing, Division 2 – Plans of management. 17. Plans of management “(1) Subject to subsection (1A), AFMA must, in writing, after <u>consultation</u> with such persons engaged in fishing as appear to AFMA to be appropriate and after giving due consideration to any representations mentioned in subsection (3), determine plans of management for all fisheries. (1A) If, in all the circumstances, AFMA is of the view that a plan of management is not warranted for a particular fishery, AFMA may make a determination accordingly, including in the determination its reasons for making the determination. While a determination under this subsection is in force, AFMA is not required to determine a plan of management for a fishery. (1AB) If, at any time after making a determination under subsection (1A) that a plan of management is not warranted for a particular fishery, AFMA ceases to be of the view, AFMA may make a further determination revoking the determination under subsection (1A). (1B) A determination under subsection (1A) must be notified: (a) in the Gazette; and (b) to all persons and organisations listed in the register established under section 17A, at their addresses as shown on the register.”</p> <p>“(5) A plan of management for a fishery may set out: (a) the objectives of the plan of management; and (b) measures by which the objectives are to be attained; and (c) performance criteria against which, and time frames within which, the measures taken under the plan of management may be assessed (...). (5C) A plan of management for a fishery affecting straddling fish stocks, highly migratory fish stocks or ecologically related fish stocks (within the meaning of the Fish Stocks Agreement) must set out <u>stock specific reference points</u> (within the meaning of that Agreement) for the stocks.”</p> <p>“(6) Without limiting the operation of subsection (5), a plan of management for a fishery may: (a) determine the method or methods by which the fishing capacity of the fishery or a part of the fishery is to be measured, which may be or include, but are not limited to, a method based on a particular area, a particular species or type or a particular quantity of fish, a particular kind, size or quantity of fishing equipment, a particular number of boats, a particular period of fishing, or any combination of the above; and (a) determine, or provide for AFMA to determine, the <u>fishing capacity</u>, measured by that method or those methods, permitted for the fishery or a part of the fishery in respect of a particular period or periods; and (b) provide for the management of the fishery by means of a system of statutory <u>fishing rights</u>, and other <u>fishing concessions</u>; and (c) contain a <u>description of the fishery</u> by reference to area, fish species, fishing methods to be employed or any other matter; and (d) subject to section 28, formulate procedures to be followed for selecting persons to whom fishing concessions are to be granted including, in the case of fishing rights: (i) the holding of an auction; or (ii) the calling of tenders; and (e) specify the kind and <u>quantity of equipment</u> that may be used in the fishery; and (f) specify the circumstances in which a statutory fishing right may authorise fishing by or from a foreign boat; and (g) impose obligations on the holders of fishing concessions; and (h) <u>prohibit or regulate recreational fishing</u> in the fishery; and (i) <u>prohibit or regulate fishing for scientific research</u> purposes in the fishery. (...) (6D) A plan of management for a fishery must contain measures <u>directed at reducing to a minimum</u>: (a) the <u>incidental catch of fish</u> not taken under and in accordance with that plan; and (b) the <u>incidental catch of other species</u>.”</p> <p>18. Action after determining a plan of management “(1) When AFMA has determined a plan of management for a fishery, it must: (a) submit the plan to the Minister; and (b) inform the Minister of the nature of any representations it received, and the <u>consultations</u> it conducted, before determining the plan. (2) The Minister must accept the plan if it appears to the Minister that: (a) AFMA gave due consideration to any representations it received, and conducted adequate consultations, before determining the plan; and (b) the plan is consistent with AFMA's corporate plan and current annual operational plan. (3) If the Minister does not accept the plan, the Minister must refer it to AFMA and inform AFMA why it was not accepted. (4) When the plan has been so referred to AFMA, AFMA must, as soon as practicable after receipt of the plan, take such steps as appear to it to be necessary to ensure acceptance of the plan by the Minister and again submit the plan to the Minister. (5) If the Minister again does not accept the plan, the procedures mentioned in subsections (3) and (4) continue to apply in relation to the plan until it is accepted by the Minister or withdrawn by AFMA.”</p>

EAF C.10 – The design, implementation, monitoring and review of fisheries management plans should be mandated

Instrument	Provision or reference
<p><i>Fisheries law</i> Ghana 2002 Fisheries Act</p>	<p>Part IV – Fisheries Management and Development, Sub-Part I – Fishery Plans. “42 (1) A fishery plan prepared by the Commission for the management and development of fisheries shall (a) be based on the best scientific information available; (b) ensure optimum utilization of the fishery resources but avoid over exploitation; and be consistent with good management principles. (2) A fishery plan may relate to a specific water area or specified species of fish. (3) The Commission shall be responsible in collaboration with such state agencies as the Commission considers appropriate for the implementation of each fishery plan.”</p> <p>“43. Each plan shall: (a) identify the fishery resource and its characteristics, including its economic and social value and interrelationships with other species in the ecosystem; (b) assess the present state of exploitation of each resource and, taking into account relevant biological, social and economic factors, determine the potential average yields of the resource; (c) specify the conservation measures to be enforced to protect resources from overexploitation; (...) (f) indicate the research necessary to enhance management of the fishery resources; and specify the information and other data required for effective management and development of fisheries.”</p> <p>“44 (1) The Commission shall during the preparation of each fishery plan, carry out such consultations as it considers appropriate with organisations, authorities and persons affected by the fishery plan. (2) In order to assess and recommend appropriate management, development and conservation measures for a fishery plan, the Director may reasonably require any person to furnish relevant data and information, including fishing time and effort, landing, processing, sales and related transactions. (3) Each fishery plan or review of such a plan shall be submitted to the Minister who shall submit it to the Cabinet for approval; and the plan shall come into force at a time specified in the approval. (4) The Minister shall publish in the Gazette and other mass media the effective date of implementation of an approved fishery plan.”</p>

EAF C.10 – The design, implementation, monitoring and review of fisheries management plans should be mandated

Instrument	Provision or reference
<p><i>Fisheries law</i> Zambia 2011 Fisheries Act</p>	<p>Part IV – Fisheries Management Areas. “28. (1) The Director shall, in consultation with a committee appointed under section twenty-nine, prepare a fisheries management plan for the conservation and management of fish and the development of the fisheries management area. (2) A fisheries management plan shall – (a) identify the fishery to which it relates and state its characteristics and its current state of exploitation; (b) specify the objectives to be achieved in the conservation, management and development of the fisheries management area; (c) <u>specify the strategies</u> to be adopted for the effective management and development of the fishery; (d) determine fishing quotas, the amount of fish which may be harvested and the number of fishing licences which may be issued in respect of the fishery, in any fishing season; (e) identify any possible adverse effects that fishing activities in the fishery may cause to the environment and provide solutions for the management of those effects in accordance with the provisions of the Environmental Management Act, 2011; (f) specify the statistical and other data to be submitted by the committee to the Director for purposes of monitoring the management and development of the fishery; and (g) where necessary, identify and recommend any international cooperation that may be needed to achieve the management and development objectives of the fishery. (3) The Director shall, during the preparation of a fisheries management plan, <u>consult as appropriate, with other Government departments and agencies</u> affected by the fisheries management plan. (4) Where a fisheries management area includes any waters where any fish endemic in the Republic are found, the Director shall, before preparing a fisheries management plan for the area— (a) <u>consult with any Government or other relevant authority concerned with general conservation and biodiversity matters</u>; and (b) shall give due regard to any advice given by the authorities referred to in paragraph (a) in relation to the endemic fish. (5) A fisheries management plan shall be <u>reviewed and revised</u> as necessary. (6) A fisheries management plan and any revision thereof shall be submitted to the Minister for approval, and shall only enter into force when such approval is given.”</p> <p>“29. (1) The Minister may, by statutory instrument, appoint a committee for a fisheries management area declared under section twenty-six: Provided that where the fisheries management area is in a game management area, the Minister shall appoint the committee in consultation with the community resources board for that area. (2) A committee appointed under subsection (1) shall comprise – (a) six representatives from the local riparian fishing community who shall be elected by the local community; (b) a representative of the local authority in the fisheries management area; (c) one representative of the chief: Provided that where a fisheries management area covers two or more chiefdoms, each chief shall nominate a representative to the committee; (d) one representative of a non-governmental organisation operating in the fisheries management area; (e) one representative of the commercial fishing operators in the area; (f) one representative from the aquaculture industry; and (g) two other persons.”</p> <p>“30. (1) The functions of a committee are to promote and develop an integrated approach to the management and sustainable utilisation of natural and fisheries <u>resources</u> in a fisheries management area under its jurisdiction. (2) Without prejudice to the generality of subsection (1), a committee shall have power to – (a) negotiate, in conjunction with the Director, co-management agreements with industrial fishing companies operating in the fisheries management area under its jurisdiction; (b) manage the fisheries resources under its jurisdiction, within fishing quotas specified by the fisheries management plan; (c) in consultation with the Director, develop and implement management plans which reconcile the various uses of water in the fisheries management area under its jurisdiction; (d) cooperate with the Department in the management of the fisheries management area under its jurisdiction; (e) facilitate the involvement of non-governmental organisations providing support to fisheries management and conservation efforts in the fisheries management area under its jurisdiction; (f) recommend to the Director the measures, plans and programmes required for fisheries development in the fisheries management area under its jurisdiction; (g) monitor the development of aquaculture in the fisheries management area under its jurisdiction; (h) submit to the Director, on a regular basis, reports on the status of the fisheries management area under its jurisdiction; and (i) perform such other functions as the Minister may direct.”</p>

