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Legal report on the ecosystem approach to fisheries in Guinea

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

FAO EAF-Nansen Programme Report No. 54
EAF-N/PR/54 (En)

A decorative graphic at the bottom of the page consisting of several thick, wavy blue lines that resemble ocean waves. Interspersed among these waves are several small, solid blue circles, which represent fish or bubbles. The overall style is minimalist and modern.

PROGRAMME REPORT

THE EAF-NANSEN PROGRAMME

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

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

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

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policy and legal instruments of Guinea**

By Julia N. Nakamura and Teresa Amador

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Abstract

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

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

This report was elaborated following a participatory approach with the involvement of the national competent authorities of Guinea. Drafted in July 2021, the report was submitted to the national authorities of Guinea in October 2021. The *Centre National des Sciences Halieutiques de Boussoura* (CNSHB) [National Centre of Fisheries Sciences of Boussoura] endorsed this EAF Legal Report of Guinea in July 2022.

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This EAF Legal Report also benefitted from the important contributions of the CNSHB, which provided substantive additional information valuable to this report. We are also grateful to the delegates of Guinea for their participation in the *Fourth Online regional workshop on the use of the Diagnostic Tool on Implementing an EAF through policy and legal frameworks* (22–25 February 2021), and for providing additional information relevant to the present report.

Abbreviations and acronyms

ALCP	<i>Association Locale de Cogestion des pêcheries</i> [Fisheries Co-management Local Association]
CNSHB	<i>Centre National des Sciences Halieutiques de Boussoura</i> [National Centre of Fisheries Sciences of Boussoura]
EAF	ecosystem approach to fisheries
EIA	environmental impact assessment
FAO	Food and Agriculture Organization of the United Nations
FHR	<i>Fonds de recherche halieutique</i> [Fisheries Research Fund]
FMP	fishery management plan
IMO	International Maritime Organization
IUU	illegal, unreported and unregulated (fishing)
MCSE	monitoring, control, surveillance and enforcement
MPA	marine protected area
NGO	non-governmental organization
RFMO/A	regional fisheries management organization and/or arrangement
TAC	total allowable catch
VMS	vessel monitoring system

1. Introduction: legislating for the ecosystem approach to fisheries

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

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

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

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

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

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

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

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

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

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

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

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

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

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

With regard to the 1993 Compliance Agreement that Guinea is **not yet a Party**, it is important to identify and analyse the reasons preventing the country’s consent to be bound by such instruments and raise awareness to the importance of the international fisheries governance framework. Such analysis is however beyond the scope of this report.

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

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

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

2.1 Methodology and scope

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

During the elaboration of this EAF Legal Report, the *Centre National des Sciences Halieutiques de Boussora* (CNSHB) was contacted (hereinafter referred to as “National EAF-Focal Point”) and provided additional information concerning the implementation of the EAF at national level, which has been included in this report.

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

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

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

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

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

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

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

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

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

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

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

Symbol	Perceived level of alignment with the EAF legal requirement	
✓	Full or sufficient	Part(s) in the assessed fisheries policy or provision(s) in the assessed legislation <u>totally incorporates</u> the EAF legal requirement.
∅	Partial or insufficient	Part(s) in the assessed policy or provision(s) in the assessed legislation <u>partially incorporates</u> the EAF legal requirement. ²
X	None or inexistent	No part in the assessed policy nor provision in the assessed legislation was found that incorporates the EAF legal requirement.
●	Not considered	No assessment was carried out since the EAF legal requirement was fully or sufficiently found in the primary fisheries policy/legislation, or in the primary legislation of other sector.
N/A	Not applicable	The EAF legal requirement is exclusively relevant to fisheries (that is the case of all the EAF legal requirements under Fisheries Management, Monitoring, Control, Surveillance and Enforcement (MCSE) and almost all of those under enforcement processes and sanctions scheme) and therefore not applicable to other sector's legislation.
*	Optional	The EAF legal requirement is considered to have a non-mandatory nature and therefore is not expected to be found in the assessed policy or legal instrument.

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

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

2.1.4 Additional observations

While filling in Appendix B, some parts of the policy framework and some provisions of the legal framework which in some cases are anchored in the Guinea Constitution of 2010, were considered particularly relevant in incorporating the EAF legal requirements. These parts and legal provisions which, without prejudice to others that may also be relevant, were considered good examples of addressing an EAF (in the case of a policy instrument) or legislating for an EAF (in the case of a legal instrument), have been highlighted in the main findings under subsection 2.2 below as good practice in legislating for an EAF.

² A more in-depth analysis will be required to understand how EAF legal requirements filled in with the ∅ symbol could be fully incorporated in legal and policy instruments or reflect potential contradictions between one legal and/or policy instrument and another. Such analysis goes beyond the scope of this desk-based preliminary assessment.

2.1.5 EAF Legal Questionnaire of Guinea

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

2.2 Overview and main findings

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

2.2.1 Fisheries policy

The assessed three fisheries policies correspond to A1 to A3 in Appendix A. They cover **17** of the 82 EAF legal requirements.

The main fisheries policy is the *2015 Document cadre de politique des pêches et de l'aquaculture* [Framework policy document on fisheries and aquaculture], which has the general objective of improving the contribution of the fisheries and aquaculture sector to the economic development of the country, food security, poverty reduction and environmental protection. This is to be achieved through three specific objectives: sustainable management of fisheries resources; promotion of aquaculture and added value to the fisheries resources (Page 16). Fishery management plans (FMPs) are required to be developed according to an EAF, taking into account the impacts of climate change, with objectives defined on the basis of scientific knowledge of stocks, data and economic, financial and technical analyses on the fleets and sectors (Page 17). It provides for support to, *inter alia*, capacity building of co-management councils, carrying out scientific studies in support of co-management initiatives, and acquisition of equipment and the financing of operations for participatory surveillance. It also promotes cooperation at sub-regional and regional level based on objective factors in particular belonging to the same marine ecosystems and the existence of shared stocks (Page 20). It provides a logical framework for its implementation (Pages 22-25).

The *2017 Plan d'action national visant à prévenir, à contrecarrer et à éliminer la pêche illicite, non déclarée et non réglementée* presents the measures for preventing, deterring and eliminating illegal, unreported and unregulated (IUU) fishing, describes the current policies and legislation in force, and determines the programmes and projects in course, to combat IUU fishing (Page 2). It identifies the main threats to stocks within the maritime zone of Guinea, which include, fishing without a license, fishing during close season or violating the rules on marking of fishing vessels (Pages 4–5). Its main objective is to ensure the sustainability of resources with a view to ensure the economic viability and diversity of the fisheries sector, through, *inter alia*, the implementation of conservation measures that follow a precautionary approach and an EAF, and on the basis of a shared vision founded on co-management (Page

12). It outlines the National Fisheries Inspection Plan which promotes monitoring, control, surveillance and enforcement (MCSE) measures through the establishment of requirements on registration of fishing vessels, licensing, inspection, observers programme among others (Pages 30–31), as well as inter-states cooperation in combatting IUU fishing (Page 31).

The *2016 Stratégie Nationale sur la Diversité Biologique - pour la mise en œuvre en Guinée du plan stratégique 2011–2020 et des objectifs d’Aichi* is founded on the principles of, *inter alia*: considering natural ecosystems and the biological resources of the country as economic, socio-cultural goods, and the maintenance of their ecological functions and values; conserving biological diversity in a participatory manner and based on partnerships between the various stakeholders, particularly decision-makers, professionals, local and riparian communities as well as the private sector; protecting and valuing traditional knowledge and practices, as well as the socio-cultural values of the conservation of biological resources; exploiting agroecosystems in a way to guarantee an ecological balance with natural ecosystems; supporting the establishment of coordination structures for biodiversity conservation actions (Pages 83–84). Various activities outlined in this policy are relevant for an EAF, including: the development, in consultation with fishers, of management plans, and promotion of an EAF (Page 90); the creation of marine and coastal protected areas and strengthening the existing ones (Pages 93–94); the creation of programmes of conservation of ecosystems, species and other rare or endangered parts of biodiversity (Pages 94–95); and the establishment of mechanisms of dialogue, exchange of experiences, information and evaluation of impacts with the local communities in respect of biodiversity matters (Pages 104–105)

2.2.2 Fisheries primary legislation

The assessed four fisheries primary legislation correspond to B1 and B4 in Appendix A. They cover **46** of the 82 EAF legal requirements.

The *2015 Loi n° 2015/26/AN du 14 septembre 2015 Portant Code de la pêche maritime* [Marine Fisheries Code] provides that the Ministry in charge of maritime fisheries is the competent authority to implement the policy governing marine fisheries (Article 4), and that the Republic of Guinea defines a policy aiming to protect and conserve marine fishery resources and habitats, following the precautionary approach (Article 5(3)). This Code defines an ‘ecosystem approach to maritime fisheries’ (Article 8(c)) and adopts the definitions of IUU fishing, pursuant to FAO’s International Plan of Action to prevent, deter and eliminate IUU fishing (Article 9). The competent service of the Ministry in charge of marine fisheries elaborates the FMPs, which shall periodically be revised in accordance with procedures to be defined by subsidiary legislation (Article 17(1)) and meet minimum requirements, including defining the total allowable catch (TAC) and fishing efforts for each fishery (Article 17(2)). The FMPs are to be developed in accordance with a participatory approach of governance which promotes the implementation of co-management and participatory monitoring mechanisms (Article 21(1)). For that purpose, a National Fisheries Consultative Council is established, and local fishing councils may be established, the composition, mission and operation rules of which are to be established by regulation (Articles 21(2) and 22).

