



# **A review of FCWC countries' legal frameworks for fisheries**

**Focus on progress with domestication of FCWC provisions and capacity to combat IUU fishing**

**September 2016**



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# 1 Introduction

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The purpose of this report is to review the legal framework of the FCWC countries to assess whether they have all the necessary legal means at their disposal to fight Illegal, Unreported and Unregulated (IUU) fishing activities effectively. To do so, it was agreed to determine the **most common violations to fisheries legislation** in the member countries of the Fishery Committee of the West Central Gulf of Guinea (FCWC), namely Benin, Côte d'Ivoire, Ghana, Liberia, Nigeria and Togo, in order to evaluate whether the existing legal frameworks are providing adequate responses. It was found that the most common fisheries violations law enforcement officers had to deal with in the West Central Gulf of Guinea are the following:

- 1) Fishing without a license/authorization or with an expired license/authorization;
- 2) Fishing with unauthorized or illegal gear (including small mesh size) or methods;
- 3) Fishing in prohibited areas (including in areas reserved to artisanal fisheries);
- 4) Use of forged documentation in relation to fishing activities;
- 5) Provision of false, inaccurate or incomplete information on catch and fishing activities (knowingly with the intent to deceive);
- 6) Illegal transshipment of catch (including of by-catch into canoes and sale of fish at sea);
- 7) Trading in illegal fish (knowingly purchasing, selling, importing or exporting fish caught illegally);
- 8) Targeting of unauthorized species (e.g. below minimum size/immature or valuable by-catch);
- 9) Damage to artisanal gear by industrial fishing vessels or merchant vessels.

The first part of the report (chapter 2) introduces the international and regional framework on fisheries, including the status of ratification of relevant treaties by FCWC countries, as well as current bi- or multilateral fisheries access agreements. Chapter 2 also includes a brief review of the FCWC conventions and summarizes the key provisions requiring domestication. The second part of the report (Chapter 3) contains an **analysis of domestic fisheries legislation by country**, assessing the level of domestication of FCWC provisions as well as the adequacy of existing national legislation to respond to the most common fisheries violations identified above. Conclusions and recommendations are summarized by topic in Chapter 4 for easy reference.

Finally, a number of lists and comparative tables are presented in the annexure: Annex 1 reports a summary of the main binding FCWC provisions requiring domestication or other action by member States, that were taken into account in the analysis; Annex 2 lists a number of selected measures recommended by the 2009 FCWC RPOA-IUU to be implemented at national level; Annex 3 contains the list of national legislation on marine fisheries in force in FCWC countries that was analysed for this study; Annex 4 reports a comparative table on fishing vessel licensing based on a questionnaire that was compiled by the fisheries administrations of FCWC member States; Annex 5 includes a comparative table on sanctions provided in national legislation to respond to the most common fisheries violations; and Annex 6 contains the **Plan of action for the domestication of FCWC provisions**, based on the main findings and recommendations of the present report.

The present report intends to provide a basis for discussion within the West Africa Task Force (WATF) to assess the state of domestication of the FCWC framework into the national legislation of member countries and to review the national legal frameworks for reacting to IUU fishing activities. It can also be used to identify areas where increased harmonization of legal frameworks of FCWC countries is required.

## 2 International and regional commitments

### 2.1 International and regional arrangements

In order to assess the involvement of the six FCWC countries in international and regional matters and their commitment to the fight against IUU fishing, the present section reviews their participation in relevant arrangements (see Tables 1 and 2 below).

The main binding international agreements relevant to IUU fishing that were taken into consideration for Table 1 are:

- the 1982 UN Law of the Sea Convention (LOSC);
- the 1993 FAO Compliance Agreement (FAOCA);
- the 1995 UN Fish Stocks Agreement (UNFSA);
- the 2000 UN Convention against Transnational Organized Crime (UNTOC);
- the 2007 ILO Work in Fishing Convention (WFC); and
- the 2009 Port State Measures Agreement (PSMA).

It was found that all FCWC members have ratified the 1982 LOSC, which is the main maritime agreement addressing fisheries in force since 1994, and the 2000 UNTOC, in force since 2003. On the other hand, only few countries have ratified other important treaties to combat IUU fishing: Liberia and Nigeria have acceded to the 1995 UNFSA, in force since 2001, whereas Côte d'Ivoire has signed but not ratified the agreement; Benin and Ghana have ratified the 1993 FAOCA, in force since 2003, whereas both countries are also signatories to the 2009 PSMA, which has recently entered into force. Liberia, Nigeria and Togo are in the process of acceding to the PSMA, and Benin has started the ratification process.

Table 1. Ratification of relevant international agreements by FCWC countries

|            | Benin                             | C. Ivoire                         | Ghana                             | Liberia                      | Nigeria                      | Togo                         |
|------------|-----------------------------------|-----------------------------------|-----------------------------------|------------------------------|------------------------------|------------------------------|
| 1982 LOSC  | x                                 | x                                 | x                                 | x                            | x                            | x                            |
| 1993 FAOCA | x                                 | -                                 | x                                 | -                            | -                            | -                            |
| 1995 UNFSA | -                                 | (s)<br>ratification in<br>process | -<br>accession in<br>process      | x                            | x                            | -                            |
| 2000 UNTOC | x                                 | x                                 | x                                 | x                            | x                            | x                            |
| 2007 WFC*  | -                                 | -                                 | -                                 | -                            | -                            | -                            |
| 2009 PSMA  | (s)<br>ratification in<br>process | -<br>accession in<br>process      | (s)<br>ratification in<br>process | -<br>accession in<br>process | -<br>accession in<br>process | -<br>accession in<br>process |

(s) Signatory; \*The agreement is not yet in force.

Furthermore, it is important to review the level of participation of FCWC member countries in other regional and sub-regional organizations and arrangements that may serve as cooperation fora. The organizations and arrangements taken into consideration for Table 2 are reported below:

- the African Union (AU);
- the Economic Community of West African States (ECOWAS);
- the West African Economic and Monetary Union (UEMOA);
- the International Commission for the Conservation of Atlantic Tunas (ICCAT);
- the Fishery Committee for the Eastern Central Atlantic (CECAF);
- the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (ATLAFCO);

- the Intergovernmental Organization for Marketing and Cooperation Services for Fishery Products in Africa (INFOPECHE); and
- the IMO Abuja Memorandum of Understanding (MoU) on Port State Control.

FCWC member countries participate in most regional and sub-regional organizations. All countries are members of the AU, ECOWAS and CECAF; all are members of the Abuja MoU, except Liberia who is a signatory. All but Benin are members of INFOPECHE. The three French-speaking countries (Benin, Côte d'Ivoire and Togo) are also members of the UEMOA. Benin, Côte d'Ivoire, Ghana and Nigeria are ATLAFCO members, and Togo actively participates in ATLAFCO meetings although it is only a signatory to the convention. Only Côte d'Ivoire, Ghana, Liberia and Nigeria are ICCAT members, whereas Benin used to be a member until 1994.

*Table 2. Membership of FCWC countries in relevant regional arrangements*

|           | Benin | C. Ivoire | Ghana | Liberia | Nigeria | Togo  |
|-----------|-------|-----------|-------|---------|---------|-------|
| Abuja MoU | x     | x         | x     | (s)     | x       | x     |
| ATLAFCO   | x     | x         | x     | (s)     | x       | (s)** |
| AU        | x     | x         | x     | x       | x       | x     |
| CECAF     | x     | x         | x     | x       | x       | x     |
| ECOWAS    | x     | x         | x     | x       | x       | x     |
| ICCAT     | -*    | x         | x     | x       | x       | -     |
| INFOPECHE | -     | x         | x     | x       | x       | x     |
| UEMOA     | x     | x         | n/a   | n/a     | n/a     | x     |

(s) Signatory; \*Benin was an ICCAT member from 9 January 1978 to 31 December 1994; \*\*Togo actively participates in ATLAFCO meetings, although it has not ratified the Convention.

## 2.2 Fisheries access agreements

As reported in Table 3 below, two FCWC member States have signed a Sustainable Fisheries Partnership Agreement (SFPA) with the European Union (EU) and have an active protocol for its implementation, namely Côte d'Ivoire and Liberia. Liberia is in the process of negotiating private access agreements with foreign fishing companies targeting tuna species, specifically with the Ghanaian company PANOFI. Côte d'Ivoire has also entered into an agreement on tuna fisheries with Japan in 2000, which is not currently operational, and has recently signed a private agreement with the Spanish tuna company OPAGAC.

*Table 3. Fisheries access agreements in force in FCWC countries*

|                             | Benin | C. Ivoire              | Ghana* | Liberia           | Nigeria | Togo |
|-----------------------------|-------|------------------------|--------|-------------------|---------|------|
| EU SFPA-Tuna (6 500 t/year) | -     | Until 30.06.2018       | -      | Until 04.06.2020  | -       | -    |
| Japan-Tuna                  | -     | Since 2000 (not impl.) | -      | -                 | -       | -    |
| Senegal                     | -     | Since 1977             | -      | -                 | -       | -    |
| OPAGAC-Tuna (Spanish co.)   | -     | Since 2016 (1 year)    | -      | -                 | -       | -    |
| PANOFI-Tuna (Ghanaian co.)  | -     | -                      | -      | Under negotiation | -       | -    |

\*Ghana has granted private licenses to EU Tuna fishing vessels that supply Ghanaian canneries.

Although the status of implementation is unclear it is worth noting that Côte d'Ivoire has signed an access agreement with Senegal in 1977. The Agreement between the Government of the Ivory Coast and the Government of Senegal in the field of marine fisheries provides for the granting of permits by Senegal to Ivorian vessels to fish in Senegalese waters. Senegal may export its fish products to Côte d'Ivoire without

any quantitative restriction, benefiting from a general tax and duty exemption. Such exemption is also ensured with regard to fish products caught by Ivorian vessels in Senegalese waters and marketed in Senegal. Fishing vessels flying the flag of either State shall enjoy in the ports of the other State the same treatment as national vessels. Finally, it is established that an ad hoc committee shall be set up for the purpose of determining the number of permits and for general implementation of the agreement.

## 2.3 FCWC framework

The FCWC legal framework consists in four main documents:

- The 2007 Convention for the establishment of the FCWC;
- The 2009 FCWC Regional Plan of Action on IUU fishing (RPOA-IUU);
- The 2013 Convention on Minimum Requirements for Access to the Fishery Resources of the Area of the FCWC; and
- The 2014 Convention on the Pooling and Sharing of Information and Data on Fisheries in the Zone of the FCWC.

The **2007 Convention for the establishment of the FCWC** is the founding treaty of the organization, whereby member States agree to cooperate “with a view to ensuring, through appropriate management, the conservation and optimal utilisation of the living marine resources” in the waters under their jurisdiction “and encouraging sustainable development of fisheries based on such resources” (article 5, paragraph 1). The FCWC has the mandate to, inter alia: harmonize fisheries legislation and regulations among member States; strengthen sub-regional cooperation in fisheries MCS and enforcement, including the progressive development of common procedures; enhance cooperation in respect of relations with distant water fishing countries; and promote the development of standards for the collection, exchange and reporting of fisheries data.

The FCWC framework includes two other binding agreements, namely the **2013 Convention on Minimum Requirements for Access to the Fishery Resources of the Area of the FCWC**, which outlines areas for harmonisation related to licensing, access, registers, technical measures, reporting and enforcement, and the **2014 Convention on the Pooling and Sharing of Information and Data on Fisheries in the Zone of the FCWC**, which provides for the establishment of a joint database and information system including information and data on MCS, and the creation of a sub-regional register of vessels engaged in fishing in the FCWC area, including carrier and support service vessels. In addition, a **Regional Plan of Action on IUU fishing (RPOA-IUU)** was prepared in **2009** by FCWC. The plan includes provisions for the development of harmonized national and regional MCS systems, as well as on the responsibility of flag States, coastal States, port States and market States.

The four instruments mentioned above contain a number of **provisions requiring domestication into national legal frameworks**, which are reported in detail in annexes 1 and 2 of this report. For the purpose of assessing the level of domestication in each member country, such provisions may be summarized as follows:

- 1) Ratification of treaties, including international and regional instruments as well as membership in relevant organizations, and regulation of access to national waters by foreign fishing vessels;
- 2) Fisheries management measures and plans implementing international principles and standards for the sustainable management of national and shared stocks;
- 3) Control of artisanal fishing through zoning, registration, reporting, consultation and sanctions;
- 4) Establishment of licensing systems by coastal States for national and foreign industrial vessels fishing in their waters and by flag States for national vessels fishing on the high seas;

- 5) Registration of industrial fishing vessels by flag States and set up of a register of licensed vessels by coastal States for national and foreign industrial vessels authorized to fish in their waters and by flag States for national vessels authorized to fish on the high seas;
- 6) Collection and sharing of information and data from fishing vessels, including through satellite monitoring systems and observers, and set up of electronic information systems, registers and logbooks;
- 7) Market-related measures, namely traceability of fish products and organization of wholesale fish merchants;
- 8) Effectiveness of law enforcement by conferring appropriate powers to inspectors and by ensuring inter-institutional coordination between relevant authorities;
- 9) Effectiveness of sanctions, including by providing for different types of penalties (administrative, financial, commercial and criminal).

Interestingly, FCWC conventions do not need ratification in order to enter into force, as established under each agreement. In line with articles 11 and 12 of the 1969 Vienna Convention on the Law of Treaties<sup>1</sup>, FCWC member States chose to become bound by those conventions by the mere signature of their representative. In particular, article 16(2) of the 2007 FCWC founding Convention established that its provisions enter into force on the 30<sup>th</sup> day after the fourth signature (article 16(2))<sup>2</sup>. Similarly, article 19 of the 2014 Information Sharing Convention establishes that its provisions enter into force on the 90<sup>th</sup> day after the third signature<sup>3</sup>. Conversely, article 32 of the 2013 Access Convention establishes that its provisions enter into force on the 90<sup>th</sup> day after the signature by all member States<sup>4</sup>. Article 14 of the latter Convention mentions a **Protocol on the minimum size of fishing nets**, which has not yet been adopted. Protocols shall be adopted by the Conference of Ministers, as provided by article 18 of the 2007 FCWC founding Convention.

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<sup>1</sup> Only Liberia, Nigeria and Togo have ratified the Vienna Convention. Côte d'Ivoire and Ghana are signatories. The Vienna Convention, however, is considered as customary international law and, as such, it is deemed binding on all States regardless of their ratification status.

<sup>2</sup> A signed copy of the founding Convention was not available electronically at the time of writing. FAO is the depositary of the Convention but no mention of it is made on the Legal Office webpage, which should normally report on the status of the Convention – <http://www.fao.org/legal/treaties/treaties-outside-fao-framework/en/>.

<sup>3</sup> The available signed copy of the 2014 Information Convention does not bear the signature of Nigeria; it was signed by all other members but no date is mentioned.

<sup>4</sup> The available signed copy of the 2014 Access Convention does not bear the signature of Nigeria; it was signed by all other members on 13 December 2013.



### 3 Overview of legal framework – are the FCWC countries well equipped to fight IUU fishing?

The following pages present an overview of the legal framework in force in the six FCWC countries in the fisheries sector. For each country, a brief description of the general framework is provided, followed by an assessment of the level of domestication of the main FCWC provisions and by the identification of the specific legal provisions addressing the most common fisheries violations taking place in the sub-region. Table 4 below indicates the member countries where such violations reportedly occur.

Table 4. Ten most common violations to national fisheries legislation in FCWC member countries

|  | Benin | C. Ivoire | Ghana | Liberia | Nigeria | Togo |
|--|-------|-----------|-------|---------|---------|------|
| 1) Fishing without a license/authorization or with an expired license/authorization  | x     | x         | x     | x       | x       | x    |
| 2) Fishing with unauthorized or illegal gear (including small mesh size) or methods  | x     | x         | x     | x       | x       | x    |
| 3) Fishing in prohibited areas (including in areas reserved to artisanal fisheries)  | x     | x         | x     | x       | x       | x    |
| 4) Use of forged documentation in relation to fishing activities   |       | x         | x     | x       | x       | -    |
| 5) Provision of false, inaccurate or incomplete information on catch and fishing activities (knowingly with the intent to deceive) |       | x         | x     | x       | -       | -    |
| 6) Illegal transshipment of catch (including of by-catch into canoes and sale of fish at sea)                                      | x     | x         | x     | x       | x       | -    |
| 7) Trading in illegal fish (knowingly purchasing, selling, importing or exporting fish caught illegally)                           | x     | x         | -     | x       | x       | -    |
| 8) Targeting of unauthorized species (e.g. below minimum size/immature or valuable by-catch)                                       | x     | -         | x     | -       | x       | -    |
| 9) Damage to artisanal gear by industrial fishing vessels or merchant vessels  | -     | -         | x     | x       | -       | -    |

### 3.1 Benin

#### 3.1.1 Benin – General legal framework

Benin has recently updated its fisheries legislation with the adoption of the **2014 Framework-Law on Fisheries and Aquaculture** (*Loi-cadre n. 2014-19 du 7 août 2014 relative à la pêche et à l'aquaculture*)<sup>5</sup>. The regulations adopted under the previous fisheries legislation shall remain in force until new ones are adopted. The main regulations on marine fisheries are: **Decree n. 114 of 2003 on fish product quality** (*Décret n. 2003-114 du 9 avril 2003 portant assurance qualité des produits de la pêche*), which implements **Law n. 9 of 1984 on the control of food products** (*Loi n. 84-009 du 15 mars 1984 sur le contrôle des denrées alimentaires*); **Inter-ministerial Order n. 694 of 1999 on fishing in territorial waters**, which prohibits trawling within 5 nautical miles from the coast (*Arrêté interministériel n. 694 du 19 novembre 1999 fixant les conditions de l'exercice de pêche dans les eaux territoriales, qui interdit la pêche aux engins traînants en deçà des 5 milles marins*); **Ministerial Order n. 518 of 2008 prohibiting Mysid shrimp fishery** (*Arrêté n. 518 du 31 décembre 2008 portant interdiction la pêche aux mysidacés (crevettes roses de mer) dans les eaux maritimes*); **Ministerial Order n. 31 of 1970 on maritime law enforcement** (*Arrêté n. 31 du 9 juin 1970 réglementant la police de la navigation dans les eaux maritimes*).

#### 3.1.2 Benin – Domestication of FCWC provisions

##### Ratification of treaties & access by foreign vessels

Regarding **international agreements**, Benin is a party to the 1982 LOSC and the 1993 FAOCA, as well as the 2000 UNTOC, but is yet to accede to the 1995 UNFSA and to the 2007 WFC, and to ratify the 2009 PSMA, to which the country is a signatory. Accession to the UNFSA and PSMA is reportedly in process. Benin is also a member of most international and regional organizations relevant to fisheries and maritime affairs, namely the AU, ECOWAS, UEMOA, ATLAFCO and CECAF, as well as the Abuja MoU. Benin is not a member of INFOPECHE and used to be a member of ICCAT (from 9 January 1978 to 31 December 1994). The country is currently negotiating the reactivation of its ICCAT membership.

According to the 2014 Fisheries Law, **foreign fishing vessels** may only be authorized to fish in Beninese waters within the framework of an access agreement between Benin and the relevant flag State (article 20)<sup>6</sup>. No access agreement is currently in place for the exploitation of surplus fisheries resources. The **chartering** of foreign fishing vessels must be authorized by the minister in charge of fisheries; terms and conditions shall be established by decree of the council of ministers (article 21).

##### *Recommended actions:*

- Accede to the 1995 UNFSA and to the 2007 WFC, and ratify the 2009 PSMA;
- Apply for membership with INFOPECHE and ICCAT; and

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<sup>5</sup>The 2014 Fisheries Law explicitly repeals previous legislation governing fisheries and maritime affairs, namely **Ordinance n. 40 of 1973 on industrial fishing** (*Ordonnance n. 73-40 du 5 mai 1973 portant organisation de la pêche industrielle*), **Law n. 10 of 1965 on trawling** (*Loi n. 65-10 du 23 juin 1965 interdisant le chalutage et en général la pratique de toute pêche utilisant des engins traînants à l'intérieur des eaux territoriales permet l'utilisation de telles techniques aux navires autorisés*) and **Ordinance n. 38 of 1968 adopting the Merchant Navy Code** (*Ordonnance n. 68-38 du 18 juin 1968 portant Code de la Marine marchande, telle que modifiée par l'ordonnance n. 69-39 du 9 décembre 1969*). The new Fisheries Law implicitly repeals other texts as it incorporates their provision (e.g. **Ministerial Order n. 1903 of 2006 prohibiting pair trawling in marine waters** – *Arrêté n. 2006-1903 du 12 juin 2006 portant prohibition de la pratique de chalutage bœuf dans les eaux maritimes* – and possibly **Ministerial Order n. 399 of 1996 defining fishing effort and conditions for the exploitation of marine fishery resources** – *Arrêté n. 399 du 16 septembre 1996 portant définition de l'effort de pêche et les conditions de son exploitation dans les eaux maritimes*).

<sup>6</sup> All articles cited in this section refer to articles of the 2014 Fisheries Law of Benin unless indicated otherwise.

- When entering into access agreements with foreign countries for the exploitation of surplus fisheries resources, require the embarkation of national crew on board foreign fishing vessels.

#### Management measures and plans

The 2014 Beninese Fisheries Law introduces all recommended **principles and approaches** to ensure the sustainable management of fisheries resources. The act makes reference to the precautionary approach, the ecosystem approach and the participatory approach with a view to responding to social, economic and environmental needs, including the preservation of aquatic biodiversity (articles 4 and 9). It also provides for inter-institutional coordination, particularly for fisheries MCS activities (article 11).

Provisions are made for the adoption of **fisheries management plans** for both national and shared stocks in coordination with fisheries administrations in neighbouring countries (article 19). Management plans must be based on available scientific data and on traditional knowledge, and shall take into account all relevant biological, economic, environmental and social factors (article 14). The plans must determine the **total allowable catch** (TAC) or the optimal fishing effort, and define **conservation and management measures** to be adopted to ensure the sustainability of the concerned fishery. They shall also regulate the exploitation of fisheries resources, including by establishing fishing seasons (article 15). Although fishing zones are not defined for each type of fisheries, fishing licenses generally indicate the authorized fishing area for the concerned vessel (see paragraphs on artisanal and industrial fishing below).