EAF C.11 – Monitoring, control, surveillance and enforcement measures should be outlined

Instrument	Provision or reference
<p><i>Fisheries law</i> Ghana 2002 Fisheries Act</p>	<p>Part IV – Fisheries Management and Development, Sub-Part II – Local industrial and semi-industrial fishing vessels. “47 (1) A local <u>industrial</u> or <u>semi industrial</u> fishing vessel is a fishing vessel (...) (c) <u>registered</u> in Ghana.”</p> <p>Sub-Part III – Artisanal fishing, aquaculture and recreational fishing. “55 (1) An <u>artisanal</u> fishing vessel shall be <u>registered</u> by the District Assembly of the area where the vessel is to be operated.”</p> <p>Sub-Part V – Fishing Licences for Industrial and Semi-industrial Vessels. “79. The Commission shall maintain a <u>register of licences</u> issued under this Act, containing information relating to (a) the vessel, person or project licensed; (b) the nature of the activity licensed; (c) the period of validity of each licence; and (d) such additional information relating to the licences as may be determined by the Commission.”</p> <p>Sub-Part IX – Monitoring, Control, Surveillance and Enforcement. “94 (1) There is established by this Act a Fisheries Monitoring, Control, Surveillance and <u>Enforcement Unit</u>, hereafter referred to as the <u>Enforcement Unit</u>. (2) The Enforcement Unit is responsible for (a) monitor, control and surveillance of all fishing operations within the fishery waters by whatever appropriate means, including the management and running of a satellite base station for using satellite communications for data transmission relating to the activities of foreign fishing vessels licensed to operate within the EEZ; and the <u>enforcement of this Act</u>, Regulations made under this Act and any other enactment relating to the regulation of fishing activities. (3) The Enforcement Unit shall include such personnel from the Ghana Navy, Ghana Airforce and the secretariat of the Commission as the Minister shall <u>in consultation with the Minister for Defence</u> determine.”</p> <p>“100 (2) Observers shall perform such functions as the minister may determine, including (a) collection of catch and effort data; (b) <u>taking reasonable samples of fish for scientific purposes</u>; and (c) reporting violations of this Act and regulations made under it.”</p> <p>“101 (1) A person on board a fishing vessel with a valid licence or authorisations issued under this Act shall permit an authorized officer or observer to board and remain on the vessel for the purposes of carrying out the duties of the officer or observer under this Act. (2) The operator and every member of the crew of the vessel shall allow and assist an authorised officer or observer to (a) board vessel for scientific, compliance monitoring and other functions at such time and place as the director may direct; have <u>full access to and use of facilities and equipment</u> on board of the vessel which the authorised officer or observer, including (i) full access to the bridge, navigation charts, fish on board and areas which may be used to hold, process, weigh or store fish; (ii) full access to the vessel’s <u>records</u>, including its logbooks and documentation for the purposes of records inspection and copying; (iii) <u>full access to fishing gear</u> on board; and (iv) reasonable access to navigation equipment and radios; (c) take and remove from the vessel reasonable samples for the purposes of scientific investigation and other relevant information; (d) <u>take photographs</u> of the fishing operations, including fish, fishing gear and equipment and charts and records, and remove from the vessel photographs or film the officer or observer may have taken or used on board the vessel; (e) send or receive <u>messages</u> by means of the vessel's communications equipment; (f) <u>carry out all duties safely</u>; and (g) <u>disembark at such time and place</u> as may be requested.”</p>

EAF C.11 – Monitoring, control, surveillance and enforcement measures should be outlined

Instrument	Provision or reference
<p><i>Fisheries law</i> Mauritius 2007 Fisheries and Marine Resources Act</p>	<p>Part II – Management of Fisheries and Administration. “6. (...) (2) The Permanent Secretary shall keep a record of fishing boats of 12 metres or more in length overall and fishing vessel licensed under sections 34 and 36. (3) The record shall contain so far as is applicable – (a) the name of the fishing boat or fishing vessel; (b) the port and country of registration; (c) any identification mark assigned to the boat or vessel; (d) previous registration details; (e) communication details; (f) the <u>Lloyds/IMO registration number</u>; (g) the international radio call sign; (h) the length overall, draft and beam; (i) the engine power; (j) the net and gross registered tonnage; (k) the type of refrigeration system; (l) the material of build; (m) the boat or vessel type and fishing method and gears; (n) the hold capacities in cubic metres; (o) the date of build; (p) the number of crew, including fishermen and persons commonly known as “frigoboys”; (q) the name and address of the agent in Mauritius; (r) the name, address and nationality of any natural or legal person with beneficial ownership of the fishing boat or fishing vessel; (s) particulars of any previous offences committed by the use of the fishing boat or fishing vessel; and (t) any other information as the Permanent Secretary may determine.”</p> <p>Part VII – Obligations relating to fishing boats and fishing vessels. “39. (1) Subject to subsection (2), the owner or master of any fishing boat or fishing vessel shall not tranship any fish, or fish products, in the maritime zones, except in a port or other place approved by the Permanent Secretary, subject to such terms and conditions as he may deem fit to impose. (2) The Permanent Secretary may, where he is satisfied that such transhipment is necessary or is conducted in accordance with appropriate management measures agreed upon by Mauritius, authorise in writing the owner or master of a fishing boat or fishing vessel to tranship fish, or fish products, in the maritime zones, subject to such terms and conditions as he may deem fit to impose.”</p> <p>“40. (1) The Permanent Secretary shall assign an identification mark to every Mauritian fishing boat or Mauritian fishing vessel registered under section 42 to which no international radio call sign has been allocated. (2) No owner or master of any fishing boat or fishing vessel shall allow his boat or vessel to be in the maritime zones or in a port, unless the boat or vessel is marked in accordance with the Food and Agriculture Organisation of the United Nations Standard <u>Specifications for the Marking and Identification of Fishing Vessels for the time being in force</u>, or such marking as is specified or imposed by the flag state of the fishing boat or vessel. (3) No person shall falsify, delete or conceal the marking of any fishing boat or fishing vessel made in accordance with subsection (1), or appearing on a fishing boat or fishing vessel marked as specified in subsection (2).”</p> <p>“47. (1) The owner or master of a Mauritian fishing boat or a Mauritian fishing vessel licensed under section 36 shall <u>land its catch within the limits of Port Louis harbour, or a fish landing station, as may be specified in the licence.</u> (2) Notwithstanding subsection (1), the Minister may, subject to such terms and conditions as <u>he may determine, authorise the owner or master of a Mauritian fishing boat or a Mauritian fishing vessel licensed under section 36 to land fish at a place other than a place referred to in subsection (1).</u>”</p> <p>“57. (1) Subject to sections 17(2) and 39, the master or owner of a <u>foreign fishing boat or foreign fishing vessel shall not land or tranship fish or fish products, except – (a) in a port or at an offshore terminal of Mauritius; and (b) upon obtaining a written clearance from the Permanent Secretary.</u> (2) For the purposes of subsection (1)(b), the <u>fishery control officer may board and inspect a foreign fishing boat or foreign fishing vessel, and may – (a) examine and take copies of the certificate of registry, the fishing licence and any other relevant documents, including fishing logbooks; (b) inspect the fishing gear; (c) examine any navigational, position fixing, observation or communication equipment, or other device on board; (d) examine any fish or fish product on board; and (e) ascertain the origin, species, form and quantity of fish and fish products.</u> (3) Where pursuant to an inspection under subsection (2), the Permanent Secretary has reason to believe that a foreign fishing boat or foreign fishing vessel was involved in any fishing activity in contravention of any international fishery conservation and management measure, he may – (a) prohibit the boat or vessel to land or tranship its fish in a Mauritian port or at an offshore terminal; (b) promptly notify the appropriate authorities of the flag state of the foreign fishing boat or foreign fishing vessel; and (c) provide to the appropriate authorities of the flag state of the foreign fishing boat or foreign fishing vessel, such information, including evidentiary material, relating to that contravention.”</p>