The Marine Fisheries Code provides for the principles of prevention, precaution, EAF, participatory management and co-management (Article 19). It also provides for research activities and data collection for the purpose of strengthening the knowledge on the resilience of marine ecosystems against environmental and anthropogenic factors and evaluate the relationship between the marine populations withing the ecosystem (Article 26(2)). International, regional and sub-regional cooperation is promoted with respect to matters concerning, *inter alia*, fisheries, scientific research, data collection and analysis on the exploitation of marine biological resources and the shared management of stocks, as well as harmonisation and coordination of fisheries management systems (Article 30).

The Marine Fisheries Code requires all Guinean industrial fishing vessels to register with the authority in charge of maritime transport subject to an agreement with the Ministry in charge of marine fisheries (Article 37) and Guinean artisanal fishing vessels to register with the Ministry in charge of Fisheries (Article 38). Authorization to operate in waters under Guinean's jurisdiction by foreign fishing vessels requires prior registration in a register established by subsidiary legislation which shall contain all the information specified in the Marine Fisheries Code, including information and data on the vessels and the activities of the vessel (Article 41). This Code also provides for a fishing licensing scheme with provisions on, *inter alia*, minimum license conditions, fees, application procedure, transferability, suspension and renovation (Articles 43–55). Fishing access agreements must include, among other requirements, the species and tonnage of authorised catches (Article 61). The Ministry in charge of marine fisheries has the duty to ensure the country's participation in cooperation structures with a view to, *inter alia*, harmonise and coordinate fisheries management systems (Article 63).

The Marine Fisheries Code prohibits fishing with explosives, fire arms and toxic substances (Article 81), as well as using mono-filament nets and multi-filament in nylon nets, beach seines, and others (Article 82). Various marine species, including turtle species and shark species are prohibited from fishing (Article 85 and Annex I). All vessels must me marked - the licensed industrial fishing vessels must be marked with letters, numbers according to international standards, including those of FAO and International Maritime Organization (IMO) (Articles 88–89) – as well as the fishing gear must have all the identification of their owner in accordance with the criteria and rules prescribed by subsidiary legislation (Article 90). Industrial fishing vessels are also required to report catch data to the Ministry in charge of marine fisheries (Article 91) and to keep a fishing logbook (Article 94). Fishing vessels with more than 15 meters length overall must be equipped with an automatic identification system (Article 98), and all vessels must install a vessel monitoring system (VMS) and keep it operational at all times (Articles 100–105).

The Marine Fisheries Code provides for an observers' scheme applicable to all vessels authorised to operate in waters under Guinea jurisdiction and to Guinea vessels operating in waters under the jurisdiction of other States (Articles 106–109). The Ministry in charge of marine fisheries adopts the practical and legal measures necessary to prevent and solve conflicts among fishers, especially between artisanal and industrial fishers, through measures such as definition of zones reserved to certain types of fishing gears (Article 113). All Guinean

fishing vessels must land their catches and fishery products at designated Guinean ports, or at a coastal State's port after the applicable control measures are undertaken (Article 115). The Code also provides for transshipment requirements (Articles 122–130) and port States measures (Articles 131–143). It also contains detailed rules on enforcement officers, detailing their powers, which include inspection of fishing vessels and catches, and examining catches on board the fishing vessel (Articles 159–166). Administrative procedures are detailed therein, including the possibility of transaction (Articles 213–227), as well as judicial process (Articles 228–231). The offences are categorised in three categories in accordance with their severity (Article 241) and the penalties established for each category of very serious (Article 242), serious (Articles 244–245) and simple (Articles 247–248) offences.

The *2015 Loi n° 2015/27/AN du 14 septembre 2015 portant Code de la pêche continentale* [Inland Fisheries Code] provides that the State has the right and obligation to promote the sustainable development of inland fisheries for the interest of present and future generations, implementing the principles of precaution, prevention, non-regression, non-pollution, and co-management (Article 10). The competent authority must take all necessary measures to facilitate the consultation and participation of decentralised communities, and inland fisheries professional organizations (Article 11). International, regional and subregional cooperation is promoted through, inter alia, harmonisation of rules on access and exploitation of inland fisheries, and harmonisation of data collected (Article 14). FMPs requirements are outlined therein (Article 15) as well as the authorised fishing gears (Article 16).

The Inland Fisheries Code provides for a register where the information of fishing vessels operating in inland waters is maintained (Article 21). The competent authority, in collaboration with the environmental authority, conducts the evaluation, management and conservation of resources in inland waters and the preservation and protection of inland ecosystems (Article 22). A fishing licensing scheme is detailed therein (Articles 26–38). Certain fishing gears are prohibited, including toxic substances, explosives and electric devices (Article 39). The Code also provides for the enforcement powers of authorised officers (Article 46). Administrative procedures (Articles 50–56), judicial procedures (Articles 57–58), and the description of offences (Article 59) are outlined therein.

The *2015 Loi n° 2015/28/AN du 14 septembre 2015 portant Code de l'aquaculture* [Aquaculture Code] provides the rules for the sustainable management of aquaculture, requiring the competent authority to follow the principles of precaution, prevention, integration, preservation of biological diversity, non-regression for the responsible and sustainable development of aquaculture (Article 10). It also requires such authority to undertake periodic evaluation, based on available scientific information, of the impacts of aquaculture activities on the environment, including on the integrity of aquatic ecosystems and endemic species (Article 11). This Code requires all establishments of aquaculture for subsistence, commercial or scientific purposes, which pose a real environmental risk, to be subject to an environmental impact assessment (EIA) (Article 33).

The *1985 Ordonnance n° 040/PRG/85 portant création du Comité interministériel de surveillance des ressources biologiques de la zone économique exclusive* creates the Inter-

ministerial Committee for the surveillance over biological resources in the exclusive economic zone (Article 1), composed by representatives from fisheries, transports and national defense (Article 2). Its functions include promoting the development and execution of studies aimed at improving the MCSE operations over industrial fishing vessels at sea and supervise the inspection activities on board foreign fishing vessels (Article 4).

2.2.3 Fisheries secondary legislation

Prior to analysing the secondary legislation, it is important to note that the Marine Fisheries Code from 2015 explicitly repeals the previous Marine Fisheries Code from 1995, approved by *Loi L/95/113/CTRN*, as well as all the previous regulatory instruments adopted under the previous Code and which are contradictory or not aligned with the current Marine Fisheries Code of 2015 (Articles 258–259). The current Code explicitly provides that **all the secondary legislation regulating the previous Code continue to be in force unless they are incompatible with the current Code** (Article 258). The present analysis assessed the existing 26 fisheries secondary legislation, including those adopted prior to the current Code. Those legislation regulate matters which may be considered incompatible with the current Code and, for this reason, possibly tacitly repealed.

The secondary legislation assessed below is presented in chronological order with those cases considered tacitly repealed, pursuant to Article 258 of the Marine Fisheries Code, identified. All assessed 26 instruments are included in Appendix A, but those which were considered incompatible with the current Code were not considered valid as legal basis to be included in Appendix B.

The assessed 26 fisheries secondary legislation corresponds to C1 to C26. They cover **35** of the 82 EAF legal requirements.

The *Décret D/2022/04/PGR/CNRD/SGG portant interdiction de l'importation, de la fabrication, de la vente, de la détention et de l'utilisation du filet monofilament en nylon de 2022*, aims at promoting the conservation and sustainable management of fisheries resources for the benefit of present and future generations (Article 1). It prohibits the import, production, sale, detention and utilization of nylon monofilament fishing nets (Article 2).

The *Arrêté A/2020/3540/MPAEM/CAB/SGG, portant modalités d'application de la cogestion locale des pêcheries artisanales de 2020*, establishes the Association Locale de Cogestion des pêcheries (ALCP) [Fisheries Co-management Local Association] for the implementation of co-management, and the Ministry in charge of fisheries maintains a register of ALCPs that have a valid licence, and ensures its publicity (Article 2). This Order provides for collaboration between the government and its development partners to strengthen the capacities of existing ALCPs in artisanal fishing sites, particularly in the areas of sustainable fisheries management and good fisheries governance at the local level (Article 4). Local authorities, decentralized services and ALCPs are responsible for raising awareness on the rules applicable in areas under the ALCPs' jurisdiction (Article 8). Each of the ALCPs is entitled to refer to the local authorities in case of conflicts between the ALCPs of the same Prefecture (Article 9).

The 2019 Décret D/2019/285/PRG/SGG, portant status du Centre National des Sciences Halieutiques de Boussora (CNSHB), establishes and regulates the National Centre of Fishery Science of Boussora, which is in charge of, *inter alia*, contributing to the sustainable development of the fisheries and aquaculture sector and developing and executing research programmes on fisheries and aquaculture (Article 5).

The 2017 Arrêté n°A/2017/6805/MPAEM/SGG, portant catégorisation de la pêche artisanale maritime, describes the three different types of artisanal fisheries, namely, the traditional artisanal fisheries (Article 3), the motorised artisanal fisheries (Article 4) and the advanced artisanal fisheries (Article 5). It establishes that the FMP shall fix for each category of artisanal fishing the conditions of access to the resources, including fishing area and gear (Article 7).

The 2017 Arrêté A/2017/008/MPAEM/CAB/SGG, portant contrôles officiels des produits de pêche et d'aquaculture, regulates the official controls over the fishery and aquaculture products. It outlines, among other provisions, the competence of the National Office of sanitary control of fishery and aquaculture products (Article 8).