**Specific conservations measures** are established regarding prohibited fishing gear and methods, such as pair trawling or the use of explosives and toxic substances, and protected species, such as aquatic mammals and marine turtles (articles 73 and 79). Regulations shall be adopted for the protection of juveniles, particularly to define the minimum size or weight of species, to protect spawning grounds and to establish temporary or permanent **prohibited areas** or closed periods, seasons or hours (articles 82 to 84). A ministerial order shall also define prohibited gear as well as the minimum size of fishing nets and their characteristics (articles 74 and 75). New fishing gear and methods may not be used in national waters without previous authorization (article 78). Fishing in protected areas shall be regulated by a special decree of the Council of ministers (article 65). Restrictions concerning by-catch and discards at sea are mentioned in the fishing license (article 24).

#### *Recommended actions:*

- Adopt fisheries management plans;
- Define fishing zones according to the types of fisheries;
- When determining TAC and fishing effort, define national fishing capacity to allow identification of surplus resources to be allocated to foreign fishing vessels through fisheries access agreements with relevant flag States, in line with LOSC article 62; and
- Adopt regulations to implement the provisions of the new Fisheries Law regarding, *inter alia*, fishing seasons, prohibited fishing areas, fishing gear, fishing net size, minimum fish size.

#### Control of artisanal fishing

Artisanal fishing is regulated under the new Fisheries Law. The **criteria** to define artisanal and industrial fishing shall be established by decree of the Council of ministers (article 5). Artisanal fishing vessels must be **registered and marked** according to the provisions established by ministerial order (article 45). Artisanal fishing is subject to a permit, and vessel registration is a pre-requirement to the granting of the permit (articles 22 and 46). The fisheries administration must keep a **record** of all artisanal fishing vessels authorized to fish in national waters (article 47). All fishermen operating on board a fishing vessel must have a **professional card** issued by the fisheries administration (article 48).

**Fishing permits** must include information on the identity of the permit holder, the authorized **fishing zone**, the authorized fishing period (**maximum duration**: one year), the type and number of gear, the engine power, the species and quantities authorized, including by-catch and discards (article 24). The types of

permits and the procedures for the granting of permits are to be defined by decree of the Council of ministers (article 25). The format of the fishing permit shall be established by ministerial order (article 32). The general provisions on the **notification of data and information** on catch and vessel position, which shall be adopted by ministerial order, are applicable to artisanal fishing (article 34). With regard to **penalties**, the law gives a range of monetary sanctions applicable to all fishing activities, which suggests that lower sanctions may be applied in case of violations carried out by artisanal vessels (articles 110 to 116).

*Recommended actions:*

- Adopt regulations to implement the law, in particular to define artisanal fishing, to establish the requirements for the registration and marking of artisanal fishing vessels, and to determine the forms and timing of the notification of data and information on catch and vessel position;
- Regulate the use of VHF on board artisanal fishing vessels;
- Include the information required by Annex 2 of the 2013 FCWC Access Convention in the application form for artisanal fishing permits; and
- Put in place a consultation platform for artisanal fishermen.

Licensing system for industrial fishing vessels

All industrial fishing vessels operating in **Beninese waters** must apply for a license, and national fishing vessels operating in the **high seas** must apply for a special authorization (articles 22 and 23). **Fishing licenses and authorizations** must include information on the identity of the permit holder, the authorized **fishing zone**, the authorized fishing period (**maximum duration**: one year), the type and number of gear, the engine power, the species and quantities authorized, including by-catch and discards (article 24). The types of fishing licenses, the conditions for the issuance of high seas fishing authorizations and the procedures for the granting of licenses/authorizations shall be defined by decree of the Council of ministers (articles 23 and 25). The license/authorization format shall be established by ministerial order (article 32).

Licenses/authorizations may not be **transferred** and must be kept on board at all times (articles 30 and 31). Non-authorized foreign fishing vessels must stow their gear while **transiting** in Beninese waters (article 42). A special authorization is required for **transshipment**; the conditions and procedures for the granting of such authorization shall be established by ministerial order (article 36). No difference is made between transshipment at port or at sea.

*Recommended actions:*

- Adopt a decree to implement the provisions of the law on the authorization to fish on the high seas, and subject the granting of such authorization to the ability of the national authorities to exercise effective jurisdiction on the concerned vessel;
- Include the information required by Annex 1 of the 2013 FCWC Access Convention in the application form for industrial fishing licenses;
- Include the IMO identification number of the vessel on industrial fishing licenses;
- Ban vessels without nationality or whose nationality has not been established from Beninese waters; and
- Prohibit transshipment at sea.

Registers of industrial fishing vessels

Industrial fishing vessels must be registered, and registration is a prerequisite for the granting of a fishing license (article 39). The fisheries administration must keep a register of all fishing vessels authorized to fish in Beninese waters and a list of vessels authorized to fish on the high seas (articles 38 and 49).

*Recommended action:*

- Coordinate the adoption of a common format with FCWC member States for the register and list of licensed fishing vessels.

#### Collection and sharing of information and data

All **fishing vessels authorized** to fish in Beninese waters must be **marked** in accordance with the provisions established by ministerial order and must not tamper with such marking (articles 33 and 37). Authorized industrial vessels must **notify entry into and exit from** Beninese waters (article 44) and notify the fisheries administration of the required data and information on **catch and vessel position**, as established by ministerial order (article 34). Vessel captains must keep a **fishing logbook** in accordance with the provisions specified by ministerial order (article 40).

The fisheries administration may require the presence of **observers** for scientific or control purposes on board national or foreign vessels authorized to fish in national waters (article 41). While in Beninese waters, **non-authorized foreign fishing vessels** must notify their movements and declare the catch on board (article 43). The captains of fishing vessels authorized to fish on the **high seas** must keep a fishing logbook and systematically notify the fisheries administration of their catch and other relevant facts occurred during the fishing activities, in accordance with the provisions established by ministerial order (article 50).

#### *Recommended actions:*

- Adopt regulations to implement the provisions of the 2014 Fisheries Law, particularly with regard to vessel marking, fishing logbooks, as well as data and information to be communicated to the fisheries administration by all fishing vessels;
- Require the mandatory installation of a Vessel Monitoring System (VMS) on industrial fishing vessels authorized to fish in national waters or on the high seas;
- Require advance notification of port entry from all fishing vessels; and
- Provide for the progressive adoption of electronic information systems, registers and logbooks.

#### Market-related measures

Fish product treatment and processing plants are subject to an authorization to be issued by the fisheries administration (article 87). Safety and quality standards for fish products conservation and marketing, as well as control procedures, must be defined by ministerial order to (articles 86 and 89). An inter-ministerial order must define the general conditions for fish product marketing, upon consultation with professional organizations (article 90).

#### *Recommended actions:*

- Adopt regulations to ensure fish product traceability and introduce market-related measures to ensure that IUU fish does not enter the value-chain; and
- Promote the organization of wholesale fish merchants.

#### Effectiveness of law enforcement

The following **authorities** are in charge of enforcing the provisions of the 2014 Fisheries Law: judicial police officers, sworn officers of the fisheries administration, of the customs, of the water and forests administration and of the merchant navy, as well as navy officers on surveillance mission (article 92). Enforcement officers have the **power** to stop, board, visit and inspect any fishing vessel operating in national waters. Officers may, *inter alia*, search any vehicle, facility or vessel that may contain illegal tools, gears or products, take samples as required, and seize any vehicle, vessel, gear, net, tool or product in accordance with applicable legislation (article 96). It is forbidden to resist or insult enforcement officers in the exercise of their functions (article 94).

#### *Recommended actions:*

- Provide for inter-institutional coordination between enforcement authorities; and
- Specify that inspectors have the power to request and take copies of relevant documentation.

#### Effectiveness of sanctions

**Offenses** are classified based on the seriousness of the violation, and a range of applicable sanctions is defined accordingly, including imprisonment and monetary sanctions for both national and foreign vessels—**criminal sanctions** (articles 110 to 116). Sanctions are doubled in case of recidivism and for specific very serious offenses (article 115). The minister in charge of fisheries may suspend the fishing license for a maximum of 12 months – **administrative sanction** (article 112). In case of recidivism, the judge may withdraw the license for a maximum of 2 years (article 116). In this regard, it is worth noting that applications for a fishing license or for its renewal may be rejected if the ship-owner or the vessel were found guilty of at least two offenses in the two previous years (article 27). **Out-of-court settlement** procedures (*transaction*) may be activated by the fisheries administration upon request of the offender (article 104).

#### *Recommended actions:*

- Exclude imprisonment for foreign vessels operating in EEZ in accordance with LOSC article 73;
- Increase the duration of administrative sanctions in case of serious offenses.

### **3.1.3 Benin – Legal responses to most common fisheries law violations**

#### Fishing without authorization

- The captain of a national or foreign vessel fishing **without a license**/authorization in Beninese waters or on the high seas shall be sanctioned with a fine of 10 million to 25 million CFA francs and with 6 to 12 months imprisonment (article 110), without prejudice to the seizure of catch.
- Sport fishing or fishing for scientific research purposes performed **without authorization** is subject to a fine of 200 000 to 2 million CFA francs and/or to 3 to 9 months imprisonment (article 113(a)).

#### Fishing with unauthorized gear or methods

- The use of **prohibited or non-compliant** fishing nets, gear or other tools, the use of prohibited or unauthorized fishing methods, and the use of forbidden substances are sanctioned with a fine of 500 000 to 3 million CFA francs and with 6 to 12 months imprisonment (article 112(f)(g)(h)). This includes the use of fishing gear that is not compatible with the sustainable management of fish stocks, as well as the use of explosives and toxic substances (article 73).

#### Fishing in prohibited areas

- Fishing in **prohibited areas** and fishing in protected areas or in protected fishing zones are sanctioned with a fine of 500 000 to 3 million CFA francs and with 6 to 12 months imprisonment (article 112(c)(d)).
- If an offense is committed within a protected area or in a protected fishing zone, sanctions are doubled (article 115(b)).
- The provisions of inter-ministerial order n. 694 of 1999 should still be in force, in which case the applicable sanction for trawlers operating **within 5nm** from the coast should be the one provided for under article 112 of the 2014 Fisheries Law, i.e. a fine of 500 000 to 3 million CFA francs and with 6 to 12 months imprisonment.

#### Use of forged documentation

N/A

#### Provision of false or incomplete information

- Tampering with fishing vessels **marking** and non-compliance with the duty to provide statistical data and **information** on catch are sanctioned with a fine of 200 000 to 2 million CFA francs and/or 3 to 9 months imprisonment (article 113(c)(e)).

#### Illegal transshipment

- The **transshipment** of catch in Beninese waters is considered an offense, punishable with a fine of 500 000 to 3 million CFA francs and with 6 to 12 months imprisonment without making any reference to the authorization required under article 36 of the law (article 112(i)).

#### Trading in illegal fish

- Fishing, possession or marketing of marine **mammals and turtles**, as well as fishing, transporting, buying or selling of aquatic species **below minimum size** or weight or of prohibited species, are sanctioned with a fine of 500 000 to 3 million CFA francs and with 6 to 12 months imprisonment (article 112(e)(k)).
- If an offense involves an **integrally protected species**, sanctions are doubled (article 115(c)).
- No provisions are made with regard to fish caught without a license or in prohibited areas or seasons; in case of an offense, however, any catch on board is generally seized by enforcement officers (articles 96 and 110).
- The 2003 Decree on fish product quality prohibits the **sale of seized products** without the previous consent of the competent authority (article 27); furthermore, imported fish products must be accompanied by a health certificate and a certificate of origin delivered by the competent authority of the exporting country (article 19).
- The 1984 Law on food safety makes it an offense to willingly **deceive or attempt to deceive** buyers, inter alia, on the nature, species, identity, origin, quality or processing method of any food product (article 3); it is also an offense to this law to advertise food products by willingly using false or misleading information, inter alia, regarding species, identity, origin or processing method (article 8). Both offenses are sanctioned with a fine of 100 000 to 5 million CFA francs and/or 3 months to 2 years imprisonment (article 17).

#### Targeting of unauthorized species

- Fishing, possession or marketing of marine **mammals and turtles**, as well as fishing, transporting, buying or selling of aquatic species **below minimum size** or weight or of prohibited species, are sanctioned with a fine of 500 000 to 3 million CFA francs and with 6 to 12 months imprisonment (article 112(e)(k)).
- If an offense involves an integrally protected species, sanctions are doubled (article 115(c)).
- Considering that restrictions concerning **by-catch and discards** at sea are mentioned in the fishing license (article 24), non-compliance with such provisions is punishable under article 112(c) – violation of the special conditions established in the fishing license – with a fine of 500 000 to 3 million CFA francs and with 6 to 12 months imprisonment.

#### Damage to artisanal gear

N/A

## 3.2 Côte d'Ivoire

### 3.2.1 Côte d'Ivoire – General legal framework

The main law governing fishing activities in Ivoirian waters is **Law n. 478 of 1986 regulating Fisheries** (*Loi n. 86-478 du 1<sup>er</sup> juillet 1986 portant réglementation de la pêche*). A **new Draft Fisheries Law** (*Projet de loi des pêches*) was adopted by the Council of Ministers on 18 February 2016 and will soon be introduced in parliament. In addition, there is a **Law n. 556 of 2005 on fish processing under the free trade regime** (*Loi n. 2005-556 du 2 décembre 2005 portant régime d'entreprise franche de transformation des produits halieutiques*). The main text on fish product safety, quality and processing is **Ministerial Order n. 200 of 1993 establishing safety rules for the production and marketing of fish products intended for human consumption** (*Arrêté n. 200 de 1993 fixant les règles sanitaires régissant la production et la mise sur le marché des produits de la pêche destinés à la consommation humaine*), which implements Decree n. 312 of 1993 regulating all professions related to the marketing of fish products<sup>7</sup>.

In addition, it is worth mentioning that Côte d'Ivoire has been trying to reform its maritime affairs legislation for the past couple of decades, a **Merchant Navy Bill** (*Projet de code de la marine marchande*) being under discussion since 2000<sup>8</sup>. Currently, maritime affairs are mainly governed by legislation from the 1960s and 1970s. Relevant texts include: **Law n. 349 of 1961 adopting the Merchant Navy Code**, as amended in 1962 (*Loi n. 61-349 du 9 novembre 1961 portant Code de la Marine marchande, telle qu'amendée par la Loi n° 62-254 du 31 juillet 1962 modifiant l'article 108*); **Law n. 343 of 1960 on the registration of ships** (*Loi n. 60-343 du 28 octobre 1960 sur la naturalisation et l'immatriculation des navires*); **Law n. 926 of 1977 defining the maritime zones under national jurisdiction** (*Loi n. 77-926 du 17 novembre 1977 fixant la délimitation des zones marines placées sous la juridiction nationale*); and **Ministerial Order n. 495 of 1969 establishing different navigation zones** (*Arrêté n. 495 du 26 février 1969 relatif aux différentes zones de navigation*). More recently, in 2014, a decree was adopted to regulate law enforcement at sea (*Décret n. 2014-30 du 3 février 2014 portant organisation de l'Etat en mer*).

The 1986 Fisheries Law is implemented by a number of regulations governing the granting of fishing licenses, trawler vessels and the minimum size of tuna. In particular, it is worth mentioning the following implementing regulations on fisheries: **Decree n. 445 of 1969 prohibiting bottom trawling for foreign vessels fishing in the territorial waters and in the contiguous zone** (*Décret n. 69-445 du 22 octobre 1969 portant interdiction du chalutage de fond aux navires de pêche étrangers dans la zone contiguë aux eaux territoriales*); **Inter-ministerial Order n. 81 of 1981 regulating the granting of fishing licenses** (*Arrêté interministériel n. 81 du 20 juin 1981 portant modalités d'attribution de licences de pêche*); **Inter-ministerial Order n. 720 of 1967 on the coming of fishing vessels to Côte d'Ivoire and fixing a quota on trawlers**, as amended (*Arrêté interministériel n. 720 du 10 avril 1967 sur la venue des navires de pêche en Côte d'Ivoire et contingentement des chalutiers, et ses modifications*); **Ministerial Order n. 141 of 1970 regulating tuna fisheries**, which determines the minimum weight of species (*Arrêté n. 141 du 2 mars 1970 portant réglementation de la pêche au thon, qui fixe le poids minima des espèces*); and **Ministerial Order n. 3291 of 1956 on fisheries operations and security in marine waters**, imposing the marking of nets and prohibiting night trawling (*Arrêté n. 3291 du 2 mai 1956 concernant l'exercice et la sécurité de la pêche dans les eaux maritimes, qui impose le balisage des filets et interdit le chalutage nocturne*).

Furthermore, a number of texts regulate fishing activities within 1 nautical mile from the coast and in the coastal lagoons: **Decree n. 176 of 1985 regulating lagoon fisheries**, which prohibits the use of collective nets (*Décret n. 85-176 du 6 mars 1985 portant réglementation de la pêche en lagune, qui interdit l'usage des filets collectifs*); **Ministerial Order n. 31 of 1983 prohibiting trawling within 1 nautical mile from the**

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<sup>7</sup> Some reports mention **Law n. 563 of 1996 on safety and quality inspections of animal food products and products of animal origin** (*Loi n. 96-563 du 25 juillet 1996 relative à l'inspection sanitaire et qualitative des denrées animales et d'origine animale*), but the text is unavailable.

<sup>8</sup> Text not available.



**coast** (*Arrêté n. 31 du 16 septembre 1983 prohibant la pêche au chalut à moins d'un mille des côtes*); **Ministerial Order n. 30 of 1983 regulating the use of certain types of fishing gear within 1nm and in the lagoons** (*Arrêté n. 30 du 16 septembre 1983 fixant les modalités d'utilisation de certains engins de pêche à l'intérieur du premier mille et dans les lagunes*).

### 3.2.2 Côte d'Ivoire – Domestication of FCWC provisions

#### Ratification of treaties & access by foreign vessels

Regarding **international agreements**, Côte d'Ivoire is a party to the 1982 LOSC and the 2000 UNTOC, but is yet to accede to the 1993 FAOCA, the 2007 WFC and the 2009 PSMA, and to ratify the 1995 UNFSA, to which the country is a signatory. Accession to the PSMA and ratification of the UNFSA are reportedly in process. Côte d'Ivoire is also a member of all international and regional organizations relevant to fisheries and maritime affairs, namely the AU, ECOWAS, UEMOA, ICCAT, INFOPECHE, ATLAFCO and CECAF, as well as the Abuja MoU.

According to the 1986 Fisheries Law, **foreign natural and legal persons** may be authorized to fish in Ivorian waters only under the framework of a fisheries agreement between Côte d'Ivoire and the relevant State (article 7)<sup>9</sup>. As mentioned in chapter 2 of this report, Côte d'Ivoire has signed four fisheries access agreements, namely with the EU, Senegal, Japan and OPAGAC. The EU SFPa in particular provides for the embarkation of **Ivorian seamen** on board European vessels. Finally, the only provisions on the **chartering** of foreign fishing vessels are found in Law n. 343 of 1960 on the registration of ships, which exempts chartered vessels from obtaining a naturalization act (article 2 of the 1960 Law)<sup>10</sup>.

#### *Recommended actions:*

- Accede to the 1993 FAOCA, the 2007 WFC and the 2009 PSMA, and ratify the 1995 UNFSA.

#### Management measures and plans

The 1986 Fisheries Law does not provide for the adoption of the main international **principles and approaches** for the sustainable management of national and shared fish stocks. Although the law does not provide for the adoption of management plans or for the definition of **total allowable catch** (TAC) and fishing effort, a number of **conservation and management measures** can be retrieved in current legislation. Regulations shall be adopted by decree to establish fishing seasons, areas where fishing is prohibited or restricted, protected species as well as the minimum size of catch (article 9). On this latter aspect, a 1970 Ministerial Order regulating tuna fisheries determines the minimum weight of species. In addition, a 1967 Inter-ministerial Order fixes a quota on trawler vessels fishing in Ivorian waters. The lack of definition of TAC and fishing effort, however, does not allow for the calculation of the surplus of fisheries resources in relation with national fishing capacity. This would provide a reliable basis for the allocation of such surplus through fisheries access agreements with other States, as indicated in LOSC.

With regard to **fishing gear and methods**, the 1986 Law prohibits the use of explosives and toxic substances and provides that fishing gears and prohibited fishing methods shall be regulated by decree (articles 9 and 11). In this regard, two decrees regulate the issue: the 1969 Decree prohibiting bottom trawling for foreign vessels fishing in the territorial waters and in the contiguous zone and the 1985 Decree which prohibits the use of collective fishing nets in the lagoon. In addition, a 1956 Ministerial Order requires the marking of nets and prohibits night trawling, and two 1983 Ministerial Orders prohibit trawling within 1nm from the coast and regulate the use of certain types of fishing gear within 1nm and in the lagoons. Fishing zones are further defined under Ministerial Order n. 495 of 1969 establishing different navigation zones according to the type of fisheries.

<sup>9</sup> All articles cited in this section refer to the 1986 Fisheries Law of Côte d'Ivoire unless indicated otherwise.

<sup>10</sup> More provisions may be found in the Maritime Fisheries Code, but the full text of the code is not available.

*Recommended actions:*

- Introduce international principles of sustainable fisheries management in fisheries legislation (this aspect is likely to be included in the Fisheries Bill currently under discussion);
- Adopt fisheries management plans and regulations to provide on fishing gear and methods, size of fishing nets, by-catch and discards at sea, spatial and temporal controls, and minimum fish size; and
- Define TAC, optimal fishing effort and national fishing capacity as a basis for fisheries management, and identify surplus resources to be allocated to foreign fishing vessels through fisheries access agreements with relevant flag States, in line with LOSC article 62.

Control of artisanal fishing

The 1986 Law does not distinguish between industrial and artisanal fishing but only between lucrative and non-lucrative fisheries (article 2). A license is required for the **lucrative fisheries** in accordance with the conditions established by decree (article 7). Such conditions are currently defined by Inter-ministerial Order n. 81 of 1981 regulating the granting of fishing licenses, without any reference to artisanal or industrial fishing although it mostly seems to refer to the latter type. The fisheries administration, however, applies **different fees** for artisanal and industrial fisheries. Interestingly, a 1969 Ministerial Order defines different **navigation zones** for coastal fisheries (*pêche côtière*), open-sea fisheries (*pêche au large*) and high seas fisheries (*grande pêche*). Artisanal fishing vessels are deemed to be subject to maritime law and hence to vessel registration in accordance with the 1961 Merchant Navy Code. Finally, a **consultative committee on fisheries**, established in 1966 and reorganized in 1982, functions as a platform for stakeholders' consultation, including artisanal fishermen<sup>11</sup>.

*Recommended actions:*

- Clarify the status of artisanal fisheries in legislation so as to ensure appropriate control of artisanal fishing activities (registration of artisanal vessels, licensing, use of VHF on board, notification of departures/entries, establishment of appropriate penalties);
- Include the information required by Annex 2 of the 2013 FCWC Access Convention in the application form for artisanal fishing licenses.