EAF C.11 – Monitoring, control, surveillance and enforcement measures should be outlined

Instrument	Provision or reference
<p><i>Fisheries regulations</i> United Republic of Tanzania 2005 Fisheries Act Regulations</p>	<p>Part III – Development of the fishing industry. “22. – (5) Every member of Beach Management Unit shall, everyday fill in a standard tally book, fish weight, value and price of fish and submit the data to an authorized officer in their locality. (6) Subject to sub-regulation (5), every District Fisheries Officer shall be required to submit monthly fishery statistics to the Director by 5th day of the following month; and submit aquaculture production data to the Director after every six months.”</p> <p>Part V – Management and Control of the Fishing Industry. “53. – (1) The Director shall establish and maintain a Vessel Monitoring System (VMS) in the industrial sea fishery. (2) Every commercial fishing vessel conducting fishing in sea waters shall be fitted with VMS gadgets to enable surveillance centres track movement of the vessel. (3) A designated Monitoring Control and Surveillance (MCS) operations room shall coordinate all the functions of the VMS. (4) While at sea, a fishing vessel shall at all times have all its VMS gadgets <u>switched on</u>. (5) Every captain of any commercial fishing vessel shall <u>abide by all instructions given by the relevant MCS operations room</u>.”</p>
<p><i>EAF-related law</i> Angola 2004 Aquatic Biological Resources Act</p>	<p>Title II – Measures for the Protection of Biological Resources and the Aquatic Environment, Chapter V – Monitoring, Section II – Community Observers. “Article 151. The <u>community observers</u> are members of the <u>coastal and riverside communities</u>, under the terms to be defined in regulation, for the monitoring of fisheries and related activities, in the areas reserved for artisanal and subsistence fishing referred to in Article 33.”</p> <p>“Article 152 (1) The functions of the Community observer are: (a) <u>collect biological samples and data on fisheries, including catches, in the reserved areas referred to in Articles 78 and subsequent provisions</u>; (b) to collect evidence of the existence of industrial and semi-industrial fishing activities in the reserved fishing zones; (c) report to the competent authorities any infringement provided for in this law and its regulations of which they are aware.”</p>
<p><i>EAF-related law</i> Namibia 2000 Marine Resources Act</p>	<p>Part VIII – Management and control measures, Transshipment and landing. “50. (1) No vessel in the territorial sea or internal waters of Namibia, no vessel licensed under section 40 and no Namibian flag vessel shall transship, land, attempt to transship or land, or assist any other vessel to transship or land any marine resources, unless such transshipment or landing (a) is authorized by a licence or other authorization obtained from the Minister; and (b) is executed in accordance with any conditions contained in the licence or authorization in question. (2) Notwithstanding subsection (1), <u>marine resources may be transhipped between and landed in the territorial sea or internal waters of Namibia by vessels that are not fishing vessels</u>.”</p>
<p><i>EAF-related regulation</i> Namibia 2001 Regulations on the exploitation of marine resources</p>	<p>Part VIII – Compliance control, Reporting requirements with regard to movements and operations of licensed fishing vessels. “34. (1) The master of a licensed fishing vessel intending to enter or leave a port in Namibia must notify the fisheries inspector in charge of operations in that port in writing, and as may further be determined by the Permanent Secretary, .”</p>

EAF C.12 – Fisheries-related offences, penalties and administrative and judicial processes should be outlined

Instrument	Provision or reference
<p><i>Fisheries law</i> Mauritius 2007 Fisheries and Marine Resources Act</p>	<p>Part X – Miscellaneous. “74. Regulations (1) The Permanent Secretary may, where an offence has been committed whilst using a boat or vessel – (a) <u>compound the offence</u>, except an offence under section 12(1)(b) and (c), if the owner or master of the boat or vessel admits the commission of the offence and agrees in writing to pay such amount of money which shall not exceed the maximum fine specified for the offence in the Act; (b) order the release of any item <u>seized</u> under section 58 of this Act on payment of a sum of money not exceeding the estimated value of the seized item as may be agreed in writing by the owner or master of the boat or vessel. (2) A Compounding Commission shall be established to assist the Permanent Secretary in determining the amount of <u>money to be paid by the offender</u> under subsection (1), having due regard, inter alia, to the circumstances of the case and the past behaviour of the offender. (3) The Compounding Commission shall be appointed on a part-time basis and shall consist of – (a) a Chairperson, who shall be a law officer of at least 10 years standing, appointed by the Minister; (b) 2 senior officers from the Ministry responsible for the subject of fisheries, designated by the Permanent Secretary. (4) The Chairperson and the members shall be paid such fees as shall be determined by the Minister. (5) Every agreement to compound shall be <u>final and conclusive</u>. (6) Where the amount agreed upon under this section is not paid in accordance with the compounding agreement, the Permanent Secretary shall send a certified copy of the agreement to the competent court which shall thereupon proceed to enforce such agreement in the same manner as if it had imposed such agreed amount <u>by way of a fine</u>. (7) On payment of the agreed amount in accordance with the compounding agreement, no further proceedings in regard to such particular offence shall be taken against the person who has so agreed to the compounding.”</p>
<p><i>Fisheries law</i> Ghana 2002 Fisheries Act</p>	<p>Part V. Jurisdiction and Evidence, Jurisdiction of the court. “115 (1) An act or omission in contravention of a provision of this Act committed (a) by a person within the fishery waters; or (b) outside the fishery waters by a Ghanaian citizen or a person ordinarily resident in Ghana; or (c) by a person on board a local fishing vessel, shall be dealt with in such court as the Chief Justice may determine except that where a foreign fishing vessel is involved, <u>the matter shall be dealt with by the High Court and the judicial proceedings shall be taken as if the act or omission had taken place within the jurisdiction of Ghana.</u>”</p>
<p><i>Fisheries regulation</i> United Republic of Tanzania 2009 Regulations for the Deep Sea Fishing Authority Act</p>	<p>Part X – Offences and Penalties. “65. A person who unlawfully alters, destroy, erase or obliterate any declarations, certificate or other documents made or issued under these Regulations, <u>or any label or mark placed on any vessel</u> in accordance with these Regulations, commits an offence. 66. A person who unlawfully possesses shark fins without carcass on board a vessel licensed under these Regulations commits an offence and on conviction shall be liable to a <u>fine</u> of not less than one billion shillings or to <u>imprisonment</u> for a term of twenty years or to both and in addition to the fine and imprisonment, the Court may order the forfeiture of any vessel, structure, equipment, device or thing in connection with which the offence was committed. 67. A person who carries out <u>fishing activity without licence</u> issued under these Regulations commits an offence and on conviction shall be liable to a fine of five billion shillings or to imprisonment for a term of twenty years or to both and in addition to the fine and imprisonment, the Court may order the forfeiture of any vessel, structure, equipment device or thing in connection with which the offence was committed. 68. A person who <u>contravenes any licence condition</u> commits an offence and on conviction shall be liable to a fine of not less than one billion shillings or to imprisonment for a term not less than twenty years or to both that fine and imprisonment. 69. A person who <u>assaults, resists, obstructs, or intimidates fishery inspector, fishery observer or authorised officer</u> in execution of his duty under these Regulations commits an offence and on conviction shall be liable to a fine of not less than one million shillings or to imprisonment for a term not exceeding two years or to both that fine and imprisonment.” “71. A person who <u>commits an offence under these Regulations where no specific penalty has been provided</u> shall be liable to a <u>fine</u> of not less than one million shillings or to <u>imprisonment</u> for a term not exceeding two years, or to both that fine and imprisonment.”</p>