The 2016 Décret D/2016/040/PRG/SGG, instituant un régime d'irrecevabilité de la demande de licence de pêche et de refus d'octroi de la licence de pêche, outlines the circumstances under which the fishing licence cannot be issued. Those include the application being presented in favour of a vessel found in violation of the provisions of the Marine Fisheries Code and regarding which the payment of fine was not fully honoured (Article 1). It applies to all vessels fishing in the maritime waters of Guinea as well as to Guinea flagged vessels operating in areas beyond national jurisdiction (ABNJ) (Article 4).

The 2016 Arrêté A/2016/036/PRG/MDC/CAB/SGG, portant création d'un comité consultatif d'instruction des demandes de licences de pêche industrielle, creates an Advisory Committee for the issuance of industrial fishing licenses for any vessels to operate in Guinea waters and for Guinea vessels to operate in ABNJ (Article 1). The applications are to be addressed to the Minister who shall forward them for the consideration of the Advisory Committee who shall issue an opinion within 24h (Articles 3–4). The licenses are signed by the Minister (Article 5).

The 2015 Décision A/2015/132/MPA/CAB, portant création, organisation et fonctionnement d'un Comité Consultatif National ad hoc de gestion des petits pelagiques, establishes the Ad Hoc National Advisory Committee on the management of small pelagic, which is in charge of, *inter alia*, monitoring the state of stocks of small pelagic species, promote participatory management and the implementation of self-regulative measures, and promoting the dialogue and consultation between all actors involved in the management, conservation and exploitation of small pelagic species (Article 2). The composition of this Committee includes representatives from the National Union of Artisanal Fishers of Guinea, the Association of Young Artisanal Fishers of Guinea, women seafarers, among others (Article 4).

The 2014 *Décret D/2014/016/PRG/SGG, portant détermination des amendes applicables aux infractions de pêche et définition des pénalités accessoires*, amends the penalties applicable to the fisheries offences under Articles 60 to 63 of the previous Code and defining the applicable accessory sanctions (Articles 2–5). This Decree is considered tacitly repealed by the 2015 Marine Fisheries Code which sets up new offences and sanctions scheme.

The 2014 *Décret D/2014/007/PRG/SGG, portant obligation d'équipement en dispositif de repérage par satellite des navires de pêche*, requires the installation of a VMS as pre-requisite for the issuance of licence of all Guinean fishing vessels and foreign fishing vessels (Article 1), providing details on the characteristics of the device, responsibilities of the captain of the fishing vessels with respect to the reparation, maintenance and transmission of data, including the periodicity of the transmission (Articles 2–9). It grants the authority in charge of VMS with the power to control through the VMS the entry and exit from the following areas: any maritime area subject to specific rules concerning access to water and fishery resources; the restricted access fishing zone; and the maritime zones under sovereignty or jurisdiction of a third State (Article 6).

The 2014 *Décret D/2014/006/PRG/SGG, portant instauration d'un régime de surveillance par satellite et de surveillance aérienne des pêches*, establishes a regime of satellite and aerial fisheries surveillance, which grants the authority responsible for MCS with the power to ensure surveillance of the water under the jurisdiction of Guinea through, surveillance airplanes, VMS and any other methods of detection and identification (Article 3).

The 2014 *Décret D/2014/008/PRGISGG, fixant les règles applicables aux opérations de transbordement et de débarquement des captures et des produits de la pêche*, provides further details on transshipment and landing requirements (Article 1). All operations of transshipment and landing of catches and/or fishery products are subject to authorisation of the Ministry in charge of fisheries (Article 3). The captain of an industrial or semi-industrial fishing vessel must complete a landing declaration explicitly indicating all landed species, and other information prescribed therein (Article 8).

The 2014 *Arrêté n° 3130/MPA/SGG/2014, portant nomination des membres du Conseil Scientifique du Centre National des Sciences Halieutiques de Boussora*, provides the names and designations of the persons nominated as members of the Scientific Committee of the CNSHB (Article 1), which include representatives from academia and research institutes.

The 2013 *Arrêté A/2013/4500/PRG/CAB/SGG, portant création d'un comité consultatif d'instruction des demandes de licences de pêche industrielle et semi industrielle*, establishes the Advisory Committee for the issuance of industrial and semi-industrial fishing licences (Article 1). It is considered tacitly repealed by the 2015 Marine Fisheries Code which no longer provides for the differentiation between industrial and semi-industrial fishing. Additionally, a new Committee was established by *Arrêté A/2016/036/PRG/MDC/CAB/SGG* which is briefly assessed above.

The 2013 Décret n° D/2013/016 /PRG/SGG, portant création et composition de la commission nationale d'arraisonnement des navires de pêche en infraction, establishes the National Committee on Boarding of Fishing Vessels that have committed an offence in the marine waters under Guinea's jurisdiction (Article 1), responsible for, *inter alia*, investigating and monitoring the documents concerning such boarding, and all information preceding the boarding and accusations as well as proposing the applicable sanction scheme (Article 2).

The 2013 Décret D/2013/128/PRG/SGG du 29 juillet 2013, portant rappel de la réglementation dans les eaux maritimes guinéennes, prohibits the following activities: the use of fishing vessels with more than 2500 gross tonnage; transshipment in the high seas; refuelling of vessels in the high seas and in waters under Guinean jurisdiction; and the granting of flags of convenience (Article 1). It should be noted that the 2015 Marine Fisheries Code regulates "fishing related activities" which include refuelling and contains specific provisions on transshipment which are considered to prevail over those established in 2013.

The 2011 Arrêté n° A/2011/MPA/SGG, portant attributions et organisation de la direction nationale de la pêche continentale et de l'aquaculture, establishes the National Directory of Inland Fisheries and Aquaculture, with the mission of ensuring the implementation of the government policy on fisheries and aquaculture (Article 1). It is responsible for, *inter alia*, coordinating the activities and programmes on inland fisheries and aquaculture, participating in the development, elaboration and planning for the implementation of strategies and action plans for the development of inland fisheries and aquaculture (Article 1).

The 2010 Arrêté n° A/2010/4724/MPA/CAB/SGG/2010, portant création, attribution et organisation des directions régionales des pêches et de l'aquaculture, establishes the Regional Directory of Fisheries and Aquaculture (Article 1), whose responsibilities include: coordinate at regional level all activities of programmes, services and projects on fisheries and aquaculture, collaborate with other institutions on the sustainable development of the sector for improving the knowledge about fishery resources in each region, and collaborate in surveillance activities (Article 2).

The 2010 Décret n° D/2010/236/IPRG/SGG/2010, portant création, organisation et fonctionnement du fonds d'appui au Secteur privé de la pêche et de l'aquaculture, establishes the Fund for the Support of the Private Sector of Fisheries and Aquaculture (Article 1), for the purposes of, *inter alia*, executing public projects and programmes for the benefit of private operators and promote the development of the artisanal fishing fleet (Article 3).

The 2010 Décret n° D/0198 7FkG/SGG/2010, portant application des dispositions du Code de la pêche maritime relatives aux amendes, provides for fisheries offences and penalties (Articles 2–4), which are covered in the 2015 Marine Fisheries Code. Hence, this decree should be considered tacitly repealed.

The 2009 Arrêté n° 1629/MPA/2009/SGG, portant fonctionnement du système de positionnement et de localisation des navires de pêche industrielle et obligation d'installation

de la balise à bord, organises the functioning of the system of position and location using communications by satellite for the transmission of data related to the name and number of registration, date, hour, geographical position, speed (Article 1). Certain requirements on VMS were covered by the 2014 *Décret D/2014/006/PRG/SGG*, analysed above, as well as by the 2015 Marine Fisheries Code. As these three instruments regulate VMS, a more in-depth review of such instruments will indicate whether there are overlaps and incompatibilities between them. Such detailed assessment, however, goes beyond the scope of the present report.

The 2006 *Arrêté n° 676/MPA/SGG/2006 portant réglementation de la pêche artisanale en République de Guinée* regulates artisanal fishing in the country. It requires the Ministry in charge of fisheries and aquaculture to adopt a participatory and precautionary approach for the management and monitoring of fishery resources (Article 3). It provides for the registration of artisanal fishing vessels (Article 7) and their marking (Article 8). It also provides for licensing scheme of artisanal fishing (Articles 21–33) as well as fishing gears restrictions, spatial control (Articles 34–39), and prohibition on fishing marine mammals, turtles, crocodiles and freshwater manatees (Article 40).

The *Arrêté conjoint A/2005/N°3763/MPA/MEF/SGG, portant mise en place d'un Fonds de recherche halieutique (FHR) de 2005*, establishes the Fisheries Research Fund. This fund is designed to the subscription of an insurance policy for the research vessel “General Lansana Conté”, the coverage of functioning fees, exploitation and its maintenance, as well as to the financing of the fisheries resources monitoring (Article 2). The FHR is constituted by the fines collected from industrial fishing (Article 3).

The 2000 *Arrêté n° A/2000/576/MPA/CAB, portant organisation et attributions du Bureau de stratégie et de développement du Ministère de la pêche et de l'aquaculture*, provides for a Directory of Central Administration, which has the mission of defining and developing the policy for the development of the fisheries and aquaculture sectors, coordinating the activities related to the implementation and monitoring of such policy and elaborating a development plan for fisheries and aquaculture (Article 1).

The 2000 *Décret n° D/2000/031/PRG/SGG, portant attribution et fonctionnement de l'Inspection générale du ministère de la pêche et de l'agriculture*, establishes the General Inspection of the Ministry in charge of fisheries and aquaculture, in charge of, *inter alia*, developing a general programme of inspection and ensure its implementation (Article 2).