Licensing system for industrial fishing vessels

The 1986 Fisheries Law subjects all **lucrative fisheries** to licensing in accordance with the conditions established by decree (article 7). Such conditions are currently defined by **Inter-ministerial Order n. 81 of 1981** regulating the granting of fishing licenses, which seems to refer exclusively to industrial fishing although no specification is explicitly made. This text was adopted under the fisheries provisions of the 1961 Merchant Navy Code and remains in force under the 1986 Fisheries Law that replaces those provisions. Licenses shall be granted by inter-ministerial order upon advice of an ad hoc commission; they are not transferable and have a validity of one year (1<sup>st</sup> January to 31<sup>st</sup> December) (articles 4, 8 and 9 of the 1981 Inter-ministerial Order). **Fees and application form** shall be established by circular letter (articles 3, 6 and 13 of the 1981 Inter-ministerial Order). Although no provisions on **transshipment** are found in the 1986 Fisheries Law, the issue is reportedly addressed under implementing regulations.

*Recommended actions:*

- Provide for an authorization to fish on the high seas, and subject the granting of such authorization to the ability of the national authorities to exercise effective jurisdiction on the concerned vessel;
- Include the information required by Annex 1 of the 2013 FCWC Access Convention in the application form for industrial fishing licenses;
- Include the IMO identification number of the vessel on industrial fishing licenses;
- Ban from Ivorian waters vessels without nationality or whose nationality has not been established;

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<sup>11</sup>Décret n. 66-399 du 13 septembre 1966 portant création d'un Comité consultatif des pêches ; Décret n. 82-956 du 27 octobre 1982 portant réorganisation du Comité consultatif des pêches.

- Include provisions in the Fisheries Law to prohibit transshipment at sea and regulate transshipment at port or in the lagoon.

#### Registers of industrial fishing vessels

**Registration of vessels** is regulated under the 1961 Merchant Navy Code (article 6) and the 1960 Law on the registration of ships. Regulations on the registration of fishing vessels may also be adopted under article 9 of the 1986 Fisheries Law. The 1986 Law and the 1981 Inter-ministerial Order do not require the fisheries administration to keep a register of licensed fishing vessels.

#### *Recommended actions:*

- Establish in legislation the need for a register of licensed fishing vessels; and
- Coordinate the adoption of a common format with FCWC member States for the register and list of licensed fishing vessels.

#### Collection and sharing of information and data

Regulations on the notification of **information on catch** may be adopted under article 9 of the 1986 Fisheries Law but it does not seem that such regulations are currently in place. The **1981 Inter-ministerial Order** requires all licensed vessels to keep a **fishing logbook** (*registre de pêche*) to be presented to the fisheries administration at each landing. The logbook must indicate the place and time of the catch, the fishing effort and the daily catch, transshipment operations for tuna vessels (article 10 of the 1981 Inter-ministerial Order).

#### *Recommended actions:*

- Provide on the duty of fishing vessels to regularly communicate catch data to the fisheries administration, to notify entry into and exit from national waters, and to make advance notification of port entry;
- Provide for the mandatory installation of VMS for industrial vessels;
- Require the presence of observers on board; and
- Promote the progressive adoption of electronic information systems, registers and logbooks.

#### Market-related measures

Regulations on the marketing of fish products may be adopted under article 9 of the 1986 Fisheries Law. The main text specifically regulating **fish product safety** is Ministerial Order n. 200 of 1993 implementing Decree n. 312 of 1993, which governs all professions related to animals and animal products. A health authorization (*agrément sanitaire*) is required for the operation of a fish processing plant (article 43 of the ministerial order). Detailed safety provisions are made in the ministerial order on the handling of fresh and frozen fish, personnel and facilities, import conditions and health inspections. Pre-packed foods must indicate the place of **origin** on their label when its omission may create confusion in the consumer's mind (article 7 of Decree n. 487 of 1992 on food labelling).

#### *Recommended actions:*

- Strengthen fish traceability and adopt related market measures to fight IUU fishing; and
- Promote the organization of wholesale fish merchants.

#### Effectiveness of law enforcement

The following **authorities** are in charge of enforcing the 1986 Fisheries Law: judicial police officers, inspectors and administrators of maritime affairs, navy officers, navigation police agents, sworn officers of the fisheries administration and any other officer authorized by decree (article 24). As for their **powers**, enforcement officers may board any fishing vessel in Ivorian waters (article 8) and search any public place, fishing vessel, vehicle or facility for illegal fish products (article 20). They shall seize any vessel, fishing gear or product related to an offense (articles 16 to 20).

*Recommended actions:*

- Provide for inter-institutional coordination between enforcement authorities; and
- Specify that inspectors have the power to take samples and to request and take copies of relevant documentation.

Effectiveness of sanctions

**Offenses** are classified based on the seriousness of the violation, and a range of applicable sanctions is defined accordingly, including imprisonment and monetary sanctions for both national and foreign vessels – **criminal sanctions** (articles 11 to 15). Sanctions are doubled in case of recidivism (article 15). **Out-of-court settlement** procedures (*transaction*) may be activated by the fisheries administration in accordance with the provisions established by decree (article 26). The minister in charge of fisheries may suspend or withdraw the fishing license in specific cases of non-compliance – **administrative sanction** (article 12 of the 1981 Inter-ministerial Order).

*Recommended actions:*

- Exclude imprisonment for foreign vessels operating in EEZ in accordance with LOSC article 73.

### **3.2.3 Côte d'Ivoire – Legal responses to most common fisheries law violations**

Fishing without authorization

- Fishing **without a license** is sanctioned with a fine of 100 000 to 50 million CFA francs and/or 1 to 3 years imprisonment (article 13, referring to regulations to be adopted under article 7).

Fishing with unauthorized gear or methods

- Fishing with **unauthorized or illegal gear or methods** is sanctioned with a fine of 500 000 to 10 million CFA francs and/or 8 days to 6 months imprisonment (article 14, referring to regulations to be adopted under article 9).
- The use of **explosives or toxic substances** is sanctioned with a fine of 100 000 to 50 million CFA francs and/or 1 to 3 years imprisonment (article 11).

Fishing in prohibited areas

- Fishing in **prohibited areas** is sanctioned with a fine of 500 000 to 10 million CFA francs and/or 8 days to 6 months imprisonment (article 14, referring to regulations to be adopted under article 9).

Use of forged documentation

N/A

Provision of false or incomplete information

- Violation of the obligations relating to **catch declaration** is sanctioned with a fine of 500 000 to 10 million CFA francs and/or 8 days to 6 months imprisonment (article 14, referring to regulations to be adopted under article 9).

Illegal transshipment

N/A

Trading in illegal fish

- Illegal catch shall be **seized** by enforcement officers, and its fate shall be decided by the fisheries administration; if the illegal catch was sold, enforcement officers may seize the proceeds (article 19). Any person who destroys, misappropriates or attempts to destroy or misappropriate any seized goods may be sanctioned with a fine of 50 000 to 25 million CFA francs and/or 3 months to 3 years imprisonment (article 21).

- **Import** conditions for fish products must take into account, *inter alia*, the legislation of the exporting country (section 39 of Ministerial Order n. 200 of 1993). Although this provision mainly refers to fish safety legislation in force in the exporting country in order to assess whether it reflects Ivorian standards, it may also allow the administration to deny entry to fish caught in breach of exporting countries' legislation.
- **Fraud** in the marketing of food products is sanctioned under Law n. 301 of 1963 and implementing Decree n. 595 of 1992 (sanctions are mentioned in article 12 of the decree).

#### Targeting of unauthorized species

- Fishing of **protected species or of species below the minimum authorized size** is sanctioned with a fine of 500 000 to 10 million CFA francs and/or 8 days to 6 months imprisonment (article 14, referring to regulations to be adopted under article 9).

#### Damage to artisanal gear

- Ministerial order n. 30 of 1983 provides that all vessels must **keep clear of marked gear** installed within 1nm from the coast and in the lagoons; violations are punishable with a fine of 36 000 to 360 000 CFA francs and 11 days to 3 months imprisonment in accordance with the 1961 Merchant Navy Code (article 3 of the ministerial order).

### 3.3 Ghana

#### 3.3.1 Ghana – General legal framework

The main piece of legislation governing fishing activities in Ghana is **Fisheries Act n. 625 of 2002**, which repeals the 1991 Fisheries Law, except for Part 1 on the building and importation of motor fishing vessels. Ghana has amended its 2002 Fisheries Act in 2014 (Fisheries (Amendment) Act n. 880). The act is implemented by the **2010 Fisheries Regulations (LI 1968)** that were amended in 2015 by the Fisheries (Amendment) Regulations (LI 2217), incorporating a number of port State measures<sup>12</sup>. Also of interest is the **1963 Wholesale Fish Marketing Act**, which regulate fish product safety and quality<sup>13</sup>, and the three main texts on vessel registration: the **1986 Ghana Ports and Harbours Authority Act**, the **2002 Ghana Maritime Authority Act** and the **2003 Ghana Shipping Act**.

#### 3.3.2 Ghana – Domestication of FCWC provisions

##### Ratification of treaties & access by foreign vessels

Regarding **international agreements**, Ghana is a party to the 1982 LOSC, the 1993 FAOCA and the 2000 UNTOC, but is yet to accede to the 1995 UNFSA and the 2007 WFC, and to ratify the 2009 PSMA, to which the country is a signatory. Accession to the UNFSA and ratification of the PSMA are reportedly in process. Ghana is also a member of all international and regional organizations relevant to fisheries and maritime affairs, namely the AU, ECOWAS, ICCAT, INFOPECHE, ATLAFCO and CECAF, as well as the Abuja MoU.

The 2002 Fisheries Act provides that **foreign vessels** may fish in Ghanaian waters only under the framework of an agreement between Ghana and the relevant flag State, except in case of vessels licensed for marine scientific research or trial fishing operations (articles 61, 63 and 64)<sup>14</sup>. No access agreement is currently in place for the exploitation of surplus fisheries resources. As reported earlier however, licenses were granted to EU tuna fishing vessels for the supply of Ghanaian canneries. Regarding **chartering** of foreign vessels, the Fisheries Act requires the approval of the charter agreement by the Fisheries Commission, under the conditions prescribed by the Regulations. Chartered foreign vessels are subject to the requirements made by the Fisheries Act in respect of foreign vessels (article 66).

##### *Recommended actions:*

- Accede to the 1995 UNFSA and the 2007 WFC, and ratify the 2009 PSMA; and
- When entering into access agreements with foreign countries for the exploitation of surplus fisheries resources, require the embarkation of national crew on board foreign fishing vessels.

##### Management measures and plans

The 2002 Fisheries Act establishes a **Fisheries Commission** for the regulation and management of fisheries resources use and for policy coordination (article 2). The Commission is a cross-sectoral body reporting to the minister responsible for fisheries (article 3). It provides for the adoption of fisheries **management plans** based on international sustainability **principles and approaches**. Fisheries management plans shall be based on the best scientific information available, ensure the optimum utilization of fishery resources while avoiding overexploitation and be consistent with good management principles (article 42). They shall also take into account biological, economic, environmental and social factors, including interrelations with other species in the ecosystem (article 43). A 5-year fisheries management plan was adopted in November 2015<sup>15</sup>. The Fisheries Commission shall engage in consultation with all relevant stakeholders during the preparation of each plan, including with neighbouring States for shared stocks, and ensure that their

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<sup>12</sup> Text not available.

<sup>13</sup> The 1952 Animals (Control of Importation) Act is not applicable to aquatic animals.

<sup>14</sup> All articles cited in this section refer to the 2002 Ghanaian Fisheries Act, as amended, unless indicated otherwise.

<sup>15</sup> <http://www.ghananewsagency.org/science/ghana-develops-marine-fisheries-management-plan--96665>

implementation is carried out in collaboration with relevant State agencies (articles 42, 44 and 45). Consultations on international fisheries management shall aim, inter alia, at providing for the allocation of fishing effort and catch (article 45(1)(d)).

The act provides for a number of **conservation and management measures**, including spatial and temporal controls, protected species and authorized fishing gear. It establishes an **inshore exclusive zone** reserved for small semi-industrial vessels, canoes and recreational fishing vessels, where large semi-industrial vessels may be exceptionally permitted to enter for the capture of cephalopods in certain periods as deemed appropriate by the Fisheries Commission (article 81). Furthermore, the minister may establish **marine reserves**, where fishing is prohibited except with the written permission of the same (article 91). The Fisheries Commission may declare **closed seasons** for fishing in specified areas, and closed seasons declared by an international body of which Ghana is a member shall be regarded as a closed season declared under the Fisheries Act (article 84). With regard to **protected species**, it is prohibited to target marine mammals, gravid lobsters, crustaceans or juvenile fish, and if caught accidentally they must be immediately returned to the sea (articles 89 and 90). Minimum landing sizes of commercially important fish species are established in the Schedule to the 2010 Fisheries Regulations. The director of fisheries may exceptionally authorize in writing the capture of marine mammals (article 90 of the Act, and article 17 of the Regulations). Marine turtles are also protected under the 2010 Regulations through the prohibition of using a shrimp net without a turtle excluder device (article 16 of the Regulations).

The authorized type, size and use of **fishing gear** are defined in the 2010 Regulations, in accordance with article 85 of the Act (articles 6 to 16 of the Regulations). Use of fishing vessels to engage in or assist any driftnet fishing activity is prohibited, as well as the uses of explosives and noxious substances (articles 87 and 88 of the Act). The use of fish aggregating devices in tuna fisheries should conform with ICCAT Recommendations (article 21 of the Fisheries Regulations). **Regulations** may also be adopted under the Act to establish other conservation and management measures, including **total allowable catch** (TAC) and quotas, and to provide on other issues relevant to fisheries MCS (article 139). In addition, a list of international fisheries conservation and management measures binding on Ghana shall be published by ministerial notice in the Gazette (article 45A, introduced by the 2014 Fisheries (Amendment) Act).

#### *Recommended actions:*

- When determining TAC and fishing effort, define national fishing capacity to allow identification of surplus resources to be allocated to foreign fishing vessels through fisheries access agreements with relevant flag States, in line with LOSC article 62.

#### Control of artisanal fishing

The 2002 Fisheries Act provides for the control and development of artisanal fishing, which is defined as **traditional canoe fishing** carried out by Ghanaian citizens (articles 51 to 59 and article 140). Canoes – planked dugout or fabricated vessels propelled by means of sails, oars, paddles, poles, outboard engine or a combination of any of them – must be **registered** by the District Assembly of the area where they are to be operated, and registration is a pre-requirement for the granting of the **fishing license** (articles 52, 55 and 140). A **licensing fee** for artisanal vessels shall be established in Ghana cedis (article 56 of the Act).

Applications for the use of a canoe for fishing shall be filed with the Fisheries Commission (article 53). The **application form** is provided under the Schedule to the 2010 Regulations and is generally consistent with the model established under Annex 2 of the 2013 FCWC Access Convention, with the exception of a few items (Form E under article 27 of the Regulations). Licenses are **transferable** under certain conditions with prior written approval of director of fisheries (article 57 of the Act and article 28 of the Regulations). Artisanal fishermen are represented on the **Council** of the Fisheries Commission (article 4 of the Act). In addition, the Commission shall promote the establishment of fishing, processing and marketing cooperative societies.

*Recommended actions:*

- Require the use of VHF on board artisanal fishing vessels and notification of departures/entries;
- Add the following information in the application form for canoes to be fully compliant with the form provided in Annex 2 of the 2013 FCWC Convention: registration/home port, building material, width, tonnage and fishing equipment/supplies.

Licensing system for industrial fishing vessels

A license is required under the 2002 Act to fish in **national waters** for local industrial and semi-industrial fishing vessels (article 46)<sup>16</sup>. In order to fish in Ghanaian waters, a foreign fishing vessel must either hold a license issued by Ghanaian authorities or be authorized under an agreement with its flag State (article 61).

**Licensing fees** for foreign vessels shall be established in US dollars (USD) (article 71 of the Act). Ghanaian registered fishing vessels may operate outside of national waters (*i.e.* in the EEZ of other coastal States and on the high seas) subject to an authorization to fish issued by the Fisheries Commission (article 24K of the 2010 Fisheries Regulations, as amended in 2014). Ghanaian vessels having obtained a foreign fishing license must apply to the Commission for a written notification attesting the authenticity of the license (article 24T of the 2010 Regulations, as amended in 2014). Fishing vessels operating without nationality, considered as **stateless vessels** in accordance with international law, are presumed to be engaging in IUU fishing and are sanctioned accordingly (article 88A(m), introduced by the 2014 Fisheries (Amendment) Act).

**Applications** are made to the Fisheries Commission, and licenses are issued by the minister responsible for fisheries (articles 69 and 70). For applications by local vessels, the Commission may delegate its role to the relevant regional agriculture authority (article 48). Applications for registration/licensing of local vessels are regulated under articles 2 and 3 of the 2010 Fisheries Regulations (Form A, Schedule to the Regulations). It is arguable that the same application form is used for foreign fishing vessels, since no specific application form is provided under the Regulations. In this regard, the general provisions of 2002 Fisheries Act on licensing apply to both local and foreign vessels (articles 48 and 61). Application for renewal of a fishing license shall be done in accordance with the provisions of article 23 of the Regulations. The license form is established under Form D of the Schedule to the Regulations.

**Transshipment** of catch may only be performed under the supervision of an authorized officer or in accordance with any other arrangement approved by the Council of the Fisheries Commission, unless authorized in writing by the Commission (article 132). Tuna may only be transhipped subject to a license or authorization issued by the Commission and after first landing in a Ghanaian port (article 133). Ghanaian vessels may only tranship fish to a foreign fishing vessels licensed under the Fisheries Act, and fishing vessels of 50 GRT and above or licensed as industrial vessels shall deposit their catch at designated Ghanaian ports (Article 33 of the Regulations).

*Recommended actions:*

- Add the following information in the application form for industrial and semi-industrial fishing vessels (Form A, Schedule to the 2010 Fisheries Regulations) to be fully compliant with the form provided in Annex 1 of the 2013 FCWC Convention: name/address of local representative or agent, name of captain, fax number, e-mail, home port, hold capacity, refrigeration/freezing capacity, fishing equipment/supplies, fishing operations to be developed, place of unloading, fishing areas, species to be captured and type of beacon (Argos, Inmarsat C,...);
- Include the IMO identification number of the vessel on industrial fishing licenses; and
- Prohibit transshipment at sea.

Registers of industrial fishing vessels

General provisions on **vessel registration** are made under the 2002 Ghana Maritime Authority Act and the 2003 Ghana Shipping Act. The **registration and identity of fishing vessels** is regulated under article 3 of Regulations, and applications for the registration of motor fishing vessel and/or fishing license shall be

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<sup>16</sup> Artisanal fishing licenses are reviewed in the previous section on the control of artisanal fisheries.



made in accordance with Form A provided under the Schedule to the 2010 Fisheries Regulations (article 3 of the Regulations). The 2014 Fisheries (Amendment) Regulations introduced a new regime for the registration of fishing vessels, requiring the previous recommendation of the Fisheries Commission to the Ghanaian Maritime Authority and, *inter alia*, a Statutory declaration by the shipowner regarding the IUU history of the vessel for those previously registered elsewhere (article 24 *et seq.* of the 2010 Regulations, as amended in 2014). The new provisions do not apply to canoes.

The **registration of artisanal fishing vessels** is specifically required under the Fisheries Act, and the application form for registration and license to operate a fishing canoe shall be done in accordance with Form E provided under the Schedule to the 2010 Regulations (article 55 of the Act and article 27 of the Regulations). The Commission shall maintain a **register of licenses** issued under the 2002 Fisheries Act containing, *inter alia*, information on the vessel, the license holder, the nature of the licensed activity, the validity of the license (article 79). The Commission shall also maintain a **record of fishing vessels** authorized to fish outside Ghanaian waters (article 24G of the amended Regulations).

*Recommended actions:*

- Coordinate the adoption of a common format with FCWC member States for the register and list of licensed fishing vessels.

Collection and sharing of information and data

The Fisheries Commission shall have access to official information and records that are reasonably necessary to perform its duties (article 35). In this regard, an **Information Management Unit** is established within the Commission (article 16). Ministerial regulations shall be adopted under the Fisheries Act to require the provision of statistical and any other information related to fisheries (article 139). All information and data provided under the act shall be true, complete and correct, and the onus of proof lies with the person providing the information (article 123 and 128). The data provided shall be treated in a confidential manner and be shared with relevant international bodies upon request (article 51 of the Regulations).

In order to maintain the record of fishing vessels authorized to fish outside Ghanaian waters, the **Commission may at any time request information** on the vessel; the shipowner shall provide the information within 4 weeks from the publication of the notice in a national newspaper (article 24H of the 2010 Fisheries Regulations, as amended). Fishing vessels entitled with an authorization to fish outside Ghanaian waters have an **obligation to provide fisheries and catch data and information** under article 24U of the 2010 Regulations as amended in 2014. Provision of **false or misleading information to secure fishing vessel registration** is made an offense (article 24F of the amended Regulations).

The act provides that regulations shall authorize the **cooperation and exchange of information, including inspection results** with other States and regional fisheries management organizations (article 139(4)(j), as modified by the 2014 Fisheries (Amendment) Act). The 2014 Fisheries (Amendment) Regulations establish that the Commission shall cooperate with foreign States and regional fisheries management organizations in the investigation of alleged IUU activities carried out by Ghanaian vessels (article 24E of the amended Regulations). More specifically, the Commission shall provide to a foreign government or a regional or international organization any information from the record of fishing vessels authorized to fish outside Ghanaian waters which (article 24J of the amended Regulations). Regarding foreign vessels, authorized officers may invite the flag State of a fishing vessel to participate in a port inspection (article 49D of the amended Regulations).

Local industrial and semi-industrial fishing vessels as well as artisanal fishing vessels must be appropriately **marked** (articles 49 and 55). **Observers** may be appointed in respect of licensed vessels to perform the following functions: collect catch and effort data, take reasonable samples of fish for scientific purposes, and report violations of the act and implementing regulations (article 100). The 2010 Fisheries Regulations establish the requirements and functions of observers, and require the issuance of a certificate of

designation (articles 35 and 36 of the Regulations). **VMS** is mandatory for local industrial and semi-industrial vessels and foreign vessels (articles 42 and 44 to 47 of the 2010 Regulations, as amended in 2014). All fishing vessels required to operate with VMS must keep a **fishing logbook** (articles 42 and 50 of the Regulations). Data on vessel identification, position, movement and catch shall be transmitted at least every 2 hours to the Fisheries Monitoring Centre (FMC) (article 46 of the amended Regulations). The minister may issue guidelines and procedures for the collection, storage and use of VMS information (article 48 of the amended Regulations). Finally, Ghanaian registered vessels shall report immediately to the competent authority, in accordance with Form G provided under the Schedule to the 2010 Regulations, the **sighting of a vessel** that appears to be unlicensed or unregistered in Ghana fishing in the EEZ of Ghana (article 34 of the Regulations).