Instrument	Provision or reference
<p><i>Fisheries law</i> Mauritania 2015 Fisheries Code</p>	<p>Title V – Provisions relating to the Control and Surveillance of Fishing Activities, Chapter I – Investigation and Findings of Offenses, “Article 76. Upon finding an offense, the authorised officers shall issue a <u>notice</u> with the exact facts, all relevant circumstances related to the infraction and the potential witnesses. The notice is approved by order of the Minister of Fisheries. The notice is signed by the authorised officers, potential witnesses and, as far as possible, by the offender who may provide comments. If the offender refuses to sign or receive a copy of the notice, this should be mentioned in it. It shall, as soon as possible, be transmitted to the designated competent authority which will take the decisions required under this Act. The notice duly established by the authorised officers shall be registered until proven otherwise by the witnesses and are not subject to confirmation. They are exempt from stamps and registration fees. Article 77. If necessary to safeguard the evidence of an infraction or to secure any fine that may be imposed, any vessel boarded under the preceding paragraph and its crew may be taken to the nearest or most suitable port of Mauritania and be retained until the end of the procedures provided for in this Law or until payment of the guarantee provided for in Article 95 below. In all cases, the diversion procedure provided for in the above paragraph shall be applied to vessels which have been the subject of a report for one or more very serious fishing actions as provided for in Article 84. The authority in charge of fisheries control and surveillance has custody and surveillance of the vessel during period of retention. The expenses resulting from this surveillance shall be borne by the owner or operator of the vessel. Article 78. <u>Authorised officers who have issued a notice under this Act and its applicable regulations, must immediately notify the Minister responsible for fisheries or the authority designated to this and who will take the measures, especially (a) decide on the destination of the catches seized as a precautionary measure, in accordance with Article 70; (b) <u>notify or notify the fact</u>, if any, to the Minister for Foreign Affairs, who will inform the State Government whose flag the vessel is flying; and (c) transmit, within a period of thirty days, the files to the Public Prosecutor of the Republic of the competent territorial jurisdiction, unless he decides to compound in accordance with the provisions of Article 92 below.</u></p>

EAF C.13 – Ecosystem approach to fisheries research should be promoted and provided for

Instrument	Provision or reference
<p><i>Fisheries law</i> United States of America 1976 Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2007</p>	<p>Section 302. "Cooperative research and management program, (a) IN GENERAL – The Secretary of Commerce, in consultation with the Councils, shall establish a <u>cooperative research and management program</u> to address needs identified under this Act and under any other marine resource laws enforced by the Secretary. The program shall be implemented on a regional basis and shall be developed and conducted through partnerships among Federal, State, and Tribal <u>managers and scientists</u> (including interstate fishery commissions), fishing industry participants (including use of commercial charter or recreational vessels for gathering data), and <u>educational institutions</u>.</p> <p>(b) ELIGIBLE PROJECTS – The Secretary shall make funds available under the program for the support of <u>projects to address critical needs</u> identified by the Councils in consultation with the Secretary. The program shall promote and encourage efforts to utilize sources of data maintained by other Federal agencies, State agencies, or academia for use in such projects.</p> <p>(c) FUNDING – In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects: (1) Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology. (2) Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery. (3) Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations. (4) Projects for the identification of habitat areas of particular concern and for habitat conservation. (5) Projects designed to collect and compile economic and social data."</p>
<p><i>Fisheries law</i> Guinea 2015 Marine Fisheries Code</p>	<p>Title II – Fisheries Management and Planning, Chapter I – General Provisions, Section 4 – Scientific Research and Data Collection. "Article 25. The management of living marine resources in maritime areas under Guinean sovereignty or jurisdiction shall be based on scientific advice based on reliable data from scientific surveys, collection of catch declarations and any other relevant information. Article 26. Research and data collection activities shall form an <u>integral part of the monitoring of the sector</u> and the process of assessing the status of marine living resources in order to <u>ensure that management decisions</u> are based on the best possible available scientific information, also taking into account traditional knowledge of resources and their habitat, as well as relevant <u>economic and social environmental factors</u>. 1 – The competent authority within the Ministry of Marine Fisheries designated by regulation ensures the collection of biological and statistical data and any other information relating to the exploitation activities of living marine resources, particularly with regard to the number of fishermen, or any other categories of actors in the maritime fishing sector, fishing effort, fishing vessels including artisanal fishing, fishing gear, catches made and landed, the species concerned, and products from the maritime fishery. 2 – The research and data collection activities also help to deepen <u>knowledge about the resilience of marine ecosystems to environmental and anthropogenic factors</u>, to assess the <u>relationship between marine populations in the ecosystem</u>."</p>

EAF C.14 – Mechanisms for habitat and biodiversity conservation and restoration should be outlined

Instrument	Provision or reference
<p><i>Fisheries law</i> Gabon 2005 Code of Fisheries and Aquaculture</p>	<p>Title 3 – Protection of Species and Aquatic ecosystems. Section 2 – Creation of ex-situ conservation environments. “Article 53. For the sustainability of <u>endangered aquatic species</u>, the Department of Fisheries and Aquaculture may, as appropriate, provide for the ex-situ conservation of these species, particularly in aquaria and gene banks.”</p> <p>Section 3 – Aquatic Protected Areas. “Article 55. <u>Aquatic reserves</u> are areas designated for management purposes in which fisheries resources are subject to special protection”. “Article 56. Marine parks are areas of the public marine domain classified for the need of protection, conservation, propagation of animal or plant species and management of their habitats.” “Article 64. The <u>Aquatic Sanctuary</u> is an area of protection for <u>specific or endangered animal and plant species</u>. Access to the sanctuary is subject to special regulations.”</p>
<p><i>Fisheries law</i> Mauritius 2007 Fisheries and Marine Resources Act</p>	<p>Part IV – Control of fishing activities. “16. Protection of fish (1) Subject to subsection (2), no person shall fish or cause any person to fish – (a) any undersized fish; (b) <u>any crab or lobster in the berried state</u>; or (c) <u>any marine turtle, marine turtle egg or any marine mammal</u>. (2) The <u>Permanent Secretary may authorise</u>, in writing, and subject to such terms and conditions as he may impose, the catching of – (a) any fish specified in subsection (1) or marine turtle eggs for scientific, reproductive, or any other purpose beneficial to the community; (b) undersized fish by the operator of a fish farm for stocking the fish farm; (c) undersized fish specified in the Schedule for use as bait.”</p> <p>Part IX – Offences and Penalties. “69. Protection of the aquatic ecosystem (1) <u>No person shall place, throw, discharge or cause to be placed, thrown or discharged</u> into the maritime zones or into a river, lake, pond, canal, stream, tributary or wetland any poisonous substance. (2) No person shall – (a) except with the written approval of the Permanent Secretary, cut, take or remove; (3) (a) No person shall place, construct or cause to be placed or constructed any structure within the territorial sea or internal waters, as defined in the Maritime Zones Act 2005, except with the written authorisation of the Permanent Secretary. (b) The Permanent Secretary may, on granting an approval under paragraph (a) impose such terms and conditions as he may deem fit.”</p>