The 1990 *Décret n° 198/PRG/SGG/90, portant statuts de l'Office de promotion de la pêche artisanale et de l'aquaculture (O.P.P.A.)*, establishes the Office for the Promotion of Artisanal Fisheries and Aquaculture, with is in charge of, *inter alia*, ensuring the technical framework and assistance to cooperatives and private enterprises of artisanal fisheries or related activities; collecting the data on artisanal fisheries and aquaculture; harmonising the methods of intervention in artisanal fisheries sector (Article 1).

2.2.4 Other sectors primary legislation

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

The *1987 Ordonnance n° 045\PRG\87 portant Code sur la protection et la mise en valeur de l'environnement*, as last amended in 1996 (hereinafter referred to as 'Environmental Code'), regulates the constitutional provision that provides that the State sees to the protection of the environment (Article 16 of the Constitution). This Code establishes the fundamental principles aimed at protecting the environment against all forms of degradation, with a view to protect and enhance the exploitation of natural resources, combat against different pollutions and nuisances, and improve the life conditions of all citizens (Article 1). A National Environment Council is created to assist the Ministry responsible for the environment in the preparation of a National Environmental Policy, and to coordinate and facilitate the related activities (Article 10). It is prohibited the dumping, immersion and incineration in marine waters under Guinean jurisdiction of substances of any kind liable to harm human health and living marine resources; interfere with maritime activities, including navigation and fishing; and degrade the value of amenities and the tourist potential of the sea and the coast (Article 33).

The Environmental Code provides for the classification as a national park or nature reserve where the conservation of a natural environment on the territory of the Republic is of special interest and it is advisable to preserve this environment from any human intervention likely to alter, degrade or modify it, any portion of the national territory, land, sea or river (Article 52). It requires such classification to be preceded by a public hearing, in collaboration with the concerned Ministerial departments, local communities and, where involving international borders, the relevant foreign authorities (Article 53). Developments, works or installations that constitute a risk of harming the environment, due to their size, the nature of the activities carried out there or their impact on the natural environment, are subject to prior EIAs to assess the direct or indirect impacts of the project on the Guinean ecological balance, the environment and the quality of life of the population and the impact of environmental protection in general (Article 82). An Environmental Protection Fund is established therein to finance operations within the framework of the national policy for the preservation and enhancement of the environment, granting loans or subsidies to State public services, local authorities, associations and individuals for investments, actions or campaigns intended to prevent pollution or to adapt existing installations to the environmental quality standards laid down by the public authorities (Articles 87–89).

The *1999 Loi n° L/99/013/AN Code Foncier et Domanial* provides that the State, as well as other individual and legal persons, may be holders of the right of ownership over the land and the buildings it carries, and exercise that right in accordance with the Civil Code and the 'Code Foncier et Domanial' (Article 1). The public utility is declared after public hearing, by decree with explicit explanation of the public utility that authorises the construction works of public interest, including the works to protect the environment (Article 57). Only the public utility easements necessary for the conservation of the national heritage, the use of certain resources and equipment, the protection of the environment and the defense can be established by the administrative authority, national health and public security, the creation of which was provided for by law (Article 94).

The 1997 *Loi n° L/97-038/AN, adoptant et promulguant le Code de protection de la faune sauvage et réglementation de la chasse*, provides the fundamental principles for the protection, conservation and management of wildlife and habitats, recognises the right to hunt and provides guidance for such activity with a view to promote the sustainable use of animal species (Article 1). For the conservation and management of fauna, it provides for protected areas categorised as national parks, fully protected natural reserves, managed natural reserved, special reserves or fauna sanctuaries, zones of synergetic interest, and hunting zones (Articles 10 and 30). Animals or species particularly rare or threatened with extinction, as prescribed in a list to be fixed by decree, are fully protected in national territory, and such list can only be modified by joint decree of the Ministries in charge of hunting and scientific research (Article 47).

The 1995 *Loi n° L/95/23/CTRN/ du 12 juin 1995, portant Code de la Marine Marchande*, contains several provisions on measures to prevent marine pollution (Articles 178–202). All vessels with Guinea waters, with capacity above ten gross tonnage, are subject to registration in the Registry of Ships maintained by the Maritime Authority or other body designated for such purposes (Articles 324–325). The owner of the vessel is responsible for such requesting such registration (Article 326) and for submitting the required documents (Article 330) .

The 1994 *Loi n° L/94/005/CTRN portant Code de l'eau*, provides the water legal regime, clarifying, *inter alia*, the mandate of the National Directorate of Hydraulics, which is responsible, among others, for the coordination of actions aimed at the adoption of a national water policy, the administration of water rights and tasks necessary for the rational management of water resources (Article 39). The management of water resources is ensured by the decentralized and local communities within their territory, applying customary law and practices and organizing themselves into user associations for the benefit of a single permit or concession (Article 41).

The 1981 *Loi n° 036/APN, portant réglementation de l'exploitation des ressources en eau de la République Populaire Révolutionnaire de Guinée*, aims at regulating the utilization of waters resources and protecting them from destructive actions (Article 1). This Law provides rules for, *inter alia*, the prevention and fight against waters' destructive actions (Articles 5–15), the utilisation of waters (Articles 20–27), the protection of water quality (Articles 28–38), and protection, execution and exploitation of edified installations over waters or in connection with waters (Articles 39–54).

2.2.5 Other sectors secondary legislation

The other sectors secondary legislation corresponds to E1 to E6 in Appendix A.

The 2020 *Arrêté A/2020/1591/MEEF/CAB/SGG, portant protection des espèces de faune et de flore sauvages*, establishes the levels of protection of the species of wild fauna and flora in Guinea (Article 1). These include species that are fully protected and regarding which capture, detention and killing are prohibited (Article 3) and the species that are partially protected, the

capture, detention and killing of which is subject to prior authorisation of the Ministry in charge of wild fauna and flora (Article 5). Except with express derogation of such Ministry, it is prohibited the introduction of exotic species in national territory (Article 7).

The 2020 Arrêté Conjoint A/2020/1590/MEEF/MPAEM/SGG, portant protection des espèces de faune et de flore sauvages, establishes the levels of protection of sharks and rays (Article 1). Certain species of sharks and rays, classified under Category I, are subject to full protection, being prohibited from capture, detention, killing, transport, and others (Article 3), while certain species of sharks and rays, classified under Category II, are subject to partial protection (Article 5).

The 2013 Arrêté A/2013/473/MEEF/CAB/SGG du 11 mars 2013, portant commissionnements administratifs du processus d'approbation des dossiers d'évaluation environnementale et sociale, establishes the administrative commissions for the process of approving the applications of environmental and social impact assessments (ESIA) concerning a given project, which include the undertaking of public hearings and consultations at local levels (Article 1). The Technical Committee for Environmental Evaluation is composed by 23 members, including representatives from ministerial departments and civil society (Article 4).

The 1997 Décret D/97/286/PRG/SGG, portant organisation et modalités de fonctionnement du Fonds de sauvegarde de l'environnement, provides for, *inter alia*, the composition of the Management Committee for the Environmental Fund, which includes representatives from Ministries and NGOs (Article 3). It also elaborates on the functions of the Fund, established to finance the operations and activities falling within the framework of the national policy for the preservation and enhancement of the environment, subsidizing operations likely to reduce bush fires by improving agricultural production techniques and reforestation of sites, as well as actions intended to limit the use of firewood and facilitate its use, use of improved stoves and other alternative sources of energy (Article 9).

The 1989 Décret n° 201/PRG/SGG/89, portant préservation du milieu marin contre toutes formes de pollution, prohibits, *inter alia*, the dumping, immersion and incineration in waters under Guinean jurisdiction, of substances listed in its Annex I (Article 2). The owners or operators of off-shore facilities and platforms being exploited or explored are prohibited from any discharge of hydrocarbons or mixtures likely to harm public health, marine flora and fauna and the economic and tourist development of coastal regions (Articles 29–30).

The 1989 Décret n° 199/PRG/SGG/89, codifiant les études d'impact sur l'environnement, requires the undertaking of an EIA and technical consultation prior to any development project, work or installation referred to in its appendix (Article 1). It does not provide further details on the process nor the content of an EIA, cross-referring these matters to subsidiary legislation (Articles 4–6).

2.2.6 Additional relevant information from the National EAF-Focal Point

The fisheries sector interacts with the following institutions: the Ministry of Environment, Water and Forests through the Guinean Office of Parks and Reserves and the Centre for the Protection of Marine Environments and Coastal Areas; the Ministry of Agriculture through the National Directorate of Agriculture; the Ministry of Higher Education and Scientific Research through the Rogbané Oceanographic Research Centre and the Universities; the Ministry of Hydrocarbons through the Hydrocarbons Department; and the Ministry of Mines and Geology.

Inter-sectoral activities include: implementation of research and management of marine protected areas (MPAs) and the coastal zone with the Ministry of Environment; implementation of fish farming projects (rice-fish farming) with the Ministry of Agriculture; implementation of research work in the fields of oceanography and fishing (evaluation campaigns, studies on abiotic factors, etc.) with the Ministry of Higher Education and Scientific Research; and implementation of seismic prospecting campaigns with the Ministry of Hydrocarbons.

There is no inter-sectorial specific mechanism to facilitate coordination of activities, monitoring and review. There are participatory approaches at all levels (local, national, regional, international) with regard to decision making, awareness, participatory monitoring, capacity building etc. Projects reported as having been implemented following an EAF include the ecosystem prospecting campaigns carried out under the EAF-Nansen Programme.

3. Conclusion

3.1 Main gaps in the assessed policy and legal instruments

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

Of the 82 EAF legal requirements, **59** EAF legal requirements were found in Guinea's policy and legal frameworks assessed in this EAF Legal Report. It should be noted that the 82 EAF legal requirements are considered the minimum standards in legislating for an EAF which may be further elaborated and improved in advancing the implementation of an EAF. Based on the present preliminary assessment, **23** EAF legal requirements remain to be incorporated in the policy and legal frameworks of Guinea.