*Recommended actions:*

- Adopt regulations to specify the data and information on fishing activities to be provided by industrial, semi-industrial and artisanal vessels fishing in Ghanaian waters;
- Adopt regulations to authorize the cooperation and exchange of information; and
- Provide for the progressive set up of electronic information systems, registers and logbooks.

Market-related measures

Regulations on the **importation, export, distribution and marketing** of fish and fish products may be adopted under the act (article 139). All fish imported into Ghana shall be accompanied by a **health certificate** delivered by the competent authority of the exporting country, specifying the **origin** of the fish, and delivered for inspection by fisheries inspectors; it is prohibited to possess fish imported in contravention of the 2010 Fisheries Regulations or that has not been delivered for **inspection** without stating date and time of catch or processing (article 81 of the Regulations).

Fishing vessels intending to land their catch in Ghana must submit a **“request to land” application** to the Commission 48 hours before the landing, undergo an on-the-spot inspection and obtain clearance to land (articles 24V *et seq.* of the 2010 Regulations, as amended in 2014). Landed fish intended for export is subject to **catch certification** (article 24Z of the amended Regulations). All catch certificate documentation must be kept readily available (article 24B of the amended Regulations). **Authorized officers** granting a catch certificate contrary to the requirements established in the Regulations are subject to disciplinary action (article 24DD of the amended Regulations).

The **1963 Wholesale Fish Marketing Act** establishes the authorized fish marketing zones. The Act provides that fish landed in a fish marketing zone shall only be offered for sale or sold in the wholesale fish market designated by the minister for that zone. The minister may grant an exception if the fish is landed to be despatched to a cannery or other fish processing factory or if the fish has been frozen and packed on board the vessel in order to be despatched to a cold store outside the zone for distribution (article 2 of the 1963 Act). Ministerial regulations may be adopted under the Act to provide for the establishment, organization, management and operation of wholesale markets (article 3 of the 1963 Act).

*Recommended actions:*

- Make provisions to ensure fish product traceability; and
- Adopt regulations on the organization of wholesale fish merchants.

Effectiveness of law enforcement

A **fisheries MCS unit**– officially named Fisheries Enforcement Unit – is established under the 2002 Fisheries Act including personnel from the Ghana Navy, Ghana Air Force and the Secretariat of the Commission (article 94). **FMCs** shall be established at designated locations to monitor Ghanaian fishing vessels, regardless of the waters or the port they operate in (article 41 of the 2010 Fisheries Regulations). **Authorized officers** for the enforcement of fisheries legislation are: public officers appointed in writing by the minister; personnel of the enforcement unit; personnel of the Ghana Navy; the air crew and personnel

of the Ghana Air Force deployed for fishery duties; officers of the Water Research Institute; and fishery officers of the Secretariat of the Commission (article 95). The Minister may appoint Fisheries Protection Officers or Surveillance Officers as **inspectors** who may board a fishing vessel found within Ghanaian waters for inspection (article 37 of the Regulations). **Observers** have the mandate to report violations of the fisheries legislation (article 100).

Enforcement officers have the **power** to stop, board and search any vessel operating in Ghanaian waters and any Ghanaian vessel operating outside national waters; they may request information to the crew, require documentation to be produced and take copies, examine catch and fishing gear, test satellite devices. If the officers have reasonable grounds to believe an offense is being or has been committed, they may also take samples of fish found in the inspected vessel, vehicle, aircraft or premises, seize the vessel, fish or fish products, fishing gear, documents and other items that may be used as evidence, and arrest the person they believe to have committed an offense (article 96). Authorized officers have the same powers beyond Ghanaian waters when following a vessel in hot pursuit (article 97).

The master and crew of a vessel have the **duty to collaborate** with authorized officers and observers, including to board the vessel, have full access to facilities, equipment, documentation, charts and gear, take samples and photographs; assaulting, obstructing, resisting, delaying or otherwise interfering with an authorized officer or observer is sanctioned under the act (articles 101 and 102). Specific provisions in this regard are also made under articles 38 and 39 of the Fisheries Regulations. Finally, the act provides on the validity of **evidence**, presumptions and the onus of proof (articles 117 to 124). With regard to IUU fishing, regulations shall implement **port State measures** (article 139, as modified by the 2014 Fisheries (Amendment) Act). The 2014 Fisheries (Amendment) Regulations adopt a number of port State measures, including port designation for foreign vessels, 48-hour notice of port use, denial of port entry or use, port inspection (articles 49 to 49D of the amended Regulations).

*Recommended actions:*

N/A

#### Effectiveness of sanctions

For each offense established under the act or implementing regulations, a **range of penalties** is provided, including **monetary sanctions** and **imprisonment** terms. Although imprisonment is not generally provided for offenses committed by foreign fishing vessels, certain provisions do not explicitly exclude imprisonment for foreign vessels operating in the EEZ, as required by LOSC article 73. Fines are expressed in penalty units, in accordance with the Fines (Penalty Units) Act, 2000 (Act 572), and in American dollars (USD) for foreign fishing vessels and local industrial and semi-industrial fishing vessels. Payments relating to foreign fishing vessels must be made in USD, whereas those relating to local vessels may be paid in cedi equivalent (article 138). Forfeiture of the catch, gear and vessel used to commit the offense is also provided for, as well as **administrative sanctions** such as suspension or withdrawal of the fishing license. Sanctions have been increased by the 2014 Fisheries (Amendment) Act to counter **IUU fishing** more effectively.

A **general penalty** is established for the contravention of any mandatory provision of the Fisheries Act for which a specific penalty is not provided – a fine of USD 500 000 for foreign fishing vessels, USD 100 000 for local industrial or semi-industrial fishing vessels, or 500 penalty units in any other case; the catch, fishing gear or any other apparatus used to commit the offense may be forfeited and the fishing license may be cancelled or suspended for a specified period (article 137). It is stated that each day of a **continuing contravention** of a provision of the Fisheries Act constitutes a separate offense (article 126). The Council of the Fisheries Commission may activate **out-of-court settlement** procedures (compounding of offenses) under certain circumstances (article 116).

*Recommended actions:*

- Explicitly exclude imprisonment for any offense committed by foreign fishing vessels in the Ghanaian EEZ, in accordance with LOSC article 73.

### 3.3.3 Ghana – Legal responses to most common fisheries law violations

#### Fishing without authorization

- The use of a **canoe** for fishing in Ghanaian waters is sanctioned with a fine of 25 to 500 penalty units; the canoe or gear shall be forfeited (article 52).
- **Local industrial and semi-industrial vessels** fishing without a license are sanctioned with a fine of USD 1 000 for local industrial fishing vessels, or 50 penalty units for local semi-industrial fishing vessels; the vessel or implement used to commit the offense shall be forfeited (article 46).
- Unauthorized **foreign vessels** fishing in Ghanaian waters are sanctioned with a fine of USD 250 000 to USD 2 million; the catch, fishing gear or any other apparatus or a combination of them used to commit the offense shall be forfeited (article 61).
- Unauthorized marine scientific research and trial fishing operations are sanctioned with a fine of USD 10 000 to USD 1 million for foreign fishing vessels and local industrial or semi-industrial fishing vessels, or 100 to 500 penalty units in any other case (article 65).
- **Transfer of a license** without written notification to the director of fisheries is sanctioned with a fine of USD 5 000 to USD 10 000 for vessels below 50 GRT; USD 25 000 to USD 100 000 for vessels between 50 and 100 GRT; USD 150 000 to USD 500 000 for vessels between 100 and 250 GRT; or USD 1 million for fishing vessel of 250 GRT and above (article 75).
- Fishing vessels operating without a valid license issued from the flag State or relevant coastal State and those operating without nationality are presumed to be engaged in **IUU fishing** and, as such, may be sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and deletion of the vessel from the Ghana Shipping Registry for the third contravention (article 88A(a)(m), introduced by the 2014 Fisheries (Amendment) Act).
- Ghanaian vessels fishing outside national waters without an authorization to fish are sanctioned with a fine of USD 1 million to USD 2 million (article 24S of the 2010 Regulations, as amended in 2014).
- Ghanaian fishing vessels operating under a foreign license without the written notification of the Fisheries Commission is sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and deletion of the vessel from the Ghana Shipping Registry for the third contravention (article 24T of the 2010 Regulations, as amended in 2014).

#### Fishing with unauthorized gear or methods

- The use of **submerged stationary fishing gear or surface drifting gear** not marked in accordance with the prescriptions of the act is sanctioned with a fine of 250 penalty units for artisanal fishing vessels or with a fine of USD 1 000 to USD 10 000 for any other fishing vessel (article 86).
- National or foreign fishing vessels used for or assisting in any **driftnet** fishing activities in Ghanaian waters are sanctioned with a fine of 25 to 500 penalty units for artisanal fishing vessels or with a fine of USD 250 000 to USD 2 million for any other fishing vessel; the catch, fishing gear or any other apparatus used to commit the offense may be forfeited (article 87).
- Landing, selling, receiving or possessing fish taken with the use of explosive, poison or any other **noxious substance** and who knows or has reasonable cause to believe that the fish has been so taken may be sanctioned with a fine of USD 250 000 to USD 2 million for local industrial or semi-industrial fishing vessels or foreign fishing vessels or with a fine of 25 to 500 penalty units in any other case; the catch, fishing gear or any other apparatus used to commit the offense shall be forfeited (article 88).
- The possession or control of **prohibited fishing gear** without written permission from the Commission for use in Ghanaian waters beyond 2 km inland from a shoreline is sanctioned with a

fine of USD 5 000 to USD 500 000 for local industrial or semi industrial vessels or foreign fishing vessels or with a fine of 50 to 500 penalty units in any other case (article 135).

- Fishing vessels using prohibited or non-compliant gear are presumed to be engaged in **IUU fishing** and, as such, may be sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and deletion of the vessel from the Ghana Shipping Registry for the third contravention (article 88A(f), introduced by the 2014 Fisheries (Amendment) Act).
- The use of **prohibited fishing methods** – including light attraction, portable generators, 1000 watts bulb and long cable to facilitate light production or any other contrivance for the purpose of fishing; any other prohibited method which renders fish more easily caught for the purpose of aggregating fishing; or the operation of pair trawling – is sanctioned with a fine of 400 penalty units and/or with a maximum of 12 months imprisonment (article 11 of the 2010 Fisheries Regulations).
- The use of a shrimp net in fishing without a **Turtle Excluder Device** is sanctioned with a maximum fine of 150 penalty units (article 16 of the Regulations).

#### Fishing in prohibited areas

- Fishing in the **inshore exclusive zone** with large semi-industrial vessels or industrial fishing vessels is sanctioned with a fine of USD 100 000 to USD 500 000 for foreign fishing vessels, with a fine of USD 10 000 to USD 100 000 for local industrial or semi-industrial fishing vessels, or with a fine of 100 to 500 penalty units in any other case (article 81).
- Unauthorized fishing in **marine reserves** is sanctioned with a fine of USD 50 000 to USD 2 million for local industrial or semi industrial fishing vessels or foreign fishing vessels or with a fine of 500 penalty units in any other case (article 91).
- Fishing vessels operating in a closed area or beyond a closed depth are presumed to be engaged in **IUU fishing** and, as such, may be sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and deletion of the vessel from the Ghana Shipping Registry for the third contravention (article 88A(c), introduced by the 2014 Fisheries (Amendment) Act).

#### Use of forged documentation

- Failure to obtain and keep on board a fishing vessel in its **original and correct form** a license, certificate registration or any other document required under the 2002 Fisheries Act is sanctioned with a fine of USD 100 000 for local industrial or semi-industrial fishing vessels or foreign fishing vessels or with 500 penalty units in any other case (article 128).
- Owners, operators, charterers or masters of fishing vessels having falsified documents in relation to that vessel are presumed to be engaged in **IUU fishing** and, as such, may be sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and deletion of the vessel from the Ghana Shipping Registry for the third contravention (article 88A(d), introduced by the 2014 Fisheries (Amendment) Act).
- Fishing vessels the **marking, identity or registration** of which have been falsified or concealed, and owners, operators, charterers or masters of fishing vessels having concealed, tampered with or disposed of evidence relating to an investigation, as well those obstructing the work of inspectors or observers, are presumed to be engaged in **IUU fishing** and, as such, may be sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and

deletion of the vessel from the Ghana Shipping Registry for the third contravention (article 88A(g)(h)(i), introduced by the 2014 Fisheries (Amendment) Act).

#### Provision of false or incomplete information

- **Provision of false, inaccurate or incomplete information** required under the 2002 Fisheries Act and **failure to notify a change in the circumstances** rendering the information or documentation false, incomplete or misleading are sanctioned with a fine of USD 100 000 for local industrial or semi-industrial fishing vessels or foreign fishing vessels or with 500 penalty units in any other case (article 128).
- Non-compliance with the **obligation to provide fisheries and catch data and information** by fishing vessels entitled with an authorization to fish outside Ghanaian waters is sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and deletion of the vessel from the Ghana Shipping Registry for the third contravention (article 24U of the amended Regulations).
- **Provision of false or misleading information to secure the registration of a fishing vessel** is sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and deletion of the vessel from the Ghana Shipping Registry for the third contravention<sup>17</sup> (article 24F, introduced by the 2014 Fisheries (Amendment) Regulations).

#### Illegal transshipment

- **Unauthorized transshipment** of fish in Ghanaian waters without the supervision of an authorised officer or under any other arrangement and conditions approved in advance by the Council is sanctioned with a fine of USD 100 000 to USD 2 million for foreign fishing vessels or local industrial or semi-industrial fishing vessels or with a fine of 250 to 1 000 penalty units for canoes; all the fish and fish products on the vessel shall be confiscated (article 132).
- **Transshipment or export of tuna** in or from Ghanaian waters without an authorization or without first landing all the tuna in Ghana is sanctioned with a fine of USD 10 000 to USD 1 million (article 133).
- Fishing vessels having engaged in transshipment with other vessels identified as having engaged in IUU fishing are presumed to be engaged in **IUU fishing** and, as such, may be sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and deletion of the vessel from the Ghana Shipping Registry for the third contravention (article 88A(k), introduced by the 2014 Fisheries (Amendment) Act).

#### Trading in illegal fish

- Landing, selling, receiving or possessing fish taken with the use of explosive, poison or any other **noxious substance** and who knows or has reasonable cause to believe that the fish has been so taken may be sanctioned with a fine of USD 250 000 to USD 2 million for local industrial or semi-industrial fishing vessels or foreign fishing vessels or with a fine of 25 to 500 penalty units in any other case; the catch, fishing gear or any other apparatus used to commit the offense shall be forfeited (article 88).
- Fishing vessels having taken on board, transhipped or landed **undersized fish** are presumed to be engaged in **IUU fishing** and, as such, may be sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months

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<sup>17</sup> The deletion from the Ghana Shipping Registry should occur since the first contravention, if the fishing vessel does not meet the registration requirements.

suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and deletion of the vessel from the Ghana Shipping Registry for the third contravention (article 88A(j), introduced by the 2014 Fisheries (Amendment) Act).

- Enforcement officers shall **seize fish or fish products** which they have reasonable grounds to believe have been caught in the commission of an offense, or fish or fish products which is possessed in contravention of the Fisheries Act (article 96).
- **Unauthorized import or export** of fish in commercial quantity is sanctioned with a fine of USD 50 000 to USD 1 million or the value of the fish in American dollars, whichever is greater (article 130).
- **Failure to repatriate** the foreign exchange obtained from the export of tuna or any other marine products originating from Ghana or Ghanaian waters, in accordance with the Exchange Control Act, 1961 (Act 71), is sanctioned with a maximum fine equivalent to 3 times the value of the export or a maximum fine of USD 2 million, whichever is greater, or with a maximum of 2 years imprisonment (article 130).

#### Targeting of unauthorized species

- Targeting **marine mammals** is sanctioned with a fine of USD 50 000 to USD 1 million for local industrial or semi-industrial vessels or foreign fishing vessels, or with a fine of 500 penalty units in any other case (article 90).
- Targeting **gravid lobsters, crustaceans or juvenile fish** is sanctioned with a fine of USD 50 000 to USD 1 million for local industrial or semi-industrial fishing vessels or foreign fishing vessels, or with a maximum of 250 penalty units in any other case; the catch, fishing gear or any other apparatus or any combination of them used to commit the offense may be forfeited (article 89).
- Fishing vessels having taken on board, transhipped or landed undersized fish, or having engaged in fishing a stock that is subject to a moratorium or for which fishing is prohibited are presumed to be engaged in **IUU fishing** and, as such, may be sanctioned with a fine of USD 1 million to USD 2 million for the first contravention; with a fine of USD 2 million to USD 4 million and 6 months suspension of the license from the date of conviction for the second contravention; and with a fine of USD 2 million to USD 4 million, withdrawal of the license and deletion of the vessel from the Ghana Shipping Registry for the third contravention (article 88A(e)(j), introduced by the 2014 Fisheries (Amendment) Act).
- Catching or landing of commercially important fish species **below the prescribed size** is sanctioned with a fine of 50 penalty units and/or with a maximum of 3 months imprisonment; the fish caught or landed in breach of this provision shall be confiscated (article 14 of the 2010 Fisheries Regulations).

#### Damage to artisanal gear

- **Foreign vessels fishing** in Ghanaian waters shall be operated in a way that does not disrupt or adversely affect the activities of local and artisanal fishermen and fishing vessels (article 62); the applicable sanctions are established under article 82 (see below).
- Any person aboard a **motor fishing vessel** destroying or damaging an appropriately marked fishing gear of an artisanal fisherman within the inshore exclusive zone is sanctioned with a fine of USD 5 000 to USD 100 000; the master, owner and charterer of the motor vessel are jointly and severally responsible for providing to the aggrieved artisanal fishermen: full compensation for the destroyed gear either in kind or in cash and adequate compensation for lost fishing time (article 82).
- A general provision is also made on **wilful damage to fishing vessel, gear or other fishing appliance**, which is sanctioned with a fine of USD 50 000 to USD 2 million where the offense is committed in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel, or 250 to 1 000 penalty units in any other case, and/or with a maximum of 2 years imprisonment

and the obligation to fully compensate the aggrieved person for the damage or destruction (article 129).



### 3.4 Liberia

#### 3.4.1 Liberia – General legal framework

The main text regulating fishing activities in Liberia is the **1976 Law on Marine Fisheries** (Liberian Code of Laws, Title 24, Natural Resources Law, 1958), under which the **2010 Fisheries Regulations** were adopted. These regulations, the full title of which is Regulations relating to fisheries, fishing and related activities, for the marine fisheries sector in the Republic of Liberia, repeal the 1973 Revised Fishing Rules and Regulations and render inoperable any contrary provision of the 1976 Marine Fisheries Law (sections 90-101). **Liberia's 2015 Draft Fisheries Act** is presently with Bureau of National Fisheries (BNF), under the Ministry of Agriculture (MoA), and is currently in the process of being reviewed by stakeholders for onward submission to parliament.

Also relevant are the texts governing maritime affairs: the **1956 Maritime Law and Regulations**, both amended in 2002 (Liberian Code of Laws, Title 21, Maritime Law) and **Executive Order n. 39 of 2012 delimiting the maritime zones of the Republic of Liberia**, extended by **Executive Order n. 48 of 2013**. The Liberian Maritime Law was further amended by the **2009 Marine Vessels, Registration and Control Act**.

#### 3.4.2 Liberia – Domestication of FCWC provisions

##### Ratification of treaties & access by foreign vessels

Regarding **international agreements**, Liberia is a party to the 1982 LOSC, the 1995 UNFSA and the 2000 UNTOC, but is yet to accede to the 1993 FAOCA, the 2007 WFC and the 2009 PSMA. Accession to the latter agreement is reportedly in process. Liberia is also a member of most international and regional organizations relevant to fisheries and maritime affairs, namely the AU, ECOWAS, ICCAT, INFOPECHE and CECAF. The country is a signatory to the ATLAFCO Convention and the Abuja MoU but has not yet ratified them.

According to the 2010 Fisheries Regulations, **foreign vessels** may be authorized to fish in Liberian waters only where they hold “a valid and applicable authorization or license to fish in areas beyond national jurisdiction” to be issued by the relevant flag State authorities (section 19(1))<sup>18</sup>. The 2010 Regulations do not provide that foreign vessels may only fish in Liberian waters under the framework of a fisheries access agreement between Liberia and the relevant flag State. However, reference to relevant access agreements is made for the determination of fees and performance bonds to be paid by foreign vessels before issuance of a license to fish in Liberian waters (section 21 and schedule 1). Currently, the only access agreement in force in Liberia is the EU SFPA, which requires the embarkation of **Liberian seamen** on board European vessels. An agreement for tuna fishing is under negotiation with the Ghanaian company PANOFI. The **chartering** of foreign vessels is regulated under the 1956 Maritime Law.

##### *Recommended actions:*

- Accede to the 1993 FAOCA, the 2007 WFC and the 2009 PSMA; and
- Apply for membership with ATLAFCO and the Abuja MoU.

##### Management measures and plans

The 2010 Fisheries Regulations, adopted under the 1976 Law on Marine Fisheries, provide on the adoption of the main international **principles and approaches** for the sustainable management of fisheries resources. The regulations require the BNF to take into account the following management principles: the precautionary approach; the ecosystem approach; the effective control of harvesting and other forms of utilisation of resources; the appropriate allocation of resources in developing the fisheries sector; the

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<sup>18</sup> All articles cited in this section refer to the 2010 Liberian Fisheries Regulations unless indicated otherwise.

optimal utilisation of resources for value creation; and the reduction of negative impacts on living marine resources from harvesting methods and the use of fishing gear (section 3). Conservation and management measures may include the **total allowable catch** (TAC) and/or total applied effort to be allocated in any year to any fisheries sub-sector and shall take into account consultations with stakeholders (sections 4(2) & (5)). Fisheries management plans shall be prepared by the BNF and submitted to the minister responsible for fisheries for approval (section 5).

An **Inshore Exclusion Zone** (IEZ) of 6nm reserved for subsistence, artisanal and semi-industrial fishing activities and artisanal fishing vessels is established under the 2010 Regulations (section 6). A general provision is made under the Law empowering the Department of Agriculture (now, Ministry of Agriculture) to establish **fishing zones** “to protect and preserve the species from extermination ... and ... for special type of fishing or for experimental purposes”, as well as “to close any area or zone found to be breeding ground for shrimps or any marine fish for a definite season in order to save the eggs and young of such marine life” (article 99 of the 1976 Law). To date, regulatory provisions on **closed seasons** have not been adopted. In the same vein, the law requires fishermen to release crabs and lobsters caught with **eggs** “to ensure the propagation of the species” (section 97 of the law).