EAF C.14 – Mechanisms for habitat and biodiversity conservation and restoration should be outlined

Instrument	Provision or reference
<p><i>Fisheries law</i> United States of America 1976 Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2007</p>	<p>P.L. 109–479, Section 117, Community-based Restoration Program for Fishery and Coastal Habitats, “(a) IN GENERAL – The Secretary of Commerce shall establish a <u>community-based fishery and coastal habitat restoration program</u> to implement and support the <u>restoration of fishery and coastal habitats</u>. (b) AUTHORIZED ACTIVITIES – In carrying out the program, the Secretary may – (1) provide funding and technical expertise to fishery and coastal communities to assist them in restoring fishery and coastal habitat; (2) advance the science and monitoring of coastal habitat restoration; (3) transfer restoration technologies to the private sector, the public, and other governmental agencies; (4) develop public-private partnerships to accomplish sound coastal restoration projects; (5) promote significant community support and volunteer participation in fishery and coastal habitat restoration; (6) promote stewardship of fishery and coastal habitats; and (7) leverage resources through national, regional, and local public-private partnerships.”</p> <p>Section 303 – Contents of Fishery Management Plans “(a) REQUIRED PROVISIONS. – Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall – (...) (7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), <u>minimize to the extent practicable adverse effects on such habitat caused by fishing</u>, and identify other <u>actions to encourage the conservation and enhancement of such habitat</u>.”</p> <p>Section 305 – Other requirements and authority “(b) FISH HABITAT – (1) (A) The Secretary shall, within 6 months of the date of enactment of the Sustainable Fisheries Act, establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and in the consideration of actions to ensure the <u>conservation and enhancement of such habitat</u>. The Secretary shall set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat and for the review and updating of such identifications based on new scientific evidence or other relevant information. (B) The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat. (C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential fish habitat. (D) The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fish habitat” (...)“</p> <p>(4) (A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat. (B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.”</p>

EAF C.14 – Mechanisms for habitat and biodiversity conservation and restoration should be outlined

Instrument	Provision or reference
<p><i>Fisheries law</i> United Republic of Tanzania 2003 Fisheries Act, Beach Management Units</p>	<p>Part V – Management and Control of the Fishing Industry, Conservation of fisheries resources. “23. – (1) The Minister shall, after consultation with such competent persons within the public and private sectors knowledgeable on environment issues, by order in the Gazette, <u>declare the conservation of any critical habitat or endangered species.</u>”</p>
<p><i>Fisheries regulation</i> United Republic of Tanzania 2005 Fisheries Act Regulations</p>	<p>Part III – Development of the Fishing Industry. “24. – (1) No person shall carry out fishing activity using an illegal gear unless authorized by the Director for scientific research purposes. (2) Where a vessel has <u>caught a live endangered species, the species shall be returned in the water immediately.</u>”</p>
<p><i>EAF-related law</i> Angola 2004 Aquatic Biological Resources Act</p>	<p>Title II – Measures for the Protection of Biological Resources and the Aquatic Environment, Chapter I – General Measures of Protection, Section I – Principles and Objectives. “Article 66 (1) Based on the best scientific information available, the Government shall ensure the implementation of the measures provided in this title, in particular: (...) (g) adopt the <u>necessary measures for the protection, conservation and regeneration of aquatic biological species in extinction that are on the verge of extinction.</u>”</p> <p>“Article 70 (4) The competent Ministry shall adopt conservation and regeneration measures in-situ and <u>ex-situ</u>, in the country or abroad if it is not possible the ex-situ conservation within the country of the species referred to in this article [endangered or in extinction].”</p>
<p><i>Environmental law</i> Mozambique 1997 Environmental Act</p>	<p>Chapter IV – Special Measure of Environmental Protection. “Article 12 (1) It is prohibited all activities that threaten conservation, reproduction, quality and quantity of <u>biological resources, especially those threatened with extinction.</u> (2) The Government shall ensure that <u>appropriate steps are taken to (a) maintain and regenerate animal species, recuperate damaged habitats, create new habitats and control activities and the use of substances that are likely to harm animal species and their habitats.</u>”</p> <p>“Article 13 (1) In order to ensure the protection and preservation of environmental resources, and the maintenance and improvement of ecosystems that have a recognized ecological and socio-economic value, the government shall establish <u>environmental protection areas.</u> (2) The protected areas may be national, regional, local or international, in accordance with the interests to be safeguarded and may cover terrestrial areas, lakes, rivers, marine waters or other natural <u>zones.</u> (3) Measures referred to in the previous item shall include the identification of permitted and prohibited activities within the protected areas and adjacent areas as well as the <u>role of local communities in the management of these zones.</u>”</p>

EAF C.14 – Mechanisms for habitat and biodiversity conservation and restoration should be outlined

Instrument	Provision or reference
<p><i>Environmental law</i> South Africa 2004 National Environmental Management: Biodiversity Act</p>	<p>Chapter 2 – South African Biodiversity Institute, Part 1 – Establishment, powers and duties of the Institute. “Article 11 (1) The Institute– (a) must monitor and report regularly to the Minister on– (i) the status of the Republic’s biodiversity; (ii) the <u>conservation status of all listed threatened or protected species and listed ecosystems</u>; and (iii) the status of all listed invasive species; (b) must monitor and report regularly to the Minister on the impacts of any <u>genetically modified organism that has been released into the environment, including the impact on non-target organisms and ecological processes, indigenous biological resources</u> and the biological diversity of species used for agriculture; (c) may act as an advisory and consultative body on matters relating to biodiversity to organs of state and other biodiversity stakeholders; (d) must coordinate and promote the taxonomy of South Africa’s biodiversity; (e) must manage, control and maintain all national botanical gardens; (f) may establish, manage, control and maintain– (i) herbaria; and (ii) collections of dead animals that may exist; (g) must establish facilities for horticulture display, environmental education, visitor amenities and research; (h) must establish, maintain, protect and preserve collections of plants in national botanical gardens and in herbaria; (i) may establish, maintain, protect and preserve collections of animals and micro-organisms in appropriate enclosures; (j) must <u>collect, generate, process, coordinate and disseminate information about biodiversity and the sustainable use of indigenous biological resources</u>, and establish and maintain databases in this regard; (k) may allow, regulate or prohibit access by the public to national botanical gardens, herbaria and other places under the control of the Institute, and supply plants, information, meals or refreshments or render other services to visitors; (l) may undertake and promote <u>research on indigenous biodiversity and the sustainable use of indigenous biological resources</u>; (m) may coordinate and <u>implement programmes for– (i) the rehabilitation of ecosystems; and (ii) the prevention, control or eradication of listed invasive species</u>; (n) may coordinate programmes to involve civil society in– (i) the conservation and sustainable use of indigenous biological resources; and (ii) the rehabilitation of ecosystems.”</p>
<p><i>Constitution:</i> Kenya 2010 Constitution</p>	<p>Chapter V – Land and Environment, Part 2 – Environment and Natural Resources, Article 69 “Obligations in respect of the environment (1) The State shall– (...) (e) <u>protect genetic resources and biological diversity</u>”.</p>
<p>Other-sector law Angola 2004 Petroleum Activities Law</p>	<p>Chapter II – Principles of Organization and Execution of Petroleum Operations. “Article 24 (1) In carrying out their activities, the licensees, the National Concessionaire and its associates shall <u>take the precautions necessary to protect the environment, in order to preserve the same, namely in respect of health, water, soil and subsoil, air, the preservation of biodiversity, flora and fauna, ecosystems, landscape, atmosphere and cultural, archaeological and artistic heritage</u>. (2) For purposes of the preceding paragraph, the licensees, the National Concessionaire and its associates shall submit to the supervising Ministry, within the required time frames, the plans required by applicable law, specifying the practical measures which should be taken in order to prevent harm to the environment, including <u>environmental impact studies and audits, plans for rehabilitation of the landscape and structures or contractual mechanisms and permanent management and environmental auditing plans</u>.”</p>