The assessed policy and legal instruments did not provide for important EAF concepts such as ensuring the right of access to fair and transparent information, as required under EAF Component 1 and the right of access to education and awareness raising. Details on public consultations with respect to allowing sufficient time for comments on proposed management decisions were not found, which relates to EAF Component 6. There was also lack of references and provisions on conflict management review process, under EAF Component 7, and on integrated management of aquatic ecosystems and the review of the respective plan, which corresponds to EAF Component 8. A major gap was noted with respect to TAC, additional catch limits and detailed requirements, as well as technical details on fishing licensing, as provided under EAF Component 9.

There are also improvements to be made with regard to FMPs, which lack provisions on the need to comply with established integrated management plans for aquatic ecosystems, and the detail process of drafting, monitoring and reviewing FMPs' including requirements on their minimum content, as provided under EAF Component 10.

In respect of MCSE, which is of particular relevance to the fisheries sector, the assessed policy and legal instruments do not require that the observers scheme is in line with regional or international requirements; no requirements on the cooperation and coordination among fisheries and maritime authorities throughout the vessel registration process, as part of the legal requirements under the EAF Component 11. Ecosystem-based research was another gap in the assessed policy and legal instruments, indicating misalignment with EAF Component 13. No provisions were found on the restoration of damaged habitats and ecosystems, pursuant to EAF Component 14. Measures to prevent ghost fishing and requirements on energy efficiency were also not found, which indicate a gap related to EAF Component 15. Details on EIA component and its process were not found as well, as required under EAF Component 16.

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

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

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

The policy and legal instruments of Guinea, assessed in this Report, incorporate **59** out of the 82 EAF legal requirements, therefore indicating a **medium** level of alignment with the EAF.

3.3 Final considerations and proposed way forward

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

The incorporation in the national policy and legal frameworks of all the EAF relevant provisions from international legally binding instruments³ to which Guinea is a Party, as identified under subsection 1.2 above, should be a priority in the improvement of the EAF implementation at the national level. The relevant EAF provisions from the international non-binding instruments that reflect principles of international law should also be incorporated in the national policy and legal frameworks.

With respect to the assessed policy and legal instruments, some gaps have been identified which should be addressed to ensure full implementation of an EAF in the country. The following subjects could benefit from a detailed review and update in the relevant policy and legal instruments: “institutional arrangements” (especially conflict management and integrated management of aquatic ecosystems), “control on fishing operations” (especially TACs and fishing efforts), “fisheries management” (particularly FMPs, and aspects of integrated management of ecosystems), “conservation measures” (especially regulation of

³ See Appendix A of the EAF Legal Diagnostic Tool.

ghost fishing), “research” and “MCSE” (especially the alignment of observers scheme with regional and international requirements and cooperation and coordination on the registration process).

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

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

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

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

Identification Instruments of GUINEA	
A	Fisheries Policies
A1	2017 Plan d'action national visant à prévenir, à contrecarrer et à éliminer la pêche illicite, non déclarée et non réglementée
A2	2016 Stratégie Nationale sur la Diversité Biologique - pour la mise en œuvre en Guinée du plan stratégique 2011–2020 et des objectifs d'Aichi
A3	2015 Document cadre de politique des pêches et de l'aquaculture (DOCPA)
B	Fisheries Primary Legislation
B1	2015 Loi n°2015/26/AN du 14 septembre 2015 portant Code de la pêche maritime
B2	2015 Loi n°2015/27/AN du 14 septembre 2015 portant Code de la pêche continentale
B3	2015 Loi n°2015/28/AN du 14 septembre 2015 portant Code de l'aquaculture
B4	1985 Ordonnance n° 040/PRG/85 portant création du Comité interministériel de surveillance des ressources biologiques de la zone économique exclusive
C	Fisheries Secondary Legislation
c1	2022 Décret D/2022/04/PGR/CNRD/SGG portant interdiction de l'importation, de la fabrication, de la vente, de la détention et de l'utilisation du filet monofilament en nylon
c2	2020 Arrêté A/2020/3540/MPAEM/CAB/SGG, portant modalités d'application de la Cogestion locale des pêcheries artisanales en République de Guinée
c3	2019 Décret D/2019/285/PRG/SGG portant statuts du Centre National des Sciences Halieutiques de Boussora
c4	2017 Arrêté n° A/2017/6805/MPAEM/SGG du 29 décembre 2017 portant catégorisation de la pêche artisanale maritime
c5	2017 Arrêté A/2017/008/MPAEM/CAB/SGG du 10 janvier 2017 portant contrôles officiels des produits de pêche et d'aquaculture
c6	2016 Décret D/2016/040/PRG/SGG du 18 février 2016, instituant un régime d'irrecevabilité de la demande de licence de pêche et de refus d'octroi de la licence de pêche
c7	2016 Arrêté A/2016/036/PRG/MDC/CAB/SGG du 08 février 2016, portant création d'un comité consultatif d'instruction des demandes de licences de pêche industrielle
c8	2015 Décision A/2015/132/MPA/CAB portant création, organisation et fonctionnement d'un Comité Consultatif National ad hoc de gestion des petits pélagiques
c9	2014 Décret D/2014/016/PRG/SGG du 17 janvier 2014, portant détermination des amendes applicables aux infractions de pêche et définition des pénalités accessoires
c10	2014 Décret D/2014/007/PRG/SGG du 06 janvier 2014, portant obligation d'équipement en dispositif de repérage par satellite des navires de pêche
c11	2014 Décret D/2014/006/PRG/SGG du 06 janvier 2014, portant instauration d'un régime de surveillance par satellite et de surveillance aérienne des pêches
c12	2014 Décret D/2014/008/PRGISGG du 07 janvier 2014, fixant les règles applicables aux opérations de transbordement et de débarquement des captures et des produits de la pêche
c13	2014 Arrêté n° 3130/MPA/SGG/2014 portant nomination des membres du Conseil Scientifique du Centre National des Sciences Halieutiques de Boussora
c14	2013 Arrêté A/2013/4500/PRG/CAB/SGG du 29 août 2013, portant création d'un comité consultatif d'instruction des demandes de licences de pêche industrielle et semi industrielle

Identification Instruments of GUINEA	
c15	2013 Décret n° D/2013/ 016 /PRG/SGG du 15 janvier 2013 portant création et composition de la commission nationale d'arraisonnement des navires de pêche en infraction
c16	2013 Décret D/2013/128/PRG/SGG du 29 juillet 2013, portant rappel de la réglementation dans les eaux maritimes guinéennes
c17	2011 Arrêté n° A/2011/MPA/SGG portant attributions et organisation de la direction nationale de la pêche continentale et de l'aquaculture
c18	2010 Arrêté n° A/2010/4724/MPA/CAB/SGG/2010 portant création, attribution et organisation des directions régionales des pêches et de l'aquaculture
c19	2010 Décret N° D/2010/236/IPRG/SGG/2010 portant création, organisation et fonctionnement du fonds d'appui au Secteur privé de la pêche et de l'aquaculture
c20	2010 Décret N° D/ 0198 7FKG/SGG/2010 portant application des dispositions du Code de la pêche maritime relatives aux amendes
c21	2009 Arrêté n° 1629/MPA/2009/SGG portant fonctionnement du système de positionnement et de localisation des navires de pêche industrielle et obligation d'installation de la balise à bord
c22	2006 Arrêté n° 676/MPA/SGG/2006 portant réglementation de la pêche artisanale en République de Guinée
c23	2005 Arrêté conjoint A/2005/N°3763/MPA/MEF/SGG, portant mise en place d'un Fonds de recherche halieutique de 2005
c24	2000 Arrêté n° A/2000/576/MPA/CAB portant organisation et attributions du Bureau de stratégie et de développement du Ministère de la pêche et de l'aquaculture
c25	2000 Décret n° D/2000/031/PRG/SGG portant attribution et fonctionnement de l'Inspection générale du ministère de la pêche et de l'agriculture
c26	1990 Décret n° 198/PRG/SGG/90 portant statuts de l'Office de promotion de la pêche artisanale et de l'aquaculture (O.P.P.A.)
D	Other Sector's Primary Legislation
d1	1999 Loi n° L/99/013/AN Code Foncier et Domanial
d2	1997 Loi n° L/97-038/AN adoptant et promulguant le Code de protection de la faune sauvage et réglementation de la chasse
d3	1995 Loi n° L/95/23/CTRN/ du 12 juin 1995, portant Code de la Marine Marchande
d4	1994 Loi n° L/94/005/CTRN portant Code de l'eau
d5	1987 Ordonnance n° 045\PRG\87 portant Code sur la protection et la mise en valeur de l'environnement, modified by 1996 Loi n° L/96/012 et 1989 Ordonnance n° 22/PRG/SGG/89
d6	1981 Loi n° 036/APN portant réglementation de l'exploitation des ressources en eau de la République Populaire Révolutionnaire de Guinée
E	Other Sector's Secondary Legislation
e1	2020 Arrêté A/2020/1591/MEEF/CAB/SGG portant protection des especes de faune et de flore sauvages
e2	2020 Arrêté Conjoint A/2020/1590/MEEF/MPAEM/SGG portant protection des especes de faune et de flore sauvages
e3	2013 Arrêté A/2013/473/MEEF/CAB/SGG du 11 mars 2013, portant commissionnements administratifs du processus d'approbation des dossiers d'évaluation environnementale et sociale
e4	1997 Décret D/97/286/PRG/SGG portant organisation et modalités de fonctionnement du Fonds de sauvegarde de l'environnement
e5	1989 Décret n° 201/PRG/SGG/89 portant préservation du milieu marin contre toutes formes de pollution
e6	1989 Décret n° 199/PRG/SGG/89 codifiant les études d'impact sur l'environnement