Regarding **fishing gear and methods**, the **1976 Law on Marine Fisheries** prohibits the use of dynamite for fishing purposes, except for authorized scientific investigation, as well as the placing of poisonous substance in national waters for the purpose of catching fish (sections 94 and 95 of the law). Furthermore, it prohibits fishing with trawl nets with cod ends smaller than 3-inch (76.2 mm) mesh and with beach seines with cod ends less than 2.5 inches (63.5 mm) in Liberian waters (section 96 of the law). The **2010 Fisheries Regulations**, however, overrule the provisions on dynamite and trawl nets of the 1976 Laws, which may be considered obsolete. In particular, the new regulations prohibit the use of fishing gear that has not been authorized by a valid fishing license; pair trawling is prohibited as well as the use of explosives, firearms, lights or other electrical devices or poison for the purpose of fishing (section 7). Requirements for trawling gear are established in Schedule 6 to the regulations: the mesh of the cod end of the net shall be between 27 and 40 mm, among other specifications (section 28(f)). A written authorization from the BNF is required for the use of Fish Aggregating Devices (FADs) (sections 14 and 36).

#### *Recommended actions:*

- Provide for consultation of neighbouring countries for the management of shared stocks;
- Provide for the adoption of across-sectoral approach in fisheries management;
- Require that design and implementation of management plans take into account relevant biological, economic, environmental and social factors;
- When determining TAC and fishing effort, define national fishing capacity to allow identification of surplus resources to be allocated to foreign fishing vessels through fisheries access agreements with relevant flag States, in line with LOSC article 62;
- Adopt regulations on protected fishing areas, closed fishing seasons and minimum fish size;
- Identify and prohibit the capture of protected or endangered species; and
- Regulate by-catch and discards at sea.

#### Control of artisanal fishing

Artisanal fishing is subject to **licensing** under the 2010 Fisheries Regulations (sections 11 and 14). A number of **requirements** are set for the granting of any type of fishing license regarding, *inter alia*, the fishing vessel and gear (section 28 and Schedules 4 to 6 on the marking of vessels and gear and on vessel registration). Artisanal vessels must be duly registered and marked; a registration certificate is issued by the BNF upon inspection to assess seaworthiness and compliance with safety standards. Interested parties shall apply for registration with the BNF Coordinator and pay the prescribed fee. Quotas on artisanal fishing vessels may be established, and licensing conditions may be defined in relation to a given fishing area (section 34). The **reserved area** for artisanal fishing is the 6nm IEZ (section 6).

*Recommended actions:*

- Require the use of VHF for artisanal fishing and notification of departures/entries; and
- Establish a consultation platform to engage stakeholders in decision-making procedures.

Licensing system for industrial fishing vessels

A **valid license** is required for any fishing activity in Liberian waters under the 2010 Regulations, including industrial, semi-industrial and artisanal fishing as well as transshipment (sections 11 and 14). The license application form provided in Schedule 2 of the 2010 Regulations is generally compliant with the form established under Annex 1 to the 2013 FCWC Access Convention. Licensed national vessels wishing to operate on the high seas must have their license endorsed by the fisheries administration to that effect (section 29(g)). **Fees** for industrial fishing are fixed under Schedule 3 of the Regulations – 10 % of the value of catch and by-catch in the licensing period, based on expected catch quantities notified by the vessel operator and the monthly estimates of the BNF (section 23). Such provisions overrule those on fishing licenses and fees provided in the 1976 Law (section 90 of the law).

As a **pre-condition** for licensing, a performance bond must be paid and a local agent must be appointed for any foreign vessel (section 17). In addition, a pre-fishing inspection is required for any industrial or semi-industrial fishing vessel (section 18). Moreover, any vessel may only hold one valid fishing vessel registration at a time (section 28). The regulations allow the BNF Coordinator to **suspend or cancel** any license/authorization as an administrative sanction, in case of breach of its provisions, and regulate a number of other aspects such as the application process, granting and renewal requirements, and terms and conditions of the license (sections 14 *et seq.*). The granting or renewal of a license/authorization shall be denied if the concerned vessel was previously licensed by a foreign State for fishing within or beyond areas of national jurisdiction, and the license was suspended or withdrawn on grounds of conviction of a violation under national law or because the vessel undermined the effectiveness of international conservation and management measures (section 19(2)).

*Recommended actions:*

- Subject the granting of high seas fishing licenses to the ability of the government to ensure effective jurisdiction over the concerned vessels;
- Indicate the IMO identification number of the vessel on industrial fishing licenses;
- Prohibit transshipment at sea; and
- Ban vessels without nationality from Liberian waters.

Registers of industrial fishing vessels

**Vessel registration** is governed by the 1956 Maritime Law and Regulations. Fishing vessel registration is one of the conditions required for the granting of fishing licenses under the 2010 Fisheries Regulations. In addition, **fishing gear must be approved** for fishing pursuant to the license (section 28). The BNF shall maintain a register of any fishing vessel required to be registered under the regulations (section 42). The provisions of the 1976 Law on Marine Fisheries on the registration of all fishing vessels and gear may be considered obsolete (section 91 of the Law). On the other hand, the regulations require the establishment of a **register of fishing licenses** for vessels authorized to fish in national waters and beyond areas of national jurisdiction. The content of the register of licenses is defined, and the BNF Coordinator shall provide access to information from the register to all interested foreign States and international fisheries bodies, in accordance with international agreements that Liberia has ratified (section 27).

*Recommended actions:*

- Coordinate the adoption of a common format with FCWC member States for the register and list of licensed fishing vessels.

#### Collection and sharing of information and data

The BNF may require fishing vessels to **provide information** on fishing, landing, storage, processing and any related transactions, and authorization holders, ship owners, operators or agents must **keep records** of such information as required to ensure fish product traceability (section 42). The maintenance of fishing and navigation **logbooks** at all times is a condition for the granting of an industrial license (section 28). Information is provided under the general obligation of being true, complete and accurate and becomes the ownership of the government (sections 40 and 41). Appropriate **registers** are maintained by the administration in accordance with section 43 of the Regulations.

The BNF may also require any fishing vessel to take an **observer** on board appointed in writing by the BNF Coordinator (section 49). Observers shall exercise scientific, monitoring and compliance functions within national waters and beyond areas of national jurisdiction (section 48). The cost for their services is borne by the license holder, who shall provide the monies in advance to the BNF (section 51). The possibility of requiring embarkation of an observer and the duty to provide information on catch, gear and fishing area were already found in the 1976 Law (sections 98 and 100 of Law).

Furthermore, the 2010 Fisheries Regulations provide that the BNF Coordinator “may require the operator of any fishing vessel, as a condition of license, to install, maintain and operate ... a Mobile Transceiver Unit (MTU) or other device or equipment that is an integral component of a vessel monitoring system” (section 55, emphasis added). According to Liberian authorities, it is current practice to require installation of **VMS** equipment on all industrial fishing vessels as a licensing condition. Vessels must notify **entry into and exit from** Liberian waters and declare the type and quantity of catch on board (section 13). The regulations include a number of **port State measures**, such as the requirement for a prior information and authorization for use of ports by foreign fishing vessels, the denial of port use and inspections at port (sections 37 to 39). Schedules 7 to 9 provide for a prior information form, a set of inspection procedures and a port inspection form.

#### *Recommended actions:*

- Provide for the progressive set up of electronic information systems, registers and logbooks.

#### Market-related measures

The regulations require fishing license holders, ship owners, operators or agents to keep records of such information as required to ensure **fish product traceability** and to communicate any required information to the BNF (section 42).

#### *Recommended actions:*

- Provide for the organization of wholesale fish merchants.

#### Effectiveness of law enforcement

MCS responsibilities are discharged by the BNF in **collaboration** with relevant government bodies, namely the Coast Guard, the Bureau of Maritime Affairs, the National Police, the Ministry of Justice and the Bureau of Immigration and Naturalization (section 44). Fisheries **inspectors** are appointed to exercise fisheries MCS functions (sections 45 and 46). They have the **power** to stop, board and search any vessel in Liberian waters and any national vessels outside such waters; they may inspect and take samples, monitor landing and transshipment operations, require information, examine gear, equipment and documentation, and test any electronic equipment, and may seize any vessel, gear, equipment or catch that may have been used to commit an offense (section 47). Inspectors and observers benefit from **immunity** for acts done in good faith in the execution of their powers (section 57).

#### *Recommended actions:*

N/A

#### Effectiveness of sanctions

Offenses are sanctioned with **monetary fines**, expressed in USD and imprisonment or any form of corporal punishment is specifically excluded for foreign vessels operating in the Liberian EEZ, as defined by Executive Order n. 48 of 2013 (sections 58 and 59 of the 2010 Fisheries Regulations). Each day of a **continuing offense** shall be considered a separate offense (section 60). **Forfeiture** of the vessel, gear and/or catch, and **cancellation or suspension** of the license are provided for serious offenses (section 58(7)). No **out-of-court settlement** procedures are provided for in the 2010 Regulations. The general penalty established under the 1976 Law on Marine Fisheries is deemed obsolete (section 101 of the Law).

#### *Recommended actions:*

- Grant to the fisheries administration the power to compound certain offenses through out-of-court settlement procedures.

### **3.4.3 Liberia – Legal responses to most common fisheries law violations**

#### Fishing without authorization

- **Fishing without a valid license** or any other activity performed without the required authorization is sanctioned with a fine not exceeding USD 1 million, and may be subject to forfeiture of the vessel, gear and/or catch, and to cancellation or suspension of the license (sections 11(1), 14(1) and 58(6)(7) of the Regulations).
- This regulatory provision overrules the provisions of the **law** on industrial fishing regulations (sections 90 and 101 of the Law).

#### Fishing with unauthorized gear or methods

- The use or attempt to use fishing gear that has **not been authorized** by a valid and applicable fishing license is sanctioned with a fine not exceeding USD 250 000, and may be subject to forfeiture of the vessel, gear and/or catch, and to cancellation or suspension of the license (sections 7(a) and 58(3)(7) of the Regulations).
- This regulatory provision overrules the provisions of the **law** sanctioning the use of prohibited fishing gear and methods (sections 94, 95, 96 and 101 of the Law).

#### Fishing in prohibited areas

- Performance of industrial fishing activities in the **inshore exclusion zone** is sanctioned with a fine not exceeding USD 50 000, and may be subject to cancellation or suspension of the authorization (sections 6(2) and 58(2)(7)).
- The Ministry of Agriculture may establish **protected or reserved fishing zones** or protected breeding grounds, in accordance with section 99 of the 1976 Law. It is arguable that the applicable sanction for fishing in such areas is the one provided under the 2010 Fisheries Regulations for general compliance by license holders with conservation and management measures and with activities stated in the license: a fine not exceeding USD 50 000 and cancellation or suspension of the license (sections 21 and 58(2)(7)).
- The sanctions established under section 101 of law for fishing in prohibited fishing zones shall be considered obsolete – a fine of USD 50 to USD 500 or 2 to 18 months imprisonment and confiscation of any fish unlawfully caught (section 101 of the Law).

#### Use of forged documentation

- **False statements, tampering with public records, and forgery and counterfeiting** are considered criminal offenses under the Penal Law of Liberia of 1976, sections 12.31(2), 12.34 and 15.70 respectively. All three offenses are classified as first-degree misdemeanors, except forgery and counterfeiting which may be considered as a second- or third-degree felony under specific conditions.

- A person convicted of a **misdemeanor of the first degree** may be sentenced to a definite term of imprisonment to be fixed by the court at no more than 1 year and to a maximum fine of USD 1 000 or double the gain realized by the defendant (sections 50.7(a) and 50.9(1)(c) & (2)(c) of the Penal Law<sup>19</sup>).
- A person convicted of a **felony of the third degree** may be sentenced to a definite term of imprisonment to be fixed by the court at not more than 3 years and to a maximum fine of USD 5 000 (sections 50.5 and 50.9 of the Penal Law).
- A person convicted of a **felony of the second degree** may be sentenced to a definite term of imprisonment to be fixed by the court at no more than 5 years and, for corporations, to a maximum fine of USD 10 000 or double the gain realized by the defendant. For individuals, the fine may not exceed an amount double the gain realized by the defendant, if any; if the felony did not result in gain for the defendant, only imprisonment without a fine may be imposed (sections 50.5 and 50.9 of the Penal Law).

#### Provision of false or incomplete information

- Provision of **false, misleading or inaccurate** information and **omission** to communicate or record any prescribed material information is sanctioned with a fine not exceeding USD 10 000 (sections 40 and 58(1)).

#### Illegal transshipment

- **Any fishing activity**, including transshipment, without a valid license/authorization is sanctioned with a fine not exceeding USD 1 million, and may be subject to forfeiture of the vessel, gear and/or catch, and to cancellation or suspension of the license (sections 11(1), 14(2) and 58(6)(7) of the Regulations).
- **Illegal transshipment** operations –non-compliance with the prescribed port or area for transshipment or with the authorized time, or failure to submit full reports on transshipment operations – is sanctioned with a fine not exceeding USD 500 000, and may be subject to cancellation or suspension of the authorization (sections 35(1) and 58(2)(7) of the Regulations).
- **Non-compliance** with prescribed transshipment procedures or with applicable laws on the protection of the marine environment is sanctioned with a fine not exceeding USD 50 000, and may be subject to cancellation or suspension of the authorization (sections 35(2)(3) and 58(2)(7) of the Regulations).

#### Trading in illegal fish

- Enforcement officers shall **seize fish** which they have reasonable grounds to believe have been taken, killed, transported, bought, sold or found in the possession of any person in contravention of the Fisheries Regulations (section 47(h)).

#### Targeting of unauthorized species

- Unless new regulations have been adopted, the only provision concerning protected species is made in the 1976 Law on Marine Fisheries with regard to **crabs and lobsters** found with eggs, which shall be released (section 97 of the Law). It is arguable that the applicable sanction is the one provided under the 2010 Fisheries Regulations for general compliance by license holders with conservation and management measures and with activities stated in the license: a fine not exceeding USD 50 000 and cancellation or suspension of the license (sections 21 and 58(2)(7)).
- The sanctions established under section 101 of law for catching and not releasing protected crustaceans bearing eggs shall be considered obsolete – a fine of USD 50 to USD 500 or 2 to 18 months imprisonment and confiscation of any fish unlawfully caught (section 101 of the Law).

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<sup>19</sup> The version of the Penal Law of Liberia available online, section 59(2)(c), mistakenly refers to “misdemeanor of the second degree”, which is covered under the following literal (d) similarly to the provisions of section 59(1).

#### Damage to artisanal gear

- Any person damaging or unnecessarily endangering the **fishing gear** owned by another fishermen or associated with another fishing vessel shall compensate the owner of the fishing gear for any damage caused and is sanctioned with a fine not exceeding USD 50 000 (sections 8 and 58(2)(7) of the Regulations).

## 3.5 Nigeria

### 3.5.1 Nigeria – General legal framework

The main texts governing fishing activities in Nigeria are the **2004 Sea Fisheries Act** (Laws of the Federation of Nigeria, Chapter S4), formerly known as Sea Fisheries Decree n. 71 of 1992 that replaced the Sea Fisheries Act (n. 30 of 1971), the **1992 Sea Fisheries (Licensing) Regulations** (SI 18), the **1992 Sea Fisheries (Fishing) Regulations** (SI 19) and the **1992 Sea Fisheries (Fish Inspection and Quality Assurance) Regulations** (SI 22). Nigeria's **2012 Draft Fisheries Act**, prepared with EU ACP Fish II assistance, is currently with the legal department of the Federal Department of Fisheries. The new act provides for higher fines; once approved, it shall repeal the current Sea Fisheries Act.

Also relevant is the **1965 Live Fish (Control of Importation) Act**. In addition, three main texts regulate maritime affairs: the **2007 Merchant Shipping Act and Regulations**; the **2007 Nigerian Maritime Administration and Safety Agency Act** and the **1999 Nigerian Port Authority Act**. The latter text is implemented by the **1955 Nigerian Port Authority (Port) Regulations**, as amended in 1956.

### 3.5.2 Nigeria – Domestication of FCWC provisions

#### Ratification of treaties & access by foreign vessels

Regarding **international agreements**, Nigeria is a party to the 1982 LOSC, the 1995 UNFSA and the 2000 UNTOC, but is yet to accede to the 1993 FAOCA, the 2007 WFC and the 2009 PSMA. Accession to the latter agreement is reportedly in process. Nigeria is also a member of all international and regional organizations relevant to fisheries and maritime affairs, namely the AU, ECOWAS, ICCAT, ATLAFCO, INFOPECHE and CECAF, as well as the Abuja MoU. It should be noted that Nigeria is yet to sign the 2013 Access Convention and the 2014 Information Sharing Convention of the FCWC.

The 2004 Sea Fisheries Act does not differentiate between national and **foreign vessels**, and no mention is made of fisheries access agreements with foreign fishing nations. No such access agreement is currently in place. The **chartering** of foreign vessels is regulated under the 2007 Merchant Shipping Act.

#### *Recommended actions:*

- Accede to the 1993 FAOCA, the 2007 WFC and the 2009 PSMA;
- Sign the 2013 and 2014 FCWC Access and Information Conventions; and
- When entering into access agreements with foreign countries for the exploitation of surplus fisheries resources, require the embarkation of national crew on board foreign fishing vessels.

#### Management measures and plans

Nigerian fisheries legislation does not explicitly require the adoption of international principles and approaches for the sustainable management of national and shared fish stocks. No reference is made to the definition of total allowable catch (TAC) or fishing effort. Although management plans are not mentioned, the minister responsible for fisheries may make regulations to establish **conservation and management measures** (section 14 of the 2004 Sea Fisheries Act). In this regard, the 1992 Sea Fisheries (Fishing) Regulations regulate fishing operations and contain provisions on authorized fishing zones, fishing gear, minimum fish size and the protection of juveniles.

Motor fishing boats (except canoes) shall not fish within the first 5nm of the continental shelf (section 1 of the Fishing Regulations). Regarding fishing methods, it is prohibited to fish with explosive or noxious substances (section 10 of the 2004 Sea Fisheries Act). Concerning by-catch, it is prohibited to dump edible and marketable sea product at sea (section 4 of the Fishing Regulations). The 1992 Fishing Regulations establish the minimum size for lobsters, crabs and shrimps, and the Nigerian Institute for Oceanography



and Marine Research publishes on January 31<sup>st</sup> the minimum total length of fish catchable during the year for each of the commercial species (sections 5, 12, 14 and 19 of the Fishing Regulations).

*Recommended actions:*

- Introduce international sustainable fisheries principles in the new fisheries act, i.e. the precautionary approach, the ecosystem approach, the participatory approach; the cross-sectoral approach, and the adoption of management plans taking into account biological, economic, environmental and social factors;
- Define TAC, optimal fishing effort and national fishing capacity as a basis for fisheries management, and identify surplus resources to be allocated to foreign fishing vessels through fisheries access agreements with relevant flag States, in line with LOSC article 62.
- Adopt conservation and management measures establishing prohibited or protected fishing areas and closed seasons or temporary suspension of fishing activities (spatial and temporal control);
- Identify and prohibit the capture of protected or endangered species; and
- Improve regulation of by-catch and discards at sea.

Control of artisanal fishing

The first 5nm of the Nigerian continental shelf are **reserved** for artisanal fishing (section 1 of the Fishing Regulations). Although the regulations do not explicitly refer to artisanal fishing but prohibit the use of motor fishing boats in the area, except canoes. Conservation and management measures relating to fishing gear and minimum fish size are applicable to all types of fisheries. No specific rules are established for the licensing of artisanal fishing vessels.

*Recommended actions:*

- Introduce a licensing regime for artisanal fishing;
- Promote the use of VHF on board artisanal fishing vessels;
- Require registration for canoes.

Licensing system for industrial fishing vessels

The main provisions on licensing of fishing activities are established under the 2004 Sea Fisheries Act and the 1992 Licensing Regulations. All **motor fishing boats** require a license in order to fish or discharge frozen fish in Nigerian waters (section 1 of the 2004 Act). Applications must include information on the applicant, partners and company, as well as on the tonnage, construction year and horsepower of the vessel (section 7 of the Licensing Regulations)<sup>20</sup>. Unlicensed vessels in transit shall stow their gear (section 2 of the Act). A license to fish in Nigerian **territorial waters** may be granted to fishing vessels not exceeding 25.3 metres in dimension and 150 GT and to shrimp trawlers not exceeding 23.2 metres in dimension and 130 GT (section 8 of the Licensing Regulations). A **distant-water fishing** license is reportedly required for Nigerian vessels operating outside national waters; however, no provision is made in legislation in this regard. A flat licensing rate is applied to all fishing vessels, regardless of their size (see comparative table on licensing conditions in Annex 5.4 of this report).

*Recommended actions:*

- Clarify the regulatory framework of distant-water fishing and subject the granting of licenses to the ability of the government to exercise effective jurisdiction over vessels authorized to perform this type of fisheries;
- Apply a different licensing rate according to the size and type of the fishing vessel;
- Verify that the information required in the application form for motor fishing vessels (Schedule to the Licensing Regulations) is fully compliant with the information established in the application form appended to the 2013 FCWC Access Convention (Annex 1);

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<sup>20</sup> A reliable version of the Schedule to the Licensing Regulations containing the forms for licensing applications was not found on the Internet.

- Indicate the IMO identification number of the vessel on industrial fishing licenses;
- Ban vessels without nationality from Nigerian waters; and
- Prohibit transshipment at sea.

#### Registers of industrial fishing vessels

**Vessel registration** is governed by the 2007 Merchant Shipping Act and Regulations. Due registration of fishing vessels is required under both the 2004 Sea Fisheries Act and the 1992 Sea Fisheries (Licensing) Regulations (section 1 of the Sea Fisheries Act and section 3 of the Licensing Regulations). Legislation does not require the administration to keep a register of fishing licenses.

#### *Recommended actions:*

- Provide for a register of fishing licenses or licensed fishing vessels; and
- Coordinate the adoption of a common format with FCWC member States for the register and list of licensed fishing vessels.

#### Collection and sharing of information and data

The owner of a licensed vessel must render to the fisheries administration **periodical returns** on the vessel operations as may be required (section 8 of Sea Fisheries Act).

#### *Recommended actions:*

- Provide for the set up of a reliable system for the collection and sharing of information from vessels (catch data, logbook, VMS, EEZ entry/exit, port entry, observers); and
- Promote the progressive set up of electronic information systems, registers and logbooks.