EAF C.15 – Energy expenditure, pollution, the introduction of species and other potentially harmful activities should be regulated in order to limit the impacts on aquatic ecosystems

Instrument	Provision or reference
<p><i>EAF-related law</i> Angola 2004 Aquatic Biological Resources Act</p>	<p>Title II – Measures for the Protection of Biological Resources and the Aquatic Environment, Chapter I – General Measures of Protection, Section II – Protection and Conservation of Species. “Article 75 (2) It is prohibited the introduction in the aquatic environment of exotic species and of genetically modified organisms without the authorization of the competent Ministry and, in the case of inland waters, without the joint authorization of the competent Ministry and the Ministry responsible for the hydric resources sector.”</p>
<p><i>EAF-related regulation</i> Namibia 2001 Regulations relating to the Exploitation of Marine Resources</p>	<p>Part V – Protection of the Marine Environment. Fishing gear and other non-biodegradable objects. “23. (1) A person may not, without a written authorisation by the Minister, leave any fishing gear or any other non-biodegradable object utilised for harvesting marine resources on or in the sea or on the sea shore on the termination of harvesting”.</p>
<p><i>Environmental law</i> Liberia 2002 Environment Protection and Management Law</p>	<p>Part VI – Guidelines and standards for the management of the environment and natural resources, Section 82 – Protection of the coastal zone and the marine environment. “6) The Agency shall with the consultation with the Line Ministry and maritime organization issue appropriate regulations to prevent, reduce and control pollution or other form of environmental damage and protect the marine environment from: a) Land based sources including rivers, estuaries, pipelines and outfall structures; b) Vessels, aircrafts and other engines used in the coastal zone; c) Installations and devices used in the exploration or exploitation of the natural resources of the seabed and subsoil of the exclusive economic zone; and d) Sources in connection with seabed activities and from artificial islands installations and another structures in the exclusive economic zone.”</p> <p>“7) Pursuant to subsection (4) no person shall in relation to the coastal zone: (...) c) introduce or plant any part of a plant, plant specimen or organism whether alien or indigenous, dead or alive in the coastal zone; d) introduce any animal or micro-organism whether alien or indigenous, dead or alive in a coastal zone”.</p>
<p><i>Environmental law</i> Cameroon 1996 Law on Environmental Management</p>	<p>Chapter III – Protection of low receivers, Section III – Protection of the coastal and marine waters. “Article 31 (1) Without prejudice of the provisions concerning the international conventions related to the protection of the marine environment, ratified by the Republic of Cameroon, it is prohibited the discharge, immersion and burning in marine waters under Cameroon's national jurisdiction, of substances of all nature that: threaten human health and the marine biological resources, interfere with maritime activities, including shipping, aquaculture and fisheries, alter the quality of marine waters from the point of view of their use, harm the amenity values and tourism potential of the sea and coastline.”</p>
<p><i>Other-sector law:</i> Morocco 2002 Law on Exploitation of Quarries</p>	<p>Chapter II – Management Plans for Quarries. “Article 4. The Administration establishes, at its own discretion or at the request of local authorities, quarries management plans for a given area to meet the needs of consumers at the regional and national levels, taking into account the benefits of protection of environment and natural resources. Article 5. Schemes for quarry management must comply with the legislative and regulatory provisions in force, particularly with regard to town planning, the environment and nature protection, preservation of fish species and their habitat, conservation and exploitation of forest, cynegetic and piscicultural resources and agricultural and forestry development.”</p> <p>Chapter III – Authorization for exploitation. “Article 13. The operating licence establish notably: measures necessary to prevent, reduce, compensate and, if possible, eliminate the inconvenience of exploitation on the surrounding natural environment or on the convenience of the neighbourhood. (...) Article 15 The operating licence shall be refused if the proposed exploitation is incompatible with the provisions of the quarry management plan applicable in the area of the quarry or, failing that, if such exploitation is likely to undermine the general interest, in particular public safety, health and hygiene, marine fisheries and marine aquaculture, environmental protection, the balance of natural ecosystems, biodiversity, the conservation of historic sites and monuments and the carrying out of a public utility operation.”</p>

EAF C.16 – A requirement for the production, submission and review of environmental impact statement or environmental impact assessment for potentially impactful activities should be outlined

Instrument	Provision or reference
<p><i>Fisheries law</i> United States of America 1976 Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2007</p>	<p>Section 303 – Contents of Fishery Management Plans, (a) REQUIRED PROVISIONS. – “(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall <u>assess, specify, and analyse the likely effects</u>, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for – (A) participants in the fisheries and fishing communities affected by the plan or amendment; (B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and (C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery”.</p>
<p><i>Other-sector law</i> Namibia 1992 Minerals Act</p>	<p>Part VIII – General provisions relating to mineral licences. “47. Applications for, or for renewal or transfer of, mineral licences, or for approval to grant, cession or assignment of interests in mineral licences, or to be joined as joint holders of such mineral licences or interests. (...) 48. Powers of Minister in respect of applications for, or for renewal or transfer of, mineral licences or for approval to grant, cession or assignment of interests in mineral licences, or to be joined as joint holders of such mineral licences or interests. (...) (3) In order to enable the Minister to consider any application referred to in section 47 the Minister may – (...) (b) require the person concerned by notice in writing – (i) to carry out or cause to be carried out such environmental impact studies as may be specified in the notice; (...) 50. General terms and conditions of mineral licences. In addition to any term and condition contained in a mineral agreement and any term and condition contained in any mineral licence, it shall be a term and condition of any mineral licence that the holder of such mineral licence shall – (...) (f) prepare in such form as may be determined in writing by the Commissioner for the approval of the Commissioner – (i) an <u>environmental impact assessment indicating the extent of any pollution of the environment before any prospecting operations or mining operations are being carried out and an estimate of any pollution, if any, likely to be caused by such prospecting operations or mining operations.</u>”</p>
<p><i>Environmental law</i> Sierra Leone 2008 Environment Protection Agency Act</p>	<p>Second Schedule. “Section 25. Factors for determining whether a project requires an environmental impact assessment – (a) the environmental impact on the community; (b) the location of the project; (c) whether the project transforms the locality; (d) whether the project has or is likely to have substantial impact on the ecosystem of the locality; (e) whether the project results in the diminution of the aesthetic, recreational, scientific, historical, cultural or other environmental quality of the locality; (f) whether the project will endanger any species of flora or fauna or the habitat of the flora or fauna; (g) the scale of the project; (h) the extent of the degradation of the quality of the environment; (i) whether the project will result in an increase in demand for natural resources in the locality; (j) the cumulative impact of the project together with other activities or projects, on the environment.”</p>
<p><i>Environmental law:</i> United States of America 1970 National Environmental Policy Act</p>	<p>Section 2, Responsibilities of federal agencies. “Consonant with Title I of the National Environmental Policy Act of 1969 [42 U.S.C. 4331 et seq.], hereafter referred to as the “Act”, the heads of Federal agencies shall: (...) (h) Issue regulations to Federal agencies for the implementation of the procedural provisions of the Act (42 U.S.C. 4332[2]). Such regulations shall be developed after consultation with affected agencies and after such public hearings as may be appropriate. They will be designed to <u>make the environmental impact statement process more useful to decision makers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives. They will require impact statements to be concise, clear, and to the point, and supported by evidence that agencies have made the necessary environmental analyses.</u> The Council shall include in its regulations procedures (1) for the early preparation of environmental impact statements, and (2) for the referral to the Council of conflicts between agencies concerning the implementation of the National Environmental Policy Act of 1969, as amended [this chapter], and Section 309 of the Clean Air Act, as amended [42 U.S.C. 7609], for the Council’s recommendation as to their prompt resolution.”</p>