Perceived level of alignment with the EAF legal requirement

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

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
	Scope and definitions								
General guidelines	1.	– Clearly outline the geographic and substantive scope of the application.	✓	✓	✓	✓	✓	(A1) Page 2 (B1) Articles 2–3 (B2) Articles 3–6 (C22) Article 1 (D5) Articles 1–8 (E1) Article 1	
	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	2.	– Clearly define and apply the precautionary approach.	∅	✓	∅*	X	X	(A1) Page 12 (B1) Articles 5(3), 8(kk) and 19 (B2) Articles 8 and 10 (B3) Articles 4 and 10 (C22) Article 3	Reference in (A1) and provision in (C22) do not clearly define the precautionary approach.
	3.	– Broaden stakeholder participation with integration of lower level authorities and bodies.	✓	✓	✓*	✓	✓	(A1) Page 12 (A2) Page 84 (A3) Page 17 (B1) Articles 19, 21, 179 (B2) Article 11 (B3) Article 9	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
and C.11, C.13, C.14 and C.17							(c6) Article 2 (c20) Article 3 (d4) Article 41 (E3) Article 4	
	4.	– Ensure the right of access to fair and transparent information.	X	X	X*	X	X	
	5.	– Promote institutional coordination, cooperation and integration.	✓	✓	✓*	✓	X	(A2) Pages 84, 134–140 (B1) Article. 21 (c17) Article 1 (c18) Article 2 (c22) Articles 9–20 (d4) Article 39 (d5) Articles 10 and 14
	6.	– Maintain ecological relationships among harvested, dependent and associated species.	X	X	X*	✓	X	(d2) Article 6
	7.	– Promote sustainable development and avoid overexploitation of marine living resources.	✓	✓	✓*	✓	X	(A1) Page 12 (A3) Page 17 (B1) Articles 5(3) and 18 (B2) Article 10 (c1) Article 1 (c5) Article 5 (d2) Article 1
	8.	– Preserve marine habitat, conserve and restore marine living resources and biodiversity.	✓	∅	X*	✓	X	(A2) Pages 83–84, 94–95 (B1) Article 5(3) (B3) Article 10

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
							(D2) Articles 8–9	Provision in (B3) does not address restoration and is limited to aquaculture context.
9.	– Promote ecosystem well-being, including the human biotic and abiotic components.	✓	✓	✓*	✓*	●*	(A2) Pages 83–84, 90, 94–95 (B1) Articles 8(c) and 19 (B3) Article 11 (C2) Article 5(c) (D5) Article 48	
10.	– Promote adaptive management measures, including their regular monitoring and review.	✓	✓	●*	●*	●*	(A2) Pages 134–140 (B1) Article 17(1) (B3) Article 11	
11.	– Harmonize management measures, including those for shared resources.	✓	✓	●*	●*	●*	(A3) Page 20 (B1) Articles 27–30, 63 (B2) Articles 13–14	
12.	– Reduce and manage conflict between users and stakeholders over fisheries resources and ecosystems.	X	✓	✓*	●*	●*	(B1) Article 113 (C2) Articles 5(a) and 9 (C22) Article 15	
13.	– Consider socio-economic contexts (e.g. employment, livelihoods, equity, poverty, gender) when designing and implementing management measures.	✓	✓	✓*	✓*	●*	(A2) Page 84 (B1) Articles 18(1), 24 (C22) Entire decree (D2) Article 3 (D5) Article 45	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
	14.	– Promote management measures, designate the authority and outline the timeline and process for their monitoring and review.	✓	X	✓*	X*	X*	(A2) Pages 86–107 (c2) Article 6	
	15.	– Provide for the establishment of MCSE measures.	✓	✓	✓*	●*	X*	(A1) Pages 30–31 (A3) Page 19 (B1) Articles 30(d) and 42(e) (B4) Entire Ordinance (c2) Article 5(d)(e) (c5) Entire Decree (c11) Entire Decree (c15) Article 2 (c18) Article 8 (c25) Entire decree	Reference in (A3) refers to MCSE under its institutional capacity building but does not provide for the establishment of MCSE measures.
	16.	– Promote ecosystem-based research plans/priorities, designate the authority and outline the timeline and process for their monitoring and review.	X	X	X*	X*	X*		
	17.	– Promote the right of access to education and awareness raising on EAF.	X	X	✓*	X*	X*	(c2) Article 8	
		Institutional arrangements							
C.2 Management boundaries and measures	18.	– Ensure new management boundaries, measures and plans are: (a) ecologically meaningful considering resource ranges, habitats and other ecological factors.	✓	X	X	✓*	●*	(A2) Pages 93–94 (D2) Articles 10–41 (D5) Articles 52–57	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
C.4 Stakeholder participation	(b) overlapped closely and are harmonized with well-established management boundaries and governance structures.	∅	X	X	✓*	●*	(A2) Pages 93–94 (D2) Articles 10–41 (D5) Articles 52–57	Reference in (A2) does not clearly provide for the harmonization of existing management boundaries.
C.5 Coordination, cooperation and integration	19. – Promote states cooperation on the harmonization of management measures and plans (bilaterally, regionally and internationally).	✓	✓	✓	✓*	●*	(A1) Page 31 (A3) Page 20 (B1) Articles 30, 63 (B2) Articles 13-14 (C18) Article 2 (D2) Article 55	
C.7 Conflict management								
C.8 Integrated management of aquatic ecosystems	20. – Establish transparent and accessible mechanisms, bodies (including lower level authorities) or processes to:							
	(a) support well-established management boundaries and governance structures on the basis of ecosystem considerations.	∅	X	X	✓*	●*	(A2) Pages 93–94 (D2) Articles 10–41 (D5) Articles 52–57	Reference in (A2) does not ensure transparent and accessible mechanisms for protected areas.
	(b) outline conservation and management measures, including FMPs, at local and national levels.	✓	✓	✓	●*	●*	(A2) Page 90 (B1) Articles 17(1) and 21 (C4) Entire Order (C17) Articles 6–11, 13–15	
	(c) facilitate coordination, cooperation and integration of management decisions, regulatory action, environmental policies, plans and programs.	✓	X	X	✓*	●*	(A2) Pages 134–140 (D5) Articles 10 and 14	
	(d) monitor, assess and align the various environmental policies and plans.	✓	X	X	X*	X*	(A2) Pages 134–140	
	(e) manage conflict over fisheries, relevant resource and ecosystem, including parameters for decision-making and resolving the conflict.	X	✓	✓	X*	X*	(B1) Article 113 (C1) Articles 5(a) and 9	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
	(f) ensure integrated management of aquatic ecosystems (e.g. integrated coastal zone) based on ecosystem delimitations.	X	X	X	X*	X*		
	(g) ensure periodic reviews of managed aquatic ecosystems that assess the state of aquatic resources, levels of pollution, habitat degradation and other factors.	X	X	X	X*	X*		
	(h) ensure periodic reviews of integrated management plans to assess objectives and indicators and to determine any potential needs for adjustment or revision.	X	X	X	X*	X*		
	(i) ensure periodic reviews of conflict management processes.	X	X	X	X*	X*		
21.	– Clearly outline powers, roles and responsibilities of all bodies, designated authorities, their relationships and processes, avoiding overlapping and conflicting mandates.	✓	✓	✓	●*	●*	(A2) Pages 86–107 (B1) Article 4 (C3) Entire Decree (C5) Entire Decree (C8) Article 2 (C17) Articles 6–11, 13–15 (C18) Article 2 (C22) Articles 9–20 (C24) Entire decree	
22.	– Outline mandates for the government institutions to: (a) coordinate efforts, cooperate and integrate approaches, from the local to the national levels.	✓	✓	✓	✓	X	(A2) Pages 87, 99, 104–105, 134–140 (A3) Page 17 (B1) Articles 22–23 (B2) Articles 13–14 (C1) Article 5	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
							(c2) Article 2 (c8) Article 2 (c17) Articles 10, 13–14 (c18) Articles 2 and 6 (c22) Articles 9–20 (c24) Article 1 (c26) Entire decree (d4) Article 41	
	(b) coordinate, cooperate and integrate the regional and international processes and arrangements.	X	✓	✓	X	X	(b1) Articles 30–32, 63 (c8) Article 2 (c18) Articles 2 and 6	
	(c) allocate financial, human and material resources to ensure the integration of lower level authorities	✓	X	✓	✓	X	(A3) Pages 19 and 21 (c2) Article 4 (c19) Article 3 (c24) Article 6 (c26) Entire decree (d5) Articles 87–89	
	Stakeholder participation, coordination, cooperation and integration							
C.4 Stakeholder participation C.5 Coordination, cooperation and integration	23. – Ensure bodies established are broadly representative (from industry, the artisanal sector, academia, civil society and local communities) and processes allow for stakeholder and institutional participation and coordination, engaging and integrating lower level authorities or bodies when resources are affected at local level.	✓	✓	✓	X	✓	(A3) Page 6 (b1) Articles 22–23 (c2) Articles 3 and 6 (c3) Article 7 (c8) Article 4 (c13) Entire decree (c18) Article 5	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
C.6 Integration of lower level authorities, bodies and stakeholders C.8 Integrated management of aquatic ecosystems								(E3) Article 4 (E4) Article 3	
	24.	– Establish and properly publicize public meetings or hearings.	X	X	X	✓	✓	(D1) Article 57 (D5) Article 53 (E3) Article 1	
	25.	– Allow for sufficient and reasonable time for comments on proposed management decisions or actions (e.g. in meetings and in writing).	X	X	X	X	X		
	26.	– Promote international cooperation for effective integrated management of aquatic ecosystems.	X	✓	✓	X	X	(B1) Articles 30–32, 63 (B2) Articles 13–14 (C18) Articles 2 and 6	
		Fisheries management <i>Catch/output controls</i>							
C.9 Controls on fishing operations C.10 Fishery management plans C.17	27.	– Establish limits on the amount of fish that may be removed from a fishery in a given period of time (e.g. TAC), restrict the number of fish that may be landed in a day (e.g. bag limit) or place limits on the amount of acceptable bycatch and/or discards from a fishery – all based on scientific data and maximum sustainable yield and the precautionary principle.	X	✓	X	N/A	N/A	(B1) Article 17(2(d))	
	28.	– Ensure authority to institute TACs and to allocate individual quotas is representative, including representatives from lower levels of government.	X	X	X*	N/A	N/A		
	29.	– Ensure procedure for TACs outlines the category of vessels to which the TAC applies; period of time for which the TAC is	X	X	X	N/A	N/A		