#### Market-related measures

The sale of **undersized fish** is prohibited, as well as the marketing of fish that does not meet **health standards**, is poisonous, contains biotoxins or is radioactive (section 11 of the Fishing Regulations, and section 5 of the Fish Inspection Regulations). Import, export or sale of fish is subject to a recorded **inspection**, accompanied by the prescribed documentation to verify compliance with the regulatory requirements (section 10 of the Fish Inspection Regulations).

#### *Recommended actions:*

- Put in place a fish product traceability system and adopt related market measures; and
- Promote the organization of wholesale fish merchants.

#### Effectiveness of law enforcement

The fisheries legislation is enforced by any **authorised person**: a licensing officer; any commissioned officer in the Nigerian Army, Navy or Air Force; a police officer not below the rank of assistant superintendent of police; a customs officer not below the rank of assistant preventive superintendent; a surveyor or examiner appointed under the provisions of the Merchant Shipping Act; or any other person authorized in writing by the minister in charge of fisheries.

Enforcement officers have the **power** to board, search and examine any motor fishing boat licensed to fish or fishing in Nigerian waters, and require the exhibition of the license, fishing apparatus and catch. In case of suspicion, they may take the alleged offender to the most convenient port or police station. Fishing vessel and gear may be detained pending the trial (section 9 of the Sea Fisheries Act).

#### *Recommended actions:*

- Grant inspectors the power to take samples in case of suspicion of breach; and
- Provide for inter-institutional coordination between enforcement authorities.

#### Effectiveness of sanctions

**Fines** are expressed in USD or in Nigerian naira (NGN). A **general penalty** is established under the 2004 Fisheries Act: contravening or failing to comply with any condition endorsed on a license or breaching any fisheries regulations for which no penalty is prescribed, is sanctioned with a fine of NGN 50 000 (section 11 of the Act).

Some offenses are sanctioned with an **imprisonment** term, such as fishing without a license or with noxious substances; foreign fishing vessels operating in the Nigerian EEZ are not explicitly excluded from such provisions. As an **administrative sanction**, licenses may be cancelled or suspended without any assigned reason (section 4(5) of the Act). No **out-of-court settlement** procedures are provided for in the Act.

#### *Recommended actions:*

- Increase sanctions to enhance deterrence;
- Explicitly exclude imprisonment in case of foreign fishing vessels operating in the Nigerian EEZ;
- Improve administrative transparency by requiring a motivated decision for the suspension or cancellation of a license; and
- Grant to the fisheries administration the power to compound certain offenses through out-of-court settlement procedures.

### **3.5.3 Nigeria – Legal responses to most common fisheries law violations**

#### Fishing without authorization

- Operating a motor fishing boat for **fishing** in Nigerian waters **without a license** is sanctioned with a fine of USD 250 000 and/or to 5 years imprisonment; the motor fishing boat and the fish or shrimp catch on board shall be forfeited (section 1 of the 2004 Act).
- Operating a motor fishing boat for **fishing** in Nigerian waters with an **expired license** is sanctioned with a fine of NGN 50 000; any catch on board shall be forfeited (section 5 of the Act).
- The regulations provide for **forfeiture of the fish** or shrimp catch on board any fishing vessel caught while operating without a license in Nigerian territorial waters (*sic*) (section 5 of the Licensing Regulations).

#### Fishing with unauthorized gear or methods

- Fishing with **explosive or noxious substances** is sanctioned a fine of NGN 50 000 or 2 years imprisonment (section 10 of the Fisheries Act).
- Fishing with **prohibited or non-compliant gear** is sanctioned with the general penalty of NGN 50 000 (sections 2, 3, 10 and 13 of the Fishing Regulations and section 11 of the Fisheries Act):
  - Non compliance with the prescribed characteristics of authorized trawl nets (section 13);
  - Use of illegal mesh size for inshore-water trawling and for shrimp trawling;
  - Unlawful use of licensed vessel (e.g. fish trawlers may not be used to catch shrimp)
  - Trawling and pair trawling within the first 5nm of the continental shelf<sup>21</sup>;
  - Shrimp trawlers operating in waters shallower than 18 m.

#### Fishing in prohibited areas

- The **first 5nm** of the continental shelf are reserved for artisanal fishing and no motor fishing vessels are allowed (section 1 of the Fishing Regulations).

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<sup>21</sup>The provisions of section 10 of the Fishing Regulations seem to suggest that only vessels above 20 GT may trawl for shrimp within Nigerian inshore waters – “No motor fishing boat ... of less than 20 gross tonnage shall trawl for shrimps within Nigerian inshore waters”.

- Nigerian **territorial waters** are only permitted to fishing vessels up to 25.3 m (and 150 GT) and to shrimp trawlers up to 23.2 m (and 130 GT) (section 8 of the Licensing Regulations).
- Breach of any of the above provisions is sanctioned with the **general penalty** of NGN 50 000 (section 11 of the Fisheries Act).

#### Use of forged documentation

N/A

#### Provision of false or incomplete information

- Knowingly making a **false statement** in the process of furnishing any information for procuring a license is sanctioned with a fine of NGN 50 000 (section 12 of the Fisheries Act and section 13 of the Licensing Regulations).

#### Illegal transshipment

- Operating a motor fishing boat for **discharging frozen fish** in Nigerian waters **without a license** is sanctioned with a fine of USD 250 000 and/or to 5 years imprisonment; the motor fishing boat and the fish or shrimp catch on board shall be forfeited (section 1 of the 2004 Act).
- Operating a motor fishing boat for **discharging frozen fish** in Nigerian waters with an **expired license** is sanctioned with a fine of NGN 50 000; any catch on board shall be forfeited (section 5 of the Act).
- The provisions on **import, export or sale** of fish reported below may be relevant to the control of transshipment.

#### Trading in illegal fish

- Catching, landing, retaining, selling, exposing, offering or possessing for sale any **fish below the prescribed size** is sanctioned with the general penalty of NGN 50 000 (sections 11 and 14(2) of the Fishing Regulations, and section 11 of the Fisheries Act).
- The **import, export, processing, moving or sale** in Nigeria of fish that does not meet health standards, is poisonous, contains biotoxins or is radioactive is sanctioned with a fine of NGN 50 000 and the seizure of the fish (sections 5 and 14(d) of the Fish Inspection Regulations).
- The **import, export or sale** of fish or fishery products, including the loading of a vessel for export or the unloading of imported fish, without undergoing a recorded inspection, accompanied by the prescribed documentation to verify compliance with the regulatory requirements, is sanctioned with a fine of NGN 50 000 and the seizure of the fish or fishery product (section 10 and 14(g) of the Fish Inspection Regulations).

#### Targeting of unauthorized species

- Catching, landing, retaining, selling, exposing, offering or possessing for sale any **fish below the prescribed size** is sanctioned with the general penalty of NGN 50 000 (sections 11 and 14(2) of the Fishing Regulations, and section 11 of the Fisheries Act).
- Not returning **berried crabs or lobsters** (carrying eggs) to the waters is sanctioned with the general penalty of NGN 50 000 (section 20 of the Fishing Regulations and section 11 of the Fisheries Act).

#### Damage to artisanal gear

- It is prohibited for licensed vessels to operate within **0.5nm of set gear** that is visibly marked (section 21 of the Fishing Regulations).
- When trawling at night, licensed vessels are required to switch on a searchlight to pick out or **avoid the set nets** of artisanal fishermen (section 15 of the Fishing Regulations).
- Breach of any of the above provisions is sanctioned with the **general penalty** of NGN 50 000 (section 11 of the Fisheries Act).
- Damage to the gear set of another vessel shall be notified by the person who caused the damage to the Federal Department of Fisheries which shall **arbitrate** in the matter – the decision is binding

and may only be opposed by filing a suit in court within 7 days (section 15 of the Fishing Regulations).

## 3.6 Togo

### 3.6.1 Togo – General legal framework

The main fisheries law governing fishing activities in Togo is **Law n. 12 of 1998 regulating Fisheries** (*Loi n. 98-12 du 11 juin 1998 portant réglementation de la pêche*). A **new Fisheries Bill** addressing IUU fishing was recently introduced in parliament, but the text is deemed confidential. The country is currently seeking support for the preparation of regulations to the forthcoming fisheries law. Meanwhile, the regulations adopted under the 1998 Fisheries Law are still applicable, namely **Ministerial Order n. 68 of 2010 regulating the exploitation of fisheries resources in marine waters** (*Arrêté n. 68 du 4 août 2010 fixant les modalités d'exploitation des ressources halieutiques dans les eaux marines*) and **Ministerial Order n. 13 of 1983 regulating lobster fisheries in territorial waters** (*Arrêté n. 13 du 15 juin 1983 portant réglementation de la pêche de la langouste dans les eaux territoriales*).

Furthermore, two sets of regulations have been adopted under **Law n. 2 of 1999 on animal health** (*Loi n. 99-002 du 12 février 1999 relative à la police sanitaire des animaux*) to regulate fish products safety: **Decree n. 67 of 2001 on the production and marketing of fish products** (*Décret n. 2001-67 du 9 mars 2001 fixant les règles sanitaires régissant la production et la mise sur le marché des produits de la pêche*)<sup>22</sup> and **Ministerial Order n. 43 of 2007 on export, import, production and marketing of food products of animal or fish origin** (*Arrêté n. 43 du 20 avril 2007 portant fixation des conditions d'exportation, d'importation, de production et de mise sur le marché des denrées alimentaires d'origine animale et/ou halieutique*)<sup>23</sup>.

Finally, also relevant are **Framework-Law n. 5 of 2008 of the Environment** (*Loi n. 2008-005 du 30 mai 2008 instituant loi-cadre sur l'environnement*) and a number of texts on maritime affairs, in particular: **Ordinance n. 29 of 1971 adopting the Merchant Navy Code**, as amended (*Ordonnance n. 29 du 12 août 1971 portant Code de la marine marchande, telle qu'amendée par l'Ordonnance n. 82 portant modification de l'article 9*); **Ordinance n. 24 of 1977 delimiting territorial waters and creating a protected economic maritime zone** (*Ordonnance n. 24 du 16 août 1977 portant délimitation des eaux territoriales et création d'une zone maritime économique protégée*); and **Decree n. 182 of 1982 establishing a Maritime Charter**, which regulates navigation operations by registered vessels (*Décret n. 82-182 du 8 juillet 1982 portant institution d'une Charte maritime*).

### 3.6.2 Togo – Domestication of FCWC provisions

#### Ratification of treaties & access by foreign vessels

Regarding **international agreements**, Togo is a party to the 1982 LOSC and the 2000 UNTOC, but is yet to accede to the 1993 FAOCA, the 1995 UNFSA, the 2007 WFC and the 2009 PSMA. Accession to the latter agreement is reportedly in process. The country is also a member of most international and regional organizations relevant to fisheries and maritime affairs, namely the AU, ECOWAS, INFOPECHE and CECAF. Togo is a signatory to the ATLAFCO Convention but has not yet ratified it; the country is however reported to actively participate in ATLAFCO meetings. Importantly, Togo is not yet an ICCAT member.

The 1998 Fisheries Law states that fishing in Togolese waters is reserved to national fishing vessels, to **foreign vessels** flying the flag of a State having signed an agreement with Togo, and to foreign nationals and boats authorized by Togo (article 5)<sup>24</sup>. Coastal fisheries within territorial waters is reserved to Togolese and *assimilated* (sic) artisanal fishermen and to foreign vessels under the framework of a reciprocity agreement with Togo (article 12). Currently, no fisheries access agreement is in place. No provision is made in legislation on the **chartering** of foreign vessels.

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<sup>22</sup> Text not available.

<sup>23</sup> Text not available.

<sup>24</sup> All articles cited in this section refer to the 1986 Fisheries Law of Togo unless indicated otherwise.

*Recommended actions:*

- Accede to the 1993 FAOCA, the 1995 UNFSA, the 2007 WFC and the 2009 PSMA;
- Apply for membership with ICCAT and ATLAFCO; and
- When entering into access agreements with foreign countries for the exploitation of surplus fisheries resources, require the embarkation of national crew on board foreign fishing vessels.

Management measures and plans

The 1998 Fisheries Law does not explicitly mention the main international **principles and approaches** for the sustainable management of national and shared fish stocks. No reference is made to the definition of total allowable catch (TAC) or fishing effort. Although the law does not provide for the adoption of management plans, a number of **conservation and management measures** can be retrieved in current legislation. The law prohibits the use of explosives and toxic substances and requires the marking of longlines (articles 8 and 14). It also prohibits the targeting of aquatic mammals and other protected species (article 13). According to the law, **regulations** shall be adopted by decree to establish management measures based on statistical scientific data, namely regarding fishing zones, fishing seasons, quotas on endangered species, authorized gear, use of fishing gear, minimum fish size, fish product safety and licensing (articles 7 and 15). Ministerial Order n. 68 of 2010 regulating the exploitation of fisheries resources in marine waters establishes the conditions for fishing, authorized fishing nets, minimum size of species and fishing zones. In particular, it should be noted that Togo has not established fishing seasons for marine fisheries but only for inland fisheries. The minimum size of lobster is established by Ministerial Order n. 13 of 1983.

*Recommended actions:*

- Introduce international principles of sustainable fisheries management in fisheries legislation (this aspect is likely to be included in the Fisheries Bill currently under discussion);
- Adopt fisheries management plans and regulations for the implementation of the law, including on fishing seasons, minimum size of fishing nets, by-catch and discards at sea; and
- Define TAC, optimal fishing effort and national fishing capacity as a basis for fisheries management, and identify surplus resources to be allocated to foreign fishing vessels through fisheries access agreements with relevant flag States, in line with LOSC article 62.

Control of artisanal fishing

The 1998 Fisheries Law distinguishes between coastal and open sea fisheries (*pêche côtière / pêche au large*). As mentioned earlier, **coastal fisheries** may only be performed by artisanal fishermen (article 12). A **license** is required for all fishing vessels; the issuing authority for fishing vessels up to 25 GT is the director of fisheries (article 16). A **fee** shall be established in accordance to the fishing vessel category. An Inter-ministerial and inter-professional **consultative committee on fisheries** is established with the mandate to coordinate fisheries policy actions and monitoring (article 43). The committee, to be regulated by decree, may function as a platform for stakeholders' consultation, including artisanal fishermen.

*Recommended actions:*

- Adopt a decree regulating the functioning of the consultative committee on fisheries;
- Clarify the status of artisanal fisheries in legislation so as to ensure appropriate control of artisanal fishing activities (registration of artisanal vessels, licensing, use of VHF on board, notification of departures/entries, establishment of appropriate penalties); and
- Include the information required by Annex 2 of the 2013 FCWC Access Convention in the application form for artisanal fishing licenses.

#### Licensing system for industrial fishing vessels

The 1998 Fisheries Law requires a **license** for all fishing vessels; the issuing authority for vessels above 25 GT is the minister in charge of fisheries (article 16). The provision seems to only refer to vessels fishing in national waters. Non-authorized fishing vessels transiting in national waters must stow their gear (article 26). The law states that licensing and control procedures, as well as the withdrawal of fishing licenses shall be regulated by decree (article 7).

Licensing procedures are found in Ministerial Order n. 68 of 2010 regulating the exploitation of fisheries resources in marine waters. Any person who intends to fish must hold a **professional fisherman card**, issued by the fisheries administration valid for 2 years, upon payment of a fee of 2 000 CFA francs (article 2 of the ministerial order). Fishing activities are subject to a **fishing authorization** to be issued by the minister for vessels above 25 GT (the Law uses the term “license”, as stated above) and by the director of fisheries for canoes (article 4 of the ministerial order). **Licensing fees** are established in article 6 of the 2010 Ministerial Order. An authorization is required for transshipment in Togolese waters (article 13 of the ministerial order).

#### *Recommended actions:*

- Require an authorization to fish on the high seas, and subject the granting of such authorization to the ability of the national authorities to exercise effective jurisdiction on the concerned vessel;
- Include the information required by Annex 1 of the 2013 FCWC Access Convention in the application form for industrial fishing licenses;
- Include the IMO identification number of the vessel on industrial fishing licenses;
- Ban vessels without nationality or whose nationality has not been established from Togolese waters; and
- Prohibit transshipment at sea.

#### Registers of industrial fishing vessels

The **registration of vessels** is regulated under the 1971 Merchant Navy Code. The 1998 Law does not require the fisheries administration to keep a register of licensed fishing vessels.

#### *Recommended actions:*

- Establish in legislation the need for a register of licensed fishing vessels; and
- Coordinate the adoption of a common format with FCWC member States for the register and list of licensed fishing vessels.

#### Collection and sharing of information and data

No provision is made on the collection and sharing of information and data on fishing vessels in the 1998 Fisheries Law. Ministerial Order n. 68 of 2010 states that all vessels authorized to fish in Togolese waters must be duly **registered and marked**, and equipped with sufficient safety material, appropriate surveillance system and **communication equipment**, as well as GPS (article 10 of the ministerial order).

#### *Recommended actions:*

- Provide on the duty of fishing vessels to regularly communicate catch data to the fisheries administration, to notify entry into and exit from national waters, and to make advance notification of port entry;
- Provide for the mandatory installation of VMS for industrial vessels;
- Require the presence of observers on board; and
- Promote the progressive adoption of electronic information systems, registers and logbooks.

#### Market-related measures

The **1998 Fisheries Law** makes it an offense to knowingly sell, transport or process any fish product that is caught illegally or in violation of the regulatory measure adopted under article 7 of the law (article 30).



Sanctions are also provided for non-compliance with fish product safety regulations and for sale of fish declared unsafe for consumption (articles 32 and 34). Under Ministerial Order n. 68 of 2010, fishing, detention and marketing of marine mammals, turtles and sea birds is prohibited (article 14 of the ministerial order).

Moreover, the **1999 Law on animal health** requires that sworn veterinary inspectors carry out inspections to verify the safety and quality of food products of animal origin from their preparation to their marketing (article 24). Relevant provisions may be found in implementing **regulations** to the law, i.e. Decree n. 67 of 2001 on the production and marketing of fish products and Ministerial Order n. 43 of 2007 on export, import, production and marketing of food products of animal or fish origin<sup>25</sup>.

*Recommended actions:*

- Introduce a system for fish product traceability and market measures to fight IUU fishing; and
- Promote the organization of wholesale fish merchants.

Effectiveness of law enforcement

The **authorities** in charge of enforcing the 1998 Fisheries Law are the sworn officers of the fisheries administration. Inspections may be carried out in collaboration with navy officers, police officers, army officers (*gendarmes*), customs officers, maritime administration agents, forestry and environmental administration agents and local authorities (articles 41 and 42). Enforcement officers have the **power** to seize illegal gear and catch (article 38). Any person who resists enforcement officers or hinders inspections commits an offense (article 35).

*Recommended actions:*

- Provide for inter-institutional coordination between enforcement authorities; and
- Specify that inspectors have the power to search all vessels and facilities, take samples and to request and take copies of relevant documentation.

Effectiveness of sanctions

**Offenses** are classified based on the seriousness of the violation, and a range of applicable sanctions is defined accordingly, including imprisonment and monetary sanctions– **criminal sanctions** (articles 26 to 37). Imprisonment is excluded for foreign vessels in accordance with LOSC article 73 (articles 27 and 28). Sanctions are doubled in case of recidivism (article 37). The director of fisheries may activate **out-of-court settlement** procedures (*transaction*) (article 41). Administrative sanctions are not provided for in the 1998 Law.

*Recommended actions:*

- Provide for administrative sanctions, such as the suspension or withdrawal of licenses.

### **3.6.3 Togo – Legal responses to most common fisheries law violations**

Fishing without authorization

- Fishing **without a license** or with an expired license is sanctioned with a fine of 25 000 to 5 million CFA francs and/or with 1 month to 3 years imprisonment (article 32).
- **Unauthorized foreign vessels** fishing in Togolese territorial waters without a license shall be sanctioned with a fine of 500 000 to 20 million CFA francs (article 26). Foreign vessels fishing without a license in the Togolese EEZ shall be sanctioned with a fine of 500 000 to 50 million CFA francs (article 27). In both cases, the foreign vessel shall be seized but imprisonment of the crew is excluded (article 28).

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<sup>25</sup> Texts not available.

#### Fishing with unauthorized gear or methods

- The use of **explosive or toxic substances** is sanctioned with a fine of 100 000 to 5 million CFA francs and/or with 15 days to 6 months imprisonment (article 29).
- Fishing with **illegal gear or methods** is sanctioned with a fine of 50 000 to 2.5 million CFA francs and/or 6 months to 4 years imprisonment (article 31).
- The use of **unmarked gear or non-compliance** with its prescribed use is sanctioned with a fine of 25 000 to 5 million CFA francs and/or 1 month to 3 years imprisonment (article 32).

#### Fishing in prohibited areas

- Fishing in **prohibited or reserved areas** is sanctioned with a fine of 25 000 to 5 million CFA francs and/or 1 month to 3 years imprisonment (article 32).

#### Use of forged documentation

N/A

#### Provision of false or incomplete information

N/A

#### Illegal transshipment

- **Transshipment** in Togolese waters is subject to an authorization (article 13 of the Ministerial Order) and the sanction of performing transshipping activities without an authorization is the same as for fishing without a license, given that the definition of fishing includes transshipment activities (article 1 of the Law).
- **National vessels** carrying out transshipment operations without an authorization are sanctioned with a fine of 25 000 to 5 million CFA francs and/or with 1 month to 3 years imprisonment (article 32 of the Law).
- **Foreign vessels** carrying out transshipment operations in Togolese territorial waters without an authorization are sanctioned with a fine of 500 000 to 20 million CFA francs (article 26). Foreign vessels fishing carrying out transshipment operations in the Togolese EEZ without an authorization are sanctioned with a fine of 500 000 to 50 million CFA francs (article 27). In both cases, the foreign vessel shall be seized but imprisonment of the crew is excluded (article 28).

#### Trading in illegal fish

- To knowingly sell, transport or process any fish product that is **caught illegally** or in violation of the regulatory measure adopted under article 7 of the law is sanctioned with a fine of 50 000 to 500 000 CFA francs and/or 1 to 12 months imprisonment (article 30).
- Fishing, transport or marketing of fish below the **minimum size** and non-compliance with regulatory measures aiming at the protection of juveniles are sanctioned with a fine of 50 000 to 2.5 million CFA francs and/or 6 months to 4 years imprisonment (article 31).
- Fishing, transport or marketing of **protected aquatic species** and transport, marketing or sale of fish declared unsafe for consumption are sanctioned with a fine of 25 000 to 5 million CFA francs and/or 1 month to 3 years imprisonment (article 32).
- Production and marketing of fish products in breach of applicable **food safety** regulations is sanctioned with a fine of 50 000 to 5 million CFA francs and/or 2 months to 3 years imprisonment (article 34).