EAF C.17 – The regular monitoring and review of management measures should be required

Instrument	Provision or reference
<p><i>Fisheries law</i> United States of America 1976 Magnuson-Stevens Fishery Conservation and Management Act, as amended in 2007</p>	<p>Section 302. Regional Fishery Management Councils. "(h) FUNCTIONS. – Each Council shall, in accordance with the provisions of this Act – (...) (7) develop, in conjunction with the scientific and statistical committee, <u>multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall – (A) establish priorities for 5-year periods; (B) be updated as necessary; and (C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council; and (8) <u>conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.</u>"</u></p>
<p><i>Fisheries law</i> Ghana 2002 Fisheries Act</p>	<p>Part IV – Fishery Management and Development, Sub-Part V – Fishing Licences for Industrial and Semi-industrial vessels, Period of validity of licences. "74 (1) Subject to this section, a fishing licence issued or renewed under this Sub-Part shall, unless earlier cancelled or suspended in accordance with this Act or Regulations made under this Act, be valid for a period not exceeding one year, or such lesser period as may be specified in the licence, and shall not in the case of a charter or access agreement, extend beyond the period of validity of the applicable charter agreement or access arrangement, (2) <u>Fishing licences shall be issued or renewed annually or quarterly or within such period as the Commission may recommend.</u>"</p>
<p><i>EAF-related law</i> Angola 2004 Aquatic Biological Resources Act</p>	<p>Title I – General Provisions, Chapter II – Fisheries Planning, Section I – Management Measures. "Article 11 (1) The competent Ministry elaborates the fishery management plans. (2) <u>The management plans have the duration of five years and are automatically extended for the same periods if it is not possible to elaborate new plans within the deadlines set.</u>"</p>
<p><i>Environmental law</i> Liberia 2002 Environment Protection and Management Law</p>	<p>Part VI – Guidelines and standards for the management of the environment and natural resources, Section 82 – Protection of the coastal zone and the marine environment. "3) The Agency shall, in consultation with the relevant ministries and maritime organizations <u>prepare every three years, a survey of the coastal zone and prepare an integrated national coastal zone management plan based on the report of such survey.</u>"</p>
<p><i>Fisheries law</i> Mauritania 2015 Fisheries Code</p>	<p>Chapter I – General Provisions, Section 9 –The principle of regular evaluation applied to the fisheries planning and management. "Article 11. The implementation of policies and strategies for the management of fisheries resources is <u>subject to a regular process of evaluation and review to allow for improvement.</u>"</p> <p>Chapter II – The legal and institutional framework for fisheries planning, Section 1 – Fisheries planning or management plans. "Article 17. Regulatory measures in fisheries management or management plans are adopted by decree of the Council of Ministers and subject to publicity measures. They are revisable periodically in response to changes in the data characterizing the fisheries."</p>

APPENDIX C – ECOSYSTEM APPROACH TO FISHERIES LEGAL CHECKLIST FOR ASSESSMENT AND IMPLEMENTATION OF THE ECOSYSTEM APPROACH TO FISHERIES IN POLICY AND LEGAL FRAMEWORKS

EAF components	Ecosystem approach to fisheries 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.											
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.							OPT				
	3.	– Broaden stakeholder participation with integration of lower level authorities and bodies.							OPT				
	4.	– Ensure the right of access to fair and transparent information.							OPT				
	5.	– Promote institutional coordination, cooperation and integration.							OPT				
	6.	– Maintain ecological relationships among harvested, dependent and associated species.							OPT				
	7.	– Promote sustainable development and avoid overexploitation of marine living resources.							OPT				
	8.	– Preserve marine habitat, conserve and restore marine living resources and biodiversity.							OPT				
	9.	– Promote ecosystem well-being, including the human biotic and abiotic components.							OPT	OPT	OPT		
	10.	– Promote adaptive management measures, including their regular monitoring and review.							OPT	OPT	OPT		
	11.	– Harmonize management measures, including those for shared resources.							OPT	OPT	OPT		
	12.	– Reduce and manage conflict between users and stakeholders over fisheries resources and ecosystems.							OPT	OPT	OPT		
	13.	– Consider socio-economic contexts (e.g. employment, livelihoods, equity, poverty, gender) when designing and implementing management measures.							OPT	OPT	OPT		
	14.	– Promote management measures, designate the authority and outline the timeline and process for their monitoring and review.							OPT	OPT	OPT		
	15.	– Provide for the establishment of MCSE measures.							OPT	OPT	OPT		
	16.	– Promote ecosystem-based research plans/priorities, designate the authority and outline the timeline and process for their monitoring and review.							OPT	OPT	OPT		
	17.	– Promote the right of access to education and awareness raising on EAF.							OPT	OPT	OPT		

EAF components	Ecosystem approach to fisheries legal requirement				Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes	
	1ary	2ary	1ary	2ary		1ary	2ary					
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.							OPT	OPT		
		(b) overlapped closely and are harmonized with well-established management boundaries and governance structures.							OPT	OPT		
C.4 Stakeholder participation	19.	– Promote states cooperation on the harmonization of management measures and plans (bilaterally, regionally and internationally).							OPT	OPT		
C.5 Coordination, cooperation and integration	20.	– Establish transparent and accessible mechanisms, bodies (including lower level authorities) or processes to:							OPT	OPT		
		(a) support well-established management boundaries and governance structures on the basis of ecosystem considerations.							OPT	OPT		
		(b) outline conservation and management measures, including FMPs, at local and national levels.							OPT	OPT		
		(c) facilitate coordination, cooperation and integration of management decisions, regulatory action, environmental policies, plans and programs.							OPT	OPT		
C.7 Conflict management		(d) monitor, assess and align the various environmental policies and plans.							OPT	OPT		
		(e) manage conflict over fisheries, relevant resource and ecosystem, including parameters for decision-making and resolving the conflict.							OPT	OPT		
C.8 Integrated management of aquatic ecosystems		(f) ensure integrated management of aquatic ecosystems (e.g. integrated coastal zone) based on ecosystem delimitations.							OPT	OPT		
		(g) ensure periodic reviews of managed aquatic ecosystems that assess the state of aquatic resources, levels of pollution, habitat degradation and other factors.							OPT	OPT		
		(h) ensure periodic reviews of integrated management plans to assess objectives and indicators and to determine any potential needs for adjustment or revision.							OPT	OPT		
		(i) ensure periodic reviews of conflict management processes.							OPT	OPT		
	21.	– Clearly outline powers, roles and responsibilities of all bodies, designated authorities, their relationships and processes, avoiding overlapping and conflicting mandates.							OPT	OPT		
	22.	– Outline mandates for the government institutions to:										
		(a) coordinate efforts, cooperate and integrate approaches, from the local to the national levels.										
		(b) coordinate, cooperate and integrate the regional and international processes and arrangements.										
		(c) allocate financial, human and material resources to ensure the integration of lower level authorities										