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
Monitoring and review		declared; process for sub-dividing the TAC into individual quotas; timeline, authority and participatory process for periodic monitoring and review.							
	30.	– Coordinate the TACs for shared stocks or highly migratory species with international or regional management measures.	X	X	X*	N/A	N/A		
	31.	– Monitor the catch in real-time and close a fishery when the TAC is reached.	X	X	X*	N/A	N/A		
	32.	– Attach catch controls to licenses and access agreements, including authority responsible for allocating, issuing and regulating quotas, and the procedure to be followed.	X	✓	●*	N/A	N/A	(b1) Article 61	
	33.	– Outline the ability to institute additional catch controls (e.g. bag limits for recreational fishing), including the authority responsible for allocating, issuing and regulating quotas, and the procedure to be followed.	X	X	X*	N/A	N/A		
	<i>Effort/input controls</i>								
C.9 Controls on fishing operations C.10 Fishery management plans C.17 Monitoring and review	34.	– Define a broad fishing license scheme to regulate access to fisheries and fishing vessels with timeline, authority and process for renewing the license, monitoring and compliance, and permit suspension and revocation of the license for non-compliance.	X	✓	✓*	N/A	N/A	(b1) Articles 43–55, 69–80 (b2) Articles 26–38 (c6) Entire Decree (c7) Entire Decree (c22) Articles 21–33	(c6) contains specific provisions on non-issuance of license for vessels operating in the maritime waters of Guinea and in ANBJ. (c7) contains specific provisions for the issuance of industrial fishing license. (c22) concerns artisanal fishing licensing scheme.

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
	35.	– Designate authority responsible for allocating, issuing and regulating licenses, specified license duration, requirement of a fee and conditions that may be attached to licenses.	X	✓	∅*	N/A	N/A	(b1) Articles 43–55 (c7) Entire Decree	(c7) designated the Minister responsible for fisheries as the competent authority who shall request the advise of the Advisory Committee but does not specify the other requirements.
	36.	– Outline process for establishing provisions for effort controls (e.g. limitation on vessel capacity, on expansion of fishing fleet, on allowable days spent at sea).	X	✓	✓*	N/A	N/A	(b1) Article 17(2(d)) (c16) Article 1	
	37.	– Outline specific details of fishing license scheme (e.g. number of licenses to be allocated, permit conditions for each fishery).	X*	X*	X	N/A	N/A		
	38.	– Empower the designated authority to establish additional regulations for licensing.	X*	X	✓*	N/A	N/A	(c22) Article 41	
	39.	– Empower authority to regulate effort controls and respective parameters.	X*	X	✓*	N/A	N/A	(c16) Article 2 (c17) Articles 1–2 (c22) Article 41	
	Fishing gear and method controls								
C.9 Controls on fishing operations C.10 Fishery management plans C.17	40.	– Establish requirements on fishing gear and methods that are permitted for use within a given fishery or area, including related technical specifications (e.g. general prohibitions on types of gear, methods, specifications on gear design, minimum mesh sizes).	X	✓	✓	N/A	N/A	(b1) Article 82 (b2) Article 16 (c1) Article 2 (c22) Articles 34–39	
	41.	– Outline prohibitions on highly destructive gear and fishing methods (e.g. fishing by toxic substance, explosives, electricity, fishing with the use of light).	X	✓	✓*	N/A	N/A	(b1) Article 81 (b2) Article 39 (c22) Article 35	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
Monitoring and review	42.	– Outline requirements aimed at reducing negative impacts of fishing methods and gear (e.g. prohibition of trawling in areas with sensitive seabed habitat, require use of biodegradable nets, restrict the use of FADs or require use of bycatch reduction devices).	X	✓	✓	N/A	N/A	(b1) Article 82 (c1) Article 2	
		<i>Spatial and temporal controls</i>							
C.9 Controls on fishing operations c.10 Fishery management plans c.17 Monitoring and review	43.	– Regulate area and time in which fishing operations may or may not take place (e.g. closed areas/seasons), closed or restricted-use areas, which prohibit or limit fishing operations (e.g. protection of artisanal fishing).	X	✓	✓*	N/A	N/A	(b1) Article 87 (c22) Articles 34–39	
	44.	– Empower authority to define spatial and temporal controls and the procedure.	X	✓	✓*	N/A	N/A	(b1) Article 64 (c22) Articles 34 and 41	
	45.	– Ensure stakeholder and institutional consultation, both at national and lower levels, in the process of defining spatial and temporal controls.	X	X	✓*	N/A	N/A	(c22) Article 39	
	46.	– Establish technical details and specifics on spatial controls.	X*	X*	X	N/A	N/A		
		<i>Fishery management plans</i>							
C.9 Controls on fishing operations C.10	47.	– Designate authority with power and responsibility to develop, approve, adopt and publicize a FMP, clearly outlining the roles and responsibilities.	X	✓	●*	N/A	N/A	(b1) Article 17(1)	
	48.	– Ensure FMPs and measures comply with established integrated management plans for aquatic ecosystems involving e.g. protected areas or critical habitat.	X	X	X	X*	X*		