#### Targeting of unauthorized species

- Fishing, transport or marketing of fish below the **minimum size** and non-compliance with regulatory measures aiming at the protection of juveniles are sanctioned with a fine of 50 000 to 2.5 million CFA francs and/or 6 months to 4 years imprisonment (article 31).

- Fishing, transport or marketing of **protected aquatic species** is sanctioned with a fine of 25 000 to 5 million CFA francs and/or 1 month to 3 years imprisonment (article 32).
- The catching of **lobster** below the minimum size established by Ministerial Order n. 13 of 1983 is punishable with the sanctions established under article 31 (formerly, with the sanctions established by the 1971 Merchant Navy Code).

Damage to artisanal gear

N/A

## 4 Conclusions and Recommendations

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### 4.1 Domestication of FCWC provisions

This section summarizes the main conclusions and recommended actions for each set of FCWC provisions requiring domestication. Recommendations for each country are found in Chapter 3 of this report and in the comparative table reported in Annex 5.6 of the report.

#### Ratification of treaties & access by foreign vessels

- At the **international level**, all FCWC countries are yet to become parties to the 2007 WFC and to the 2009 PSMA. All except Liberia and Nigeria are yet to become parties to the 1995 UNFSA, and all but Benin and Ghana are yet to become parties to the 1993 FAOCA.
- At the **regional level**, Nigeria is yet to sign two important FCWC agreements, namely the 2013 Access Agreement and the 2014 Information and data sharing agreement.
- Regarding **membership in relevant organizations**, Benin and Togo are yet to become members of ICCAT, whereas Liberia and Togo are yet to apply for ATLAFCO membership. Furthermore, Liberia is not yet a member of the Abuja MoU on port State control.
- In Benin, Côte d'Ivoire and Togo, foreign vessels may not be authorized to fish in national waters unless a **fisheries access agreement** is in place with the relevant flag State.
- Only two countries have fisheries access agreements in place; in particular, Côte d'Ivoire and Liberia have an operational SFPA with the EU, which provides for the embarkation of **national crew** on board European fishing vessels.
- The **chartering** of foreign vessels is generally regulated under maritime legislation, although some countries make specific provisions on the chartering of foreign fishing vessels in their fisheries legislation.

#### *Recommended actions:*

- 1) FCWC member States should **initiate and follow up on internal procedures** for ratifying international and regional agreements, particularly considering the benefits stemming from such agreements in relation to the requirements of developing States for their implementation (*e.g.* access to special funding mechanisms under article 21 of the PSMA and article 26 of the UNFSA).
- 2) Equally, procedures should be initiated to apply for **membership with relevant fisheries organizations**, which would be a strong signal of cooperation in the global fight against IUU fishing.
- 3) When entering into access agreements with foreign countries for the exploitation of surplus fisheries resources, FCWC member States should consistently require the embarkation of **national crew** on board foreign fishing vessels.

#### Fisheries management measures and plans

- Only Benin, Ghana and Liberia have introduced most **international principles for the sustainable management of national and shared stocks** in their fisheries legislation. In this regard, Liberia does not explicitly require the consideration of biological, economic, environmental and social factors in fisheries planning or the consultation of neighbouring countries in the management of shared stocks.
- All countries, except Ghana, are yet to adopt **fisheries management plans and conservation and management measures** to regulate important issues such as fishing seasons, protected fishing areas, fishing gear and methods, the size of fishing nets, minimum fish size, protected or endangered species, as well as by-catch and discards at sea.
- Only the fisheries laws of Benin, Ghana and Liberia include provisions on the determination of **total allowable catch** (TAC) and fishing effort as a basis for the sustainable management of fisheries resources; none of them however provides on the assessment of **national fishing capacity** to determine the surplus of fisheries resources to be allocated to foreign fishing vessels.

*Recommended actions:*

- 4) FCWC member States should introduce in their laws and implement all **internationally recognized principles for sustainable fisheries management**, *i.e.* the precautionary approach, the ecosystem approach, the participatory approach and the cross-sectoral approach.
- 5) **Regulations and management plans** should be adopted to ensure that appropriate conservation and management measures are in place for the control of fishing activities in their waters, taking into account biological, economic, environmental and social factors.
- 6) Legislation should require the definition of **TAC**, optimal fishing effort and national fishing capacity as a basis for fisheries management, and the identification of **surplus resources** to be allocated to foreign fishing vessels through fisheries access agreements with relevant flag States, in line with LOSC article 62.

Control of artisanal fishing

- All FCWC member States, except Nigeria, require a **license for artisanal fishing**; however, the provisions of the law are not always implemented (e.g. Benin and Ghana), and in some countries the status of artisanal fishing is not clear in legislation (e.g. Côte d'Ivoire and Togo), which makes it difficult to control related fisheries, for instance through registration and marking of artisanal fishing boats, reporting requirements (e.g. mandatory use of hand-held VHF) and adequate sanctions.
- In most countries, **application forms** for artisanal fishing licenses do not fully comply with the form provided in Annex 2 of the 2013 FCWC Access Convention.
- The **reserved coastal zone** established in most countries for artisanal fishing is not harmonized.
- A **consultation platform** for artisanal fishermen is not always in place (e.g. Liberia and Togo).

*Recommended actions:*

- 7) FCWC member States should adopt **common criteria** for the identification of artisanal fishing vessels and harmonize the **fishing zone** reserved for artisanal vessels.
- 8) Countries should establish clear requirements for **marking and registration** of artisanal fishing vessels and promote the use of hand-held **VHF** on board.
- 9) All artisanal fishing permit **application form** should include the information provided under Annex 2 of the 2013 FCWC Access Convention.

Licensing system for industrial fishing vessels

- All FCWC member States require a **license for industrial fishing** in their waters (coastal State licensing) and generally apply a different **licensing fee** according to a number of criteria, *i.e.* type of vessel, size, GT, engine power, targeted species or catch value or weight; Nigeria is the only country applying a flat rate for all vessels (see comparative table on licensing in Annex 5.4 of this report).
- The distinction between **industrial and semi-industrial** fishing vessels is generally not clearly stated in legislation.
- **Application forms** for industrial fishing licenses are not always fully compliant with the requirements set out under Annex 1 of the 2013 FCWC Access Convention; Liberia's application form appears to be the most consistent with such requirements.
- None of the countries requires the **IMO number** of the vessel to be indicated in the fishing license.
- Only Benin and Liberia specifically require an **authorization to fish on the high seas** for national vessels (flag State licensing), although the provision is not yet implemented in Benin; neither country subjects the granting of such authorization to the ability of national authorities to exercise effective jurisdiction on the concerned vessel.
- All countries, except Côte d'Ivoire, require an **authorization for transshipment** operations but none prohibits transshipment at sea.
- Ghana is the only country to ban **vessels without nationality** from its waters.

*Recommended actions:*

- 10) FCWC member States should work towards the **harmonization of licensing conditions**, including the distinction between industrial and semi-industrial fishing vessels, licensing fees and pricing criteria.
- 11) **Application forms** for industrial fishing licenses should fully comply with the requirements set out under Annex 1 of the 2013 FCWC Access Convention.
- 12) All countries should require the indication of the **IMO identification number** of the vessel on the fishing license.
- 13) FCWC member States should subject the granting of **high seas** licenses to their ability to ensure effective jurisdiction over the concerned vessel so as to discourage IUU fishing activities being performed under their flag.
- 14) Countries should ban vessels without **nationality** from their national waters, as done in Ghana.
- 15) All countries should prohibit **transshipment at sea** and make sure that transshipment operations are only carried out at port or in the roadstead to facilitate inspections.

Registers of industrial fishing vessels

- All FCWC member States have legislation on the **registration of vessels** (flag State maritime laws).
- Only Benin, Ghana and Liberia have established in their respective laws the need for the fisheries administration to keep a **register of licensed fishing vessels**; the other three FCWC member States do not have specific provisions on such register.
- No reference is made in legislation to a **common format** for the register of licensed vessels.

*Recommended actions:*

- 16) Côte d'Ivoire, Nigeria and Togo should include provisions in their laws for the need to maintain a **register of licensed fishing vessels** (coastal States have the duty to keep a register of national and foreign industrial vessels authorized to fish in their waters, and flag States shall maintain a register of national vessels authorized to fish beyond areas of national jurisdiction).
- 17) FCWC member States should coordinate the adoption of a **common format** for the register of fishing vessels authorized to fish in the FCWC zone.

Collection and sharing of information and data

- Most FCWC member States have adopted provisions on the **communication of catch data** to the fisheries administration, but the duty to ensure regular communication of data is not always clearly stated, and regulations for the implementation of this duty are generally missing (e.g. frequency of communications, identification of the types of vessels that are subject to the obligation, identification of the type of data to be communicated).
- All countries, except Côte d'Ivoire and Togo, allow the fisheries administration to require the presence of **observers** on board fishing vessels.
- Ghana and Liberia are the only countries requiring **installation of VMS** on board industrial fishing vessels.
- None of the FCWC member States promote the adoption of **electronic information systems**, administrative registers and fishing logbooks in their fisheries legislation.
- Clear legal provisions on the **exchange of fisheries-related information and data** with other countries are generally lacking.

*Recommended actions:*

- 18) The **duty to communicate data** should be clearly stated in national legislation, and regulations should be adopted to ensure effective implementation of such duty upon fishing vessels.
- 19) All countries should require the presence of **observers** on board industrial fishing vessels, either to collect information and data on fishing activities or to ensure compliance with conservation and management measures in force.

- 20) The installation and use of **AIS and VMS** on board industrial and semi-industrial fishing vessels should be made mandatory in all FCWC member States.
- 21) All countries should promote the **progressive set up of electronic information systems**, fishing logbooks and administrative registers to enhance fisheries MCS activities.
- 22) Adequate provisions should be made in legislation to allow fisheries administrations to **exchange information and data** on fishing activities between countries, as required by international law.

#### Market-related measures

- Most countries have not implemented a **fish product traceability** system; the only country that explicitly provides on fish product traceability in legislation is Liberia.
- None of the FCWC member States have provisions in place to promote the organization of **wholesale fish merchants**, which would facilitate control of fish trade.

#### *Recommended actions:*

- 23) FCWC member States should adopt a **coordinated traceability system** for fish products and promote the **organization of wholesale fish merchants**; such measures would allow for the introduction and implementation of adequate market-related measures to ensure that IUU fish does not enter the value-chain.

#### Effectiveness of law enforcement

- Ghana and Liberia are the only countries that have an **inter-institutional coordination** mechanism between relevant authorities in charge of fisheries law enforcement.
- All FCWC member States confer **powers to inspectors** in order to ensure effective enforcement of fisheries legislation; in some countries, however, inspectors are not granted important powers under the fisheries law, such as the power to request and take copies of relevant documentation (Benin, Côte d'Ivoire and Togo), the power to take samples (Côte d'Ivoire and Nigeria) and the power to search all vessels and facilities (Togo).

#### *Recommended actions:*

- 24) FCWC member States should grant **similar powers** to their respective law enforcement officers under fisheries legislation.
- 25) Where needed, **inter-institutional coordination** between relevant authorities in charge of fisheries law enforcement should be ensured or reinforced.

#### Effectiveness of sanctions

- All FCWC member States have **criminal and administrative sanctions** in place for violation of fisheries legislation but, as explained in detail in the next section, sanctions are not harmonized and, in some countries, sanctions are not strong enough to deter IUU fishing activities.
- All countries provide for **out-of-court settlement procedures**.
- In all countries, a prison term is provided in case of serious breaches of fisheries legislation; Liberia and Togo are the only two countries that explicitly exclude **imprisonment** for foreign vessels committing an offense in their EEZ, as required under LOSC article 73.

#### *Recommended actions:*

- 26) FCWC member States should **harmonize sanctions** for similar breaches of fisheries legislation, particularly for industrial vessels fishing in the EEZ.
- 27) Legislation should explicitly exclude **imprisonment of crewmembers** operating on board foreign fishing vessels as a sanction in case of an offense committed in the EEZ of an FCWC member State.

## 4.2 Legal response to fisheries violations

This section summarizes the main conclusions for each fisheries violation addressed in this report. Sanctions provided for in each country are found in Chapter 3 above and in the comparative table reported in Annex 5.5 of the report.

The majority of the 9 most common violations covered in this report are sanctioned under national legislation in force in the FCWC member States but sanctions vary in both type and severity. The main gaps concern the use of forged documentation in relation to fishing activities (violation 4), intentional trade in illegally caught fish (violation 7) and damage to artisanal fishing gear by industrial fishing vessels or merchant vessels (violation 9). In particular, the following conclusions may be drawn:

- All FCWC member States have specific provisions sanctioning fishing without a license (violation 1), fishing with illegal gear (violation 2) and fishing in prohibited areas (violation 3);
- Ghana is the only country making it a specific offense to use forged documentation in relation to fishing activities (violation 4), although other countries may rely on general criminal legislation (e.g. Liberia);
- Togo does not sanction the intentional provision of false information (violation 5), and Benin and Côte d'Ivoire only have a general sanction for non-compliance with the duty to provide information on catch and fishing activities;
- All countries sanction illegal transshipment (violation 6)<sup>26</sup>, except Côte d'Ivoire as no authorization is required for such activities under the current law;
- All countries except Côte d'Ivoire and Liberia have specific provisions sanctioning the trade in illegal fish (violation 7), although Nigeria only refers to fish under the minimum legal size;
- All countries sanction the targeting of unauthorized species (violation 8), although Liberia only focuses on crustaceans with eggs and Nigeria refers to crustaceans with eggs and undersized fish;
- All countries but Benin and Togo have provisions sanctioning the damage caused to artisanal fishing gear by industrial fishing vessels or merchant vessels (violation 9);
- All countries establish a range of fines, except Nigeria that provides for a flat fine regardless of the seriousness of the breach;
- In some countries (e.g. Togo), the lower end of the range of fines appears almost insignificant if converted to USD, and Liberian legislation only provides for a maximum fine;
- For most violations, all countries except Ghana and Liberia provide for a prison term in addition to the fine, although Ghana does provide for a prison term in case of wilful damage to artisanal fishing gear (violation 9);
- Nigeria has the lowest fines but the highest prison terms, and Ghana has the highest fines, progressively increasing in case of recidivism;
- Only Ghana and Liberia provide for administrative sanctions, such as suspension or withdrawal of the license and, for Ghana, deletion from the ship registry;
- All countries except Liberia and Nigeria provide for out-of-court settlement procedures for certain violations.

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<sup>26</sup> Nigerian legislation does not use the term *transshipment* but refers to the *discharge of frozen fish in national waters*.



*Recommended actions:*

- 28) As stated in the previous section (recommendation 26), sanctions should be harmonized between countries to effectively deter IUU fishing, which may only be done by **defining common offenses** at the FCWC level;
- 29) Strengthen the response to violations related to the **communication of information and data** by fishing vessels to the fisheries administration, as appropriate (violations 4 and 5);
- 30) Reinforce the provisions sanctioning **trade in illegally caught fish** (violation 7) so as to deprive offenders of the benefits accruing from IUU fishing;
- 31) **Monetary sanctions** should be increased to enhance deterrence and harmonized as much as possible to avoid the establishment of *preferred* IUU fishing zones, where fines are significantly low;
- 32) **Administrative sanctions** should be used more frequently to facilitate imposition of sanctions by the fisheries administration outside the judicial process;
- 33) Grant to the fisheries administration the power to compound certain offences through **out-of-court settlement procedures** in order to avoid initiating judicial procedures, where appropriate.

## 5 Annexes

### 5.1 Binding FCWC provisions requiring domestication or other action by member States

| <b>2007 Convention for the Establishment of the Fisheries Committee for the West Central Gulf of Guinea a (FCWC)</b> |  |
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| Article 5 – Objectives   | <p><b>Harmonization and enhanced cooperation</b></p> <p>The provisions of paragraph 2 imply that member States shall:</p> <ul style="list-style-type: none"> <li>• Harmonize national fisheries legislation;</li> <li>• Enhance cooperation in respect of relations with distant water fishing countries;</li> <li>• Strengthen fisheries MCS and enforcement cooperation including by developing common procedures; and</li> <li>• Promote the development of standards for the collection, exchange and reporting of fisheries data.</li> </ul>  |
| <b>2013 Convention on Minimum Requirements for Access to the Fishery Resources of the Area of the FCWC</b>           |  |
| Article 4 – Obligations of Member States   | <p><b>VMS and information collection &amp; exchange</b></p> <ul style="list-style-type: none"> <li>• Member States must adopt measures to ensure that vessels flying its flag and operating in the FCWC Zone (EEZ of member States) do not engage in fishing activities that are forbidden in the waters under their jurisdiction that are adjacent to the Zone.</li> <li>• Member States must put in place a satellite monitoring system (VMS) for the vessels flying its flag and fishing in the Zone.</li> <li>• Member States shall also collect complete and accurate data on the activities of fishing vessels flying its flag and of vessels of non-contracting parties that operate in the Zone (e.g. position of vessels, declaration of catch, by-catch and fishing effort) and share such data with other member States in a timely fashion, while respecting confidentiality.</li> </ul>   |
| Article 5 – Regulation of access to fisheries resources for artisanal fishing  | <p><b>Control of artisanal fishing activities</b></p> <p>Member States shall put in place a consultation platform aiming at establishing harmonised access conditions to fisheries resources for artisanal fishermen.</p>  |
| Article 6 – Access to surplus resources  | <p><b>Implementation of LOSC provisions on TAC &amp; access to surplus resources</b></p> <ul style="list-style-type: none"> <li>• Any FCWC member States may allow access of fishing vessels flying the flag of another State to the surplus of available resources in its EEZ through agreements or other arrangements, in accordance with international law.</li> <li>• The duration of access shall be determined in accordance with the advice of specialized institutions.</li> <li>• The agreements must contain clauses of adaptation of the fishing effort according to available resources based on the precautionary approach.</li> <li>• LOSC article 62 requires coastal States to determine their capacity to harvest the living resources of their EEZ and, where they don't have the capacity to harvest the entire allowable catch, they shall give other States access to the surplus of this total allowable catch (TAC).</li> </ul> |
| Article 7 – Fishing vessel registers   | <p><b>National and regional register of fishing vessels</b></p> <p>Member States shall:</p> <ul style="list-style-type: none"> <li>• Keep a national register of fishing vessels authorized to fish in their waters, including support and reefer vessels; and</li> <li>• Communicate such information to the FCWC, which shall be recorded in a regional register of fishing vessels authorized to fish in the Zone.</li> </ul>   |
| Article 8 – Fishing authorization  | <p><b>Coastal State responsibility (licensing)</b></p> <p>Fishing in the waters under the jurisdiction of member States is subject to the granting of a license by the coastal State concerned, in accordance with its national legislation and with any applicable access agreement.</p>  |
| Article 9 – Requirement for the granting of fishing authorizations   | <p><b>Licensing conditions</b></p> <ul style="list-style-type: none"> <li>• Applications for fishing licenses must include at least the information reported in Annexes I and II of the Convention (respectively for industrial and artisanal fisheries).</li> <li>• Fishing licenses may only be granted if the concerned vessel is compliant with</li> </ul>   |

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|   | <p>registration and marking provisions in force in the coastal State, in line with international standards, and must be equipped with a satellite tracking system (specifically Argos or Immarsat-C).</p> <ul style="list-style-type: none"> <li>Fishing licenses are subject to the payment of an access fee and must take into account of any measure provided for in national and regional fisheries management plans.</li> </ul>  |
| Article 10 – Duration of fishing authorizations             | <p><b>Limiting the duration of fishing authorizations</b></p> <p>The duration of fishing authorizations must take into account existing conservation and management measures and the need for a reliable fish supply to populations.</p>  |
| Article 11 – Fishing zones                                  | <p><b>Zoning of fishing areas</b></p> <p>FCWC member States shall identify fishing zones taking into account the different types of fisheries.</p>  |
| Article 12 – High seas fishing                              | <p><b>Flag State responsibility (authorization to fish &amp; genuine link)</b></p> <p>Member States must prevent any fishing vessel flying their flag from operating on the high seas unless:</p> <ul style="list-style-type: none"> <li>Such vessel is duly authorized; and</li> <li>The concerned member State is able to exercise effectively its control responsibilities in respect of such vessel, considering their mutual links.</li> </ul>   |
| Article 13 – Chartering                                     | <p><b>Chartering of foreign fishing vessels (non-members)</b></p> <p>FCWC member States shall establish the terms and conditions for the chartering of fishing vessels flying the flag of non-contracting States.</p>   |
| Article 14 – Technical measures                             | <p><b>Management and conservation measures (prohibitions)</b></p> <p>The provision implies that States shall adopt the following measures:</p> <ul style="list-style-type: none"> <li>Prohibited or protected fishing areas (spatial control);</li> <li>Closed seasons or temporary suspension of fishing activities (temporal control);</li> <li>Authorized fishing gear and their technical specifications;</li> <li>Definition of minimum catch size;</li> <li>Regulation of by-catch and discards at sea;</li> <li>Identification of protected or endangered species;</li> <li>Minimum size of fishing nets in accordance with the Protocol to the Convention;</li> <li>Prohibition of use, detention or transport of explosives, toxic substances and non-selective fishing gear (monofilament or multi-monofilament) on board fishing vessels.</li> </ul> |
| Article 15 – Declaration of catch                           | <p><b>Information and data on fishing activities</b></p> <p>The provision implies that member States shall:</p> <ul style="list-style-type: none"> <li>Require any licensed vessel to provide all relevant statistical data and information documenting their catch; and</li> <li>Promote the use of electronic logbooks.</li> </ul>  |
| Article 16 – Landing and transshipment                      | <p><b>Port State measures</b></p> <p>The provision implies that member States shall make the following provisions:</p> <ul style="list-style-type: none"> <li>Under any access arrangement with non-member States, favour the landing in national ports or in the ports of other member States of any fish caught in their EEZ;</li> <li>Ensure that transshipment by vessels fishing in their EEZ is carried out in the roadstead of their ports; and</li> <li>Prohibit transshipment at sea, except in case of force majeure (in which case the presence of officials [seafarers or observers] of the coastal State is required).</li> </ul>  |
| Article 17 – Recruitment of crew                            | <p><b>Embarkation of national crew members</b></p> <p>Access agreements between FCWC member States and non-contracting States may require the embarkation of crew from the concerned member State.</p>  |
| Article 18 – Observers                                      | <p><b>Official observers</b></p> <p>The provision implies that member States shall impose the presence of observers on any vessel authorized to fish in their EEZ having the mandate to verify and certify the catch.</p>   |
| Articles 19 & 20 – Inspections at sea & Inspections at port | <p><b>Powers of inspectors</b></p> <p>The provision of article 19 implies that member States shall require fishing vessels operating in their EEZ to allow and facilitate boarding and inspection by sworn officials. The provision of article 20 implies that member States shall provide inspectors with all necessary powers to deter IUU fishing, including to analyse relevant documentation, visit any part of the vessel, examine catch and products, nets and gear, and other equipment.</p>  |