EAF components	Ecosystem approach to fisheries legal requirement				Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
	1ary	2ary	1ary	2ary							
Stakeholder participation, coordination, cooperation and integration											
C.4 Stakeholder participation C.5 Coordination, cooperation and integration C.6 Integration of lower level authorities, bodies and stakeholders C.8 Integrated management of aquatic ecosystems	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.									
	24.	– Establish and properly publicize public meetings or hearings.									
	25.	– Allow for sufficient and reasonable time for comments on proposed management decisions or actions (e.g. in meetings and in writing).									
	26.	– Promote international cooperation for effective integrated management of aquatic ecosystems.									
Fisheries management <i>Catch/output controls</i>											
C.9 Controls on fishing operations C.10 Fishery management plans C.17 Monitoring and review	27.	– Establish limits on the amount of fish that may be removed from a fishery in a given period of time (e.g. TAC), restrict the number of fish that may be landed in a day (e.g. bag limit) or place limits on the amount of acceptable bycatch and/or discards from a fishery – all based on scientific data and maximum sustainable yield and the precautionary principle.						N/A	N/A		
	28.	– Ensure authority to institute TACs and to allocate individual quotas is representative, including representatives from lower levels of government.						OPT	N/A	N/A	
	29.	– Ensure procedure for TACs outlines the category of vessels to which the TAC applies; period of time for which the TAC is declared; process for sub-dividing the TAC into individual quotas; timeline, authority and participatory process for periodic monitoring and review.							N/A	N/A	
	30.	– Coordinate the TACs for shared stocks or highly migratory species with international or regional management measures.						OPT	N/A	N/A	
	31.	– Monitor the catch in real-time and close a fishery when the TAC is reached.						OPT	N/A	N/A	
	32.	– Attach catch controls to licenses and access agreements, including authority responsible for allocating, issuing and regulating quotas, and the procedure to be followed.						OPT	N/A	N/A	
	33.	– Outline the ability to institute additional catch controls (e.g. bag limits for recreational fishing), including the authority responsible for allocating, issuing and regulating quotas, and the procedure to be followed.						OPT	N/A	N/A	

EAF components	Ecosystem approach to fisheries legal requirement						Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
								1ary	2ary	1ary	2ary		
	Effort/input controls												
C.9 Controls on fishing operations C.10 Fishery management plans C.17 Monitoring and review	34.	– Define a broad fishing license scheme to regulate access to fisheries and fishing vessels with timeline, authority and process for renewing the license, monitoring and compliance, and permit suspension and revocation of the license for non-compliance.							OPT	N/A	N/A		
	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.							OPT	N/A	N/A		
	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).							OPT	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).					OPT	OPT		N/A	N/A		
	38.	– Empower the designated authority to establish additional regulations for licensing.					OPT		OPT	N/A	N/A		
	39.	– Empower authority to regulate effort controls and respective parameters.					OPT		OPT	N/A	N/A		
Fishing gear and method controls													
C.9 Controls on fishing operations C.10 Fishery management plans C.17 Monitoring and review	40.	– Establish requirements on fishing gear and methods that are permitted for use within a given fishery or area, including related technical specifications (e.g. general prohibitions on types of gear, methods, specifications on gear design, minimum mesh sizes).								N/A	N/A		
	41.	– Outline prohibitions on highly destructive gear and fishing methods (e.g. fishing by toxic substance, explosives, electricity, fishing with the use of light).							OPT	N/A	N/A		
	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		
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).							OPT	N/A	N/A		
	44.	– Empower authority to define spatial and temporal controls and the procedure.							OPT	N/A	N/A		
	45.	– Ensure stakeholder and institutional consultation, both at national and lower levels, in the process of defining spatial and temporal controls.							OPT	N/A	N/A		
	46.	– Establish technical details and specifics on spatial controls.					OPT	OPT		N/A	N/A		

EAF components	Ecosystem approach to fisheries legal requirement				Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes	
	1ary	2ary	1ary	2ary								
Fishery management plans												
C.9 Controls on fishing operations	47.	– Designate authority with power and responsibility to develop, approve, adopt and publicize a FMP, clearly outlining the roles and responsibilities.						OPT	N/A	N/A		
	48.	– Ensure FMPs and measures comply with established integrated management plans for aquatic ecosystems involving e.g. protected areas or critical habitat.							OPT	OPT		
	49.	– Establish process for approval, adoption and publication of FMP with its periodic review.						OPT	N/A	N/A		
C.10 Fishery management plans	50.	– Detail process of drafting FMP, including multi-level and multi-sector collaboration and consultation with stakeholders, and a participatory transparent process for monitoring and reviewing the FMP at a minimum within five years of their development.						OPT	N/A	N/A		
	51.	– List the minimum requirements in the FMPs:										
C.17 Monitoring and review		(a) management objectives that take into account EAF;						OPT	N/A	N/A		
		(b) biological description of fishery and ecosystem in which it takes place;						OPT	N/A	N/A		
		(c) social, economic and institutional aspects of the fishery;						OPT	N/A	N/A		
		(d) species composition and levels of bycatch, both retained and discarded;						OPT	N/A	N/A		
		(e) ecological relationships between harvested, dependent and associated species;						OPT	N/A	N/A		
		(f) impact of other anthropogenic activities on the ecosystem; and						OPT	N/A	N/A		
		(g) a review of the relationship with other coastal or marine resource management plans.						OPT	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.						OPT	OPT			
	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.						OPT	OPT			
	54.	– Ensure coordination between the various authorities involved in marine environment protection.						OPT	OPT			
	55.	– Establish mechanisms and designation of authority responsible for establishing:										
		(a) designation and protection of threatened and endangered species, ensuring cooperation among the authorities throughout the listing process, definition and qualifying factors of each designation, process for listing, including steps for consultation and the special protections associated with the designations.				OPT	OPT					
		(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.						OPT	OPT			
	(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.						OPT	OPT				
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.						OPT	OPT				

EAF components	Ecosystem approach to fisheries legal requirement				Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
	1ary	2ary	1ary	2ary		1ary	2ary				
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.									
		(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.				OPT	OPT	OPT			
		(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.									
	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.									
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.									
	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).									
	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.					OPT	OPT			
	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.					OPT	OPT			
Fishery monitoring and research											
C.13 EAF research	63.	– Establish research programme for furthering the knowledge and understanding of EAF.						OPT		OPT	
	64.	– Designate authority for conducting and involving stakeholders in the research programme.						OPT		OPT	
	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.						OPT		OPT	
	66.	– Consider the findings of the EAF research in the adoption of conservation and management measures.						OPT		OPT	

EAF components	Ecosystem approach to fisheries legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
Monitoring, control, surveillance and enforcement								
C.11 MCSE	67.	– Outline an observer scheme with details on the categories of vessels/fisheries that it applies to and the role that observers play (which may be tailored to the category of vessel or the type of fishery and may be limited to the collection of catch/effort data and the collection of scientific samples, or may include the authority to register and/or report violation of management measures).						
	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.						
	69.	– Design the scheme in line with regional or international requirements, taking into account relevant regional observer programs.						
	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.						
	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).						
	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.						
	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.						
	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.						
	75.	– Detail the specifications for marking vessels and fishing gear in accordance with internationally approved standards.						
76.	– Ensure cooperation and coordination between fisheries and maritime authorities throughout the registration process.							

EAF components	Ecosystem approach to fisheries legal requirement				Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
	1ary	2ary	1ary	2ary							
Enforcement processes and sanctions scheme											
C.11 MCSE continued	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.									
	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.									
	79.	– Provide additional VMS specifications and specific details on the registration process.				OPT					
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).									
	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.									
	82.	– Establish judicial processes used for determining and confirming offences and applying relevant penalties to the offending parties, allowing for a right of appeal.									

The implementation of an ecosystem approach to fisheries (EAF) contributes to sustainable fisheries in various ways. One of them is by reviewing national policy and legal instruments to identify gaps which prevent a country from progressing towards full alignment with, and implementation of, an EAF. This diagnostic tool builds on the previous work of FAO by translating the 17 EAF components identified in the *How-to Guide on legislating for an EAF* into an EAF Legal Checklist for legal practitioners, policymakers and fisheries managers to use in conducting a preliminary assessment of selected policy and legal instruments and determining whether they are congruent with an EAF. The outcomes of the assessment may result in decisions to amend existing national policies and/or legislation, or develop new policy and legal instruments that are aligned with the 17 EAF components, to ensure the full implementation of an EAF towards improving, in a holistic way, the conservation and sustainable use of marine resources, biodiversity and ecosystems.