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
Fishery management plans C.17 Monitoring and review	49.	– Establish process for approval, adoption and publication of FMP with its periodic review.	X	∅	●*	N/A	N/A	(b1) Article 17(1)	Provision in (b1) cross refers to subsidiary legislation the process of adoption and review of FMPs.
	50.	– Detail process of drafting FMP, including multi-level and multi-sector collaboration and consultation with stakeholders, and a participatory transparent process for monitoring and reviewing the FMP at a minimum within five years of their development.	X	∅	X*	N/A	N/A	(b1) Article 21	Provision in (b1) does not include the monitoring and reviewing at minimum within 5 years.
	51.	– List the minimum requirements in the FMPs:							
		(a) management objectives that take into account EAF;	✓	✓	●*	N/A	N/A	(A3) Page 17 (b1) Article 19 (b2) Article 15	
		(b) biological description of fishery and ecosystem in which it takes place;	✓	✓	●*	N/A	N/A	(A3) Page 17 (b1) Article 17(2)	
		(c) social, economic and institutional aspects of the fishery;	X	X	X*	N/A	N/A		
		(d) species composition and levels of bycatch, both retained and discarded;	X	X	X*	N/A	N/A		
		(e) ecological relationships between harvested, dependent and associated species;	X	X	X*	N/A	N/A		
		(f) impact of other anthropogenic activities on the ecosystem; and	X	X	X*	N/A	N/A		
(g) a review of the relationship with other coastal or marine resource management plans.	X	X	X*	N/A	N/A				
		Conservation measures							
C.14 Habitat and biodiversity conservation	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	X	✓	✓*	✓*	✓	(b1) Article 85 (b2) Article 23 (c2) Article 5(c)	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
and restoration		measures to limit the negative impacts of fishing on them) or gear regulations.						(D5) Article 89 (E1) Entire decree	
	53.	– Ensure special protection for marine mammals, sea turtles and other particularly vulnerable marine life (e.g. set prohibitions or limitations), in coordination with other national designations or protections and regional and international conservation and management measures.	X	✓	✓*	●*	✓	(B1) Article 85 (C22) Article 40 (E1) Articles 3, 5, and Annex (E2) Entire decree	
	54.	– Ensure coordination between the various authorities involved in marine environment protection.	X	✓	✓*	●*	X	(B2) Article 22 (C22) Article 39	
	55.	– Establish mechanisms and designation of authority responsible for establishing: (a) designation and protection of threatened and endangered species, ensuring cooperation among the authorities throughout the listing process, definition and qualifying factors of each designation, process for listing, including steps for consultation and the special protections associated with the designations.	X	X	X*	✓*	✓	(D2) Articles 47–55 (D5) Article 50 (E1) Entire decree	
		(b) protected areas, ensuring the outline of the type of protected areas, description of their levels of protection (e.g. marine reserve, parks, sanctuaries or MPAs), the process for nominating, establishing and managing a protected area, including stakeholder participation particularly of local communities, consultation and coordination with various authorities, both at national and local levels.	∅	X	X*	✓*	X	(A2) Pages 93–94 (D2) Articles 10–41 (D5) Articles 52–57	Reference in (A2) does not provide for the process for nominating and establishing protected areas.
	(c) the restoration of damaged habitat and ecosystems, ensuring the process through which it is decided when, where and how a damaged habitat/ecosystem shall be restored, and the establishment of funds that may be used to engage in restoration activities.	∅	X	X*	X*	X	(A2) Pages 94, 107	Reference in (A2) does not provide for the process.	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
	56.	– Ensure educational and awareness-raising activities for promoting habitat and biodiversity conservation and restoration with the establishment of special funds to support such activities.	✓	X	X*	X*	X	(A2) Pages 94–95, 102 and 107	
C.15 Regulation of activities potentially harmful to aquatic ecosystems	57.	– Adopt measures to: (a) regulate and reduce pollution of the aquatic ecosystems which should apply to all activities that might have an impact (including fishing, mining, shipping, etc.) and cover all types of pollution including bycatch, discharge of waste, vessel emissions, coastal runoff.	✓	✓	X	✓	✓	(A3) Page 17 (B1) Articles 42(v) and 45(h) (D3) Articles 164–202 (D4) Articles 30–34 (D5) Articles 24, 29–37, 41–43, 58–67, 75–81 (D6) Entire law (E5) Entire decree	
		(b) promote energy efficiency and reduce emissions that are applicable to fishing vessels, merchant shipping vessels and extractive industries, including through fuel efficiency standards, vessel size limitations and equipment restrictions for fishing vessels.	X*	X*	X*	X	X		
		(c) prevent and eliminate ghost fishing with the prohibition of the abandonment of fishing gear, notification of authorities when fishing gear is lost, regulation of materials used in the manufacture of gear.	X	X	X	X	X		
	58.	– Require authorization prior to the planned introduction of any species, including species meant for aquaculture or fish stocking, taking into account the precautionary approach, and establish measures to prevent the escape of exotic species into the wild.	X	X	X	∅	✓	(D5) Article 50 (E1) Article 7	Provision in (D5) cross-refer to decree to regulate the conditions for introduction of species.
C.16 EIS or EIA	59.	– Regulate marine extractive activities (e.g. marine mining for minerals or petroleum, harvesting of marine plants) and other potentially harmful activities, including the construction of	X	X	X	✓	X	(D5) Article 39 (D6) Articles 39–54	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
		installations for use by industry, laying of underwater cables, military exercises, shipping.						(E5) Articles 29–31	
	60.	– Require EIS or EIAs for activities that have the potential to affect ecosystems that support fisheries (e.g. fishing, aquaculture, mining, petroleum extraction, coastal development).	✓	✓	X	✓	✓	(A2) Pages 89–90 (B3) Article 33 (D5) Article 82 (E6) Article 1	
	61.	– Detail components of EIS or EIA, which should at least discuss the purpose/need for the activity, the ecosystem that may be affected, potential impacts of the proposed activity and potential alternatives or mitigation and rehabilitation measures.	X	X*	X*	∅	∅	(D5) Article 83 (E6) Article 4	Provision in (D5) cross-refer to subsidiary legislation the EIA details. Provision in (E6) does not provide detail on the content of the EIA.
	62.	– Establish process for submission, review and decision-making on the EIS or EIA, with designation of authority responsible for receiving, reviewing and deciding upon the EIS or EIA (e.g. the minister responsible for environment), opportunity for public participation (e.g. comment periods and hearings), consultation with other relevant government institutions or localities, and determination of adequate mitigation measures.	X	X*	X*	∅	∅	(D5) Article 83 (E6) Articles 5, 6	Provision in (D5) and (E6) cross-refer to subsidiary legislation the EIA process.
		Fishery monitoring and research							
C.13 EAF research	63.	– Establish research programme for furthering the knowledge and understanding of EAF.	∅	✓	●*	X	X*	(A2) Pages 105–106 (B1) Article 26	Reference in (A2) is about research programme on biodiversity.
	64.	– Designate authority for conducting and involving stakeholders in the research programme.	X	✓	✓*	X	X*	(B1) Article 26 (C3) Articles 5 and 48 (C23) Article 2	
	65.	– Ensure the research programme’s objectives are based on EAF principles, which may include research on inter-species	X	X	X*	X	X*		

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
		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.							
	66.	– Consider the findings of the EAF research in the adoption of conservation and management measures.	X	✓	✓*	X	X*	(b1) Article 25 (c14) Article 1	
		MCSE							
C.11 MCSE	67.	– Outline an observer scheme with details on the categories of vessels/fisheries that it applies to and the role that observers play (which may be tailored to the category of vessel or the type of fishery and may be limited to the collection of catch/effort data and the collection of scientific samples, or may include the authority to register and/or report violation of management measures).	X	✓	∅	N/A	N/A	(b1) Articles 106–109 (c11) Entire decree	(c11) concerns an observer regime of fishing vessels by surveillance aircrafts
	68.	– Ensure observers have full access to all parts of the vessel and its equipment and to any place in the country where fish that have been caught in national waters are uploaded, processed, stored or transshipped.	X	✓	X	N/A	N/A	(b1) Articles 108–109	
	69.	– Design the scheme in line with regional or international requirements, taking into account relevant regional observer programs.	X	∅	X	N/A	N/A	(b1) Articles 174–178	Provisions in (b1) do not clearly state alignment with regional observers scheme.
	70.	– Ensure VMS is required for vessels licensed to fish in national waters and ABNJ, detailing specific categories of fishing vessels and/or fisheries to which it applies.	X	✓	✓	N/A	N/A	(b1) Articles 100–105 (c10) Article 1	
	71.	– Ensure reporting of catch and effort data, clearly identifying the vessels that are expected to report (at least all commercial	X	✓	X	N/A	N/A	(b1) Articles 91–97	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement	Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
			1ary	2ary	1ary	2ary		
	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.	✓	✓	∅	X N/A	N/A	(A1) Page 33 (B1) Articles 37–41 (C22) Article 7	(C22) concerns registration of artisanal fishing vessels.
73.	– Ensure the records of industrial fishing vessels include the name of the vessel, the flag state and any previous flag states, the radio call sign, the International Maritime Organization (IMO) number, the automatic identification system (AIS) and the VMS, if relevant the vessel length and tonnage, if relevant the fishing methods and gear used, the name and nationality of operator and beneficial owners of the vessel, and any transgressions of fisheries legislation associated with the vessel.	X	✓	∅	N/A	N/A	(B1) Articles 88–90, 98 (C21) Entire decree	(C21) concerns the AIS.
74.	– Broadly detail the registration process and ensure registration of all fishing vessels with the relevant fisheries or maritime authority, including information on the name of vessel, the flag state and any previous flag states, the radio call sign, if relevant the IMO number, the AIS and VMS, if relevant the vessel length and tonnage, the name and nationality of the beneficial owners of the vessel, and any transgressions of fisheries legislation associated with the vessel.	X	✓	X	✓	N/A	(B1) Articles 40–41 (B3) Articles 324–326 and Article 330	

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
	75.	– Detail the specifications for marking vessels and fishing gear in accordance with internationally approved standards.	X	✓	∅	N/A	N/A	(b1) Articles 88–90 (c21) Article 8	(c21) concerns marking of artisanal fishing vessels.
	76.	– Ensure cooperation and coordination between fisheries and maritime authorities throughout the registration process.	X	X	X	N/A	N/A		
	77.	– Ensure authorized officers have enforcement powers, allowing them to board and search vessels (at sea and in port) and other premises related with fishing, to examine logbooks, records, gear and catch, to investigate and collect evidence, to seize fish, gear and vessels, and to interrogate, detain and arrest persons associated with reasonably suspected violations.	X	✓	✓	N/A	N/A	(b1) Articles 159–167 (b2) Articles 42–47 (c2) Articles 5(d) and (e) (c25) Articles 7–8	(c21) provides the global surveillance power and control to be detailed by the ALCP.
	78.	– Ensure the controls placed on landing and transshipping of fish, both at sea and in port, and by national and foreign vessels, is in accordance with regional and international instruments.	X	✓	✓	N/A	N/A	(b1) Articles 115–130 (c12) Entire decree (c17) Article 1	
	79.	– Provide additional VMS specifications and specific details on the registration process.	X*	∅	∅	N/A	N/A	(b1) Articles 100–105 (c10) Articles 2–9	Provisions in (b1) and (c10) do not provide specific VMS details on the registration process.
		Enforcement processes and sanctions scheme							
C.12 Offences, penalties and administrative and judicial processes	80.	– Detail the fisheries-related offences (civil or criminal) and corresponding penalties, weighted depending on the level of severity of the offence but outlined in a way that maintains their strength over time (e.g. utilize formulas such as a percentage of the total market value of the sale of the illegal catch, or penalty units).	∅	✓	✓	✓	X	(A1) Page 29 (b1) Articles 234–154 (b2) Article 59 (b3) Articles 42–47 (c9) Entire decree (c10) Article 10 (c20) Articles 2-4 (b2) Articles 159–171	Reference in (A1) contains a cross reference to the Maritime Code with regard to the penalties and administrative sanctions for IUU fishing.

Perceived level of alignment with the EAF legal requirement

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

EAF components	EAF legal requirement		Fish. policy	Fisheries legislation		Other sectors legislation		Policy and legal basis	Comments and explanatory notes
				1ary	2ary	1ary	2ary		
								(d4) Articles 95–128 (d5) Articles 95–114	
	81.	– Establish transparent and equitable administrative processes for determining and confirming offences, applying relevant penalties, with provision for compounding of offences/out-of-court settlement.	X	✓	✓	✓	X	(b1) Articles 213–227 (b2) Articles 50–56 (b3) Articles 54–55 (c20) Articles 5–9 (d5) Articles 90–94	
	82.	– Establish judicial processes used for determining and confirming offences and applying relevant penalties to the offending parties, allowing for a right of appeal.	X	✓	X	✓	X	(b1) Articles 228–231 (b2) Articles 57–58 (b3) Articles 55–59 (d5) Articles 90–94	

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

For more information:

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