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| Article 21 – Prior notification  | <p><b>Information upon entry into port</b></p> <p>The provision implies that member States shall require the vessels of non-member States to notify the port State authorities where they wish to land their catch with the following information:</p> <ul style="list-style-type: none"> <li>• Identification of the ship;</li> <li>• Name of the designated port of destination and the purpose of call to port, landing, transshipment or access to services;</li> <li>• Fishing license, authorization to support fishing operations or transshipment authorization;</li> <li>• Period of the fishing trip;</li> <li>• Estimated date and time of arrival at port;</li> <li>• Quantities of each species held on board or lack thereof;</li> <li>• Fishing or transshipment zones, inside or outside the FCWC Zone;</li> <li>• Quantities of each species to be offloaded or transhipped.</li> </ul> |
| Article 22 – Entry into and exit from EEZ  | <p><b>Information upon entry into and exit from EEZ</b></p> <p>The provision implies that member States shall require vessels authorized to fish in their EEZ to inform relevant authorities at least 24 hours in advance of:</p> <ul style="list-style-type: none"> <li>• Their intention to enter or exit the fishing area; and</li> <li>• The species and overall quantities held on board.</li> </ul>  |
| Article 23 – Vessels in transit  | <p><b>Transit by third-party vessels not authorized to fish</b></p> <p>Vessels flying the flag of non-member States must stow their fishing gear when in transit in the FCWC Zone.</p>   |
| Article 24 – Cooperation in the fight against IUU fishing  | <p><b>Measures against IUU fishing</b></p> <p>Member States express their will to take the following action:</p> <ul style="list-style-type: none"> <li>• Implement the IPOA-IUU and the PSMA at national and regional level;</li> <li>• Improve fisheries MCS cooperation through information exchange, harmonized inspection procedures, observer programmes and joint surveillance patrols;</li> <li>• Give special attention to market measures, namely the implementation of traceability;</li> <li>• Work closely with all stakeholders of the fisheries sector;</li> <li>• Create an IUU working group for regional coordination;</li> <li>• Harmonize and formalize the law enforcement system.</li> </ul>   |
| Article 25 – Offenses and sanctions  | <p><b>Sanctions and IUU presumption</b></p> <p>Member States must ensure that sanctions are strong enough to deter IUU fishing and to deprive offenders of associated benefits; the nature of imposed sanctions may be administrative, financial, commercial and penal but must include the withdrawal or suspension of the fishing license (administrative).</p> <p>The provision of paragraph 2 of the article establishes a set of 11 criteria by which, if proven, a member States shall presume that a vessel is engaging in IUU fishing.</p>   |
| <b>2014 Convention on the Pooling and Sharing of Information and Data on Fisheries in the Zone of the FCWC</b>                                     |  |
| Article 4 – Concepts, Principles and Practices   | <p>Member States shall implement a number of <b>sustainable fisheries management approaches and practices</b>, namely:</p> <ul style="list-style-type: none"> <li>• The precautionary approach;</li> <li>• The ecosystem approach;</li> <li>• The definition of biological, economic, environmental and social reference points for the implementation of fisheries management plans;</li> <li>• The participatory approach; and</li> <li>• The cross-sectoral approach.</li> </ul>  |
| Articles 5 & 8 – Creation of a sub-regional fisheries information system & Structure and function of the sub-regional fisheries information system | <p>Member States undertake to establish a regional fisheries information system, which implies the set up of <b>harmonized national fisheries information systems</b>. The Convention identifies the different components of the regional system, its objective and the type of information needed to ensure sustainable fisheries management in the FCWC zone.</p>  |
| Article 7 – Member States  | <p>Member States shall:</p> <ul style="list-style-type: none"> <li>• Take all necessary measures to ensure <b>collection, filing, management and</b></li> </ul>  |

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| obligations  | <p><b>processing of data on fisheries resources</b>, including environmental, economic and social aspects, and</p> <ul style="list-style-type: none"> <li>• Commit to <b>collect and exchange</b>, with other FCWC member States through the FCWC, <b>data on activities carried out by fishing vessels</b> flying their flag and by third-party vessels, that is vessels flying the flag of non-member States, fishing in the FCWC zone.</li> </ul>           |
| Article 9 – Fishing vessels register   | <p>Member States shall keep a <b>national register of fishing vessels authorized to fish in waters under their jurisdiction</b> and provide information to the FCWC for the maintenance of a regional register of fishing vessels operating in the zone.<br/>[Note that the provision does not mention FCWC vessels fishing outside the zone]</p>  |
| Article 10 – Declaration of catch  | <p>Member States shall:</p> <ul style="list-style-type: none"> <li>• <b>Collect information from fishing vessels authorized to operate in their EEZ and promote the use of electronic fishing logbooks;</b> and</li> <li>• Communicate this information to the FCWC regional fisheries information system, as well as any data on landings outside the FCWC zone and on transshipment operations authorized in the framework of fishing agreements.</li> </ul> |
| Article 11 – Additional data originating from special fishing authorizations or controls | <p><b>Data originating from observers on board vessels authorized to fish in the FCWC zone, from inspections at sea and at port, as well as data relating to offenses and sanctions</b> applied to vessels operating in FCWC waters must be communicated to the regional fisheries information system.</p>   |

## 5.2 Selected measures of the 2009 FCWC RPOA-IUU to be implemented at national level

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| <b>III. 2.1. RESPONSIBILITY OF ALL STATES</b>  |
| <b>III.2.1.1. International instruments</b>  |
| Measure.1*: All the states are strongly urged to sign and ratify the United Nations agreement of 1995 and that of the FAO of 1993 relating to straddling stocks and compliance with international management measures respectively [as well as the 2009 PSMA, which was adopted after the RPOA-IUU].   |
| Measure.2*: All the FCWC member States are urged to include the relevant standards and principles of these agreements in their national laws and ensure their application.   |
| <b>III.2.1.2. National laws</b>  |
| Measure.4*: All States are urged to review and adopt deterrent enforcement laws and provisions that can facilitate control operations and reduce IUU fishing activities in the Committee's zone. These laws must cover fishing on the high seas, flags of convenience, the right of pursuit and responsible fisheries practices applicable to all legal personalities or entities.   |
| Measure.5*: All States are urged to harmonize their national and regional regulations especially concerning the status of the vessel, registration, flags of convenience and to envisage special provisions relating to the exercise of the right of pursuit.  |
| <b>III.2.1.3. Control of the State over their nationals</b>  |
| Measure.6*: The States are urged to include in their national legislation (law and enforcement measures) specific provisions to help control and monitor and to judge if need be, the nationals (persons and vessels) operating in other zones beyond their sub-jurisdictions if it turns out that these persons or vessels have committed illegal fishing acts including the use of flags of convenience                      |
| Measure.7*: The States are urged to sign regional agreements and conventions among FCWC States, helping to subject to control and trial any person or vessels having committed serious offenses in the waters of one of more of the member countries.  |
| <b>III.2.1.4. Vessels without nationality</b>  |
| Measure.8*: Organize, and develop national registries of vessels and include in the sections any data necessary to establish the traceability of fishing vessels in the waters of each country. The registers must be maintained in duplicate and initialled on electronic cards developed on a database software to facilitate the search for and analysis of data and their exchange with the Regional Register of the FCWC. |
| Measure.11*: Ban access to the waters of FCWC member countries to all vessels whose flag origin has not been established.  |
| <b>III.2.1.5. Sanctions</b>  |
| Measure.12*: Prepare at regional level, a set of sufficiently deterrent penalties for each offense according to the gravity of the act and likely benefits to be obtained by the offenders. Integrate these penalties in a harmonized manner into the national laws to take care of conflicts of jurisdictions.  |
| Measure.13*: Consider fishing by foreign vessels [not belonging to the FCWC zone] without license, and the access of vessels without nationality as very serious offenses giving countries the right to stop and inspect the vessel, equipment, captures and to take legal action in the competent courts against the captain, crew and shipper for violation of sovereignty.  |
| Measure.14*: For vessels of FCWC countries which commit the same offenses mentioned in the previous paragraph, envisage severe penalties and a term of imprisonment from 12 to 36 months for the captain, crew and shipper in the event of a subsequent offense.   |
| Measure.16*: Introduce specific clauses against physical persons or legal entities directly or indirectly engaged in the commission of an offense upstream or downstream from the IUU fishing sector.  |
| Measure.17*: Adapt the system of penalties to the realities of artisanal fishing in the zone of the Committee using seizure and penal sanctions, ban on operating for an appropriate period.   |
| Measure.19*: List in a regional file and at national level, the vessels which commit illegal fishing acts that are duly established and exclude them from any possibility of operating in the waters of FCWC member countries.   |
| <b>III.2.1.6. Non cooperating States</b>   |
| Measure.20**: Urge the FCWC States which are not yet members of the ICCAT to join and ensure compliance with the ICCAT measures including the non issuance of licenses to non member countries and the refusal to market tuna products from vessels of non member countries.   |

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| <b>III.2.1.7. Economic Incentives</b>  |
| Measure.21*: Suspend all support in kind or in administrative facilities to the vessels, boats or organisations and persons involved in IUU fishing and envisage appropriate provisions to deprive them of administrative or financial facilities (loans and funding) in all countries of the Committee.   |
| <b>III.2.1.8. Monitoring, Control and Surveillance</b>   |
| Measure. 23*: Generalize the obligatory installation of beacons for the transmission of data to national and regional surveillance centers on board industrial fishing vessels and ensure that the equipment is compatible.  |
| Measure.24**: For the marine artisan fishers, disseminate the use of VHF and the obligation to record all fishing departures and entries in a register regularly maintained and agreed upon between the professional administrations and organisations.  |
| Measure.28**: Introduce in the national laws and regional protocols and agreements, the obligation for the transmission of electronic data and the possibility of using beacons on board industrial vessels and the use of electronic evidence for establishing the offense.   |
| Measure.29*: Coordinate, design, adopt and disseminate the fisheries logbook and its transmission at the end of the operation. Send every six months a summary report to the Fisheries Committee on fishing activities based on a model that the Committee should prepare and distribute.  |
| <b>III.2.2. RESPONSIBILITY OF FLAG STATES</b>  |
| <b>III.2.2.1 Registration of fishing vessels</b>   |
| Measure.41*: Harmonize the procedures and conditions for the registration of fishing vessels in the FCWC zone and establish the obligation for certification of documents necessary for the registration of vessels. Before the registration of a vessel all the competent Administrations should get information and ensure from their counterparts and in relation with the FCWC that the vessel seeking registration is not on the black list and is not the subject of legal proceedings in court. |
| Measure.42**: Assist and encourage the States to adopt a harmonized system of registration of artisanal and inland boats and to develop databases to monitor the activities of these small fishing boats. The example of the identity card or the electronic card can be extended to artisanal fisheries.  |
| <b>III.2.2.2. Register of fishing vessels</b>  |
| Measure.43**: Develop a computerized application for a national register of fishing vessels with a related register of the black list of vessels engaged in IUU fishing and excluded from national registers and the regional register in a manner compatible with those to be used by national registers.   |
| <b>III.2.2.3. Fishing authorization</b>  |
| Measure.46**: Ensure regular monitoring of the list of vessels fishing straddling stocks in the high seas authorized by the member countries.  |
| <b>III.2.3. RESPONSIBILITY OF COASTAL STATES</b>   |
| Mesure.49**: Encourage the member countries to put in place plans to manage their domestic resources and promote the emergence and coordinate the search for financing to carry out the regional plans for shared stocks.  |
| <b>III.2.4. RESPONSIBILITY OF FCWC PORT STATES</b>   |
| Measure.53*: Introduce in accordance with international regulations the obligation to include the IMO code in the licenses of fishing vessels authorized to fish in the waters of member countries.  |
| <b>III.2.5. INTERNATIONAL TRADE</b>  |
| Measure.55**: Promote the emergence, at national and regional levels, of organisations of wholesale fish merchants and strengthen their capabilities for a better participation in the fight against illegal fishing practices through the control of products on the market.  |
| <b>III.2.7. REGIONAL MANAGEMENT ORGANISATION</b>   |
| Measure.65*: Encourage the countries to introduce in their laws and policy documents, the obligation to ensure close cooperation for the sustainable management of shared resources in accordance with the provisions of the United Nations convention and its relevant agreements.  |

\* High priority; \*\* Medium priority; \*\*\* Low priority

### 5.3 List of national legislation on marine fisheries in force in FCWC countries

#### **Benin**

*Loi-cadre n. 2014-19 du 7 août 2014 relative à la pêche et à l'aquaculture en République du Bénin*

*Loi n. 84-009 du 15 mars 1984 sur le contrôle des denrées alimentaires*

*Décret n. 2003-114 du 9 avril 2003 portant assurance qualité des produits de la pêche en République du Bénin*

*Arrêté interministériel n. 694 du 19 novembre 1999 fixant les conditions de l'exercice de pêche dans les eaux territoriales (interdiction de la pêche aux engins traînants en deçà des 5 milles marins / trawling prohibited within 5nm)*

*Arrêté n. 31 du 9 juin 1970 réglementant la police de la navigation dans les eaux maritimes du Dahomey*

*Arrêté n. 518 du 31 décembre 2008 portant interdiction la pêche aux mysidacés (crevettes roses de mer) dans les eaux maritimes sous juridiction béninoise*

#### **Côte d'Ivoire**

*Loi n. 60-343 du 28 octobre 1960 sur la naturalisation et l'immatriculation des navires*

*Loi n. 61-349 du 9 novembre 1961 portant Code de la Marine marchande, telle qu'amendée par la Loi n° 62-254 du 31 juillet 1962 modifiant l'article 108 du Code de la Marine marchande*

*Loi n. 77-926 du 17 novembre 1977 fixant la délimitation des zones marines placées sous la juridiction nationale de la République de Côte d'Ivoire*

*Loi n. 86-478 du 1er juillet 1986 portant réglementation de la pêche*

*Loi n. 2005-556 du 2 décembre 2005 portant régime d'entreprise franche de transformation des produits halieutiques*

*Décret n. 66-399 du 13 septembre 1966 portant création d'un Comité consultatif des pêches*

*Décret n. 69-445 du 22 octobre 1969 portant interdiction du chalutage de fond aux navires de pêche étrangers dans la zone contiguë aux eaux territoriales de la Côte d'Ivoire*

*Décret n. 82-956 du 27 octobre 1982 portant réorganisation du Comité consultatif des pêches*

*Décret n. 85-176 du 6 mars 1985 portant réglementation de la pêche en lagune (interdit l'usage des filets collectifs)*

*Décret n. 312 du 11 mars 1993 fixant les conditions d'exercice des professions touchant au commerce des animaux, des denrées animales et d'origine animale destinés à la consommation humaine*

*Décret n. 2014-30 du 3 février 2014 portant organisation de l'Etat en mer*

*Arrêté interministériel n. 720 du 10 avril 1967 sur la venue des navires de pêche en Côte d'Ivoire et contingentement des chalutiers*

*Arrêté interministériel n. 81 du 20 juin 1981 portant modalités d'attribution de licences de pêche*

*Arrêté n. 3291 du 2 mai 1956 concernant l'exercice et la sécurité de la pêche dans les eaux maritimes de la Côte d'Ivoire (impose le balisage des filets et interdit le chalutage nocturne)*

*Arrêté n. 6373 du 17 avril 1968 limitant le nombre de navires autorisés à pêcher la crevette dans les eaux territoriales*

*Arrêté n. 495 du 26 février 1969 relatif aux différentes zones de navigation*

*Arrêté n. 141 du 2 mars 1970 portant réglementation de la pêche au thon (fixe le poids minima des espèces)*

*Arrêté n. 1067 du 13 mai 1970 réglementant la pêche à la crevette pour les chalutiers du contingent*

*Arrêté n. 31 du 16 septembre 1983 prohibant la pêche au chalut à moins d'un mille des côtes*

*Arrêté n. 30 du 16 septembre 1983 fixant les modalités d'utilisation de certains engins de pêche à l'intérieur du premier mille et dans les lagunes*

*Arrêté n. 200 du 1993 fixant les règles sanitaires régissant la production et la mise sur le marché des produits de la pêche destinés à la consommation humaine*

#### **Ghana**

Wholesale Fish Marketing Act (1963)

Ghana Ports and Harbours Authority Act (1986)

Fisheries Law (1991) repealed by Fisheries Act (2002) except for Part 1

Fisheries Act (n. 625 of 2002)

Fisheries (Amendment) Act (n. 880 of 2014)

Ghana Maritime Authority Act (2002) – Register of vessels

Ghana Shipping Act (2003) – Register of vessels

Fisheries Regulations (LI 1968 of 2010)

Fisheries (Amendment) Regulations (LI 2217 of 2015)



## **Liberia**

Law on Marine Fisheries (1976). Liberian Code of Laws, Title 24, Natural Resources Law  
Regulations relating to fisheries, fishing and related activities, for the marine fisheries sector in the Republic of Liberia (2010) repealing the 1973 Revised Fishing Rules and Regulations and rendering inoperable any contrary provision of the 1976 Marine Fisheries Law (sections 90-101 of Title 24, Natural Resources Law, 1958)  
Maritime Law (1956, as amended in 2002). Liberian Code of Laws, Title 21, Maritime Law  
Marine Vessels, Registration and Control Act (2009) amending the 1956 Maritime Law  
Liberian Maritime Regulations (1959, as amended in 2002). Laws of The Republic of Liberia, Title 21, Maritime Law  
Executive Order delimiting the maritime zones of the Republic of Liberia (n. 39 of 2012)  
Penal Law - Title 26 - Liberian Code of Laws Revised (1976)

## **Nigeria**

Live Fish (Control of Importation) Act (1965)  
Sea Fisheries Act (2004). Law of the Federation of Nigeria, Chapter S4 (formerly Sea Fisheries Decree n. 71 of 1992)  
Merchant Shipping Act and Regulations (2007)  
Nigerian Maritime Administration and Safety Agency Act (2007)  
Nigerian Port Authority Act (n. 38 of 1999) (formerly Nigerian Port Authority Decree n. 38 of 1999)  
Nigerian Port Authority (Port) Regulations (LN 134 of 1955, as amended by LN 154 of 1956)  
Sea Fisheries (Licensing) Regulations (SI 18 of 1992)  
Sea Fisheries (Fishing) Regulations (SI 19 of 1992)  
Sea Fisheries (Fish Inspection and Quality Assurance) Regulations (SI 22 of 1992)

## **Togo**

*Loi n. 2008-005 du 30 mai 2008 instituant loi-cadre sur l'environnement*  
*Loi n. 99-002 di 12 février 1999 relative à la police sanitaire des animaux*  
*Loi n. 98-12 du 11 juin 1998 portant réglementation de la pêche*  
*Ordonnance n. 29 du 12 août 1971 portant Code de la marine marchande, telle qu'amendée par l'Ordonnance n. 82 du 16 juin 1982 portant modification de l'article 9 du chapitre I, titre II de l'Ordonnance du 12 août 1971 portant Code de la marine marchande*  
*Ordonnance n. 24 du 16 août 1977 portant délimitation des eaux territoriales et création d'une zone maritime économique protégée*  
*Décret n. 82-182 du 8 juillet 1982 portant institution d'une Charte maritime*  
*Décret n. 2001-67 du 9 mars 2001 fixant les règles sanitaires régissant la production et la mise sur le marché des produits de la pêche*  
*Arrêté n. 13 du 15 juin 1983 portant réglementation de la pêche de la langouste dans les eaux territoriales togolaises*  
*Arrêté n. 43 du 20 avril 2007 portant fixation des conditions d'exportation, d'importation, de production et de mise sur le marché des denrées alimentaires d'origine animale et/ou halieutique*  
*Arrêté n. 68 du 4 août 2010 fixant les modalités d'exploitation des ressources halieutiques dans les eaux marines sous juridiction togolaise*

## 5.4 Comparative table on fishing vessel licensing

|   | Benin   | C.Ivoire  | Ghana  | Liberia   | Nigeria  | Togo  |
|---|---|---|--|---|--|---|
| <b>A. Artisanal fishing vessels</b>                     |   |   |  |   |  |   |
| <b>1. License required</b>                              | Yes (not yet implemented)   | Yes   | Yes (not yet implemented)                              | Yes but not all artisanal vessels apply for license                                 | No   | Yes   |
| <b>2. Issuing authority</b>                             | <i>Direction de la Production Halieutique, Ministère de l'Agriculture de l'Elevage et de la Pêche</i> | <i>Direction de l'aquaculture et de la pêche, Ministère des Ressources animales et halieutiques</i>   | -  | Division of Marine Fisheries, Bureau of National Fisheries/ Ministry of Agriculture | -  | <i>Direction des pêches et de l'aquaculture, Ministère de l'Agriculture, de l'élevage et de l'hydraulique</i> |
| <b>3. Cost of license</b>                               | Decree implementing the new law is being adopted  | Marine fisheries: 10 000 CFA francs /nationals; 15 000 CFA francs/foreigners. Inland fisheries: 5 000 CFA francs/nationals; 10 000 CFA francs /foreigners | -  | USD 30 / eq. LRD 2 700  | -  | 10 000-50 000 CFA francs  |
| <b>4. Criteria for cost determination</b>               | -   | Marine/inland fisheries Nationals/ foreigners   | -  | Fixed cost for all artisanal vessels  | -  | According to the type of gear   |
| <b>5. Duration of license</b>                           | 1 year (exp. in December)   | 1 year (exp. in December)   | -  | 1 year (exp. in December)   | -  | 1 year (exp. in December)   |
| <b>B. Semi-industrial fishing vessels</b>               |   |   |  |   |  |   |
| <b>1. License required</b>                              | Yes   | Treated as industrial vessels   | Yes  | Yes but not all vessels apply for license   | Yes (fishing vessels up to 25.3m & 150 GT/ shrimp trawlers up to 23.2m & 130 GT) | Treated as industrial vessels   |
| <b>2. Issuing authority</b>                             | <i>Direction de la Production Halieutique</i>   | -   | Fisheries Commission                                   | Division of Marine Fisheries, BNF/MOA   | Federal Department of Fisheries  | -   |
| <b>3. Cost of license</b>                               | 8 000 to 12 000 CFA francs/ GT for trawlers   | -   | USD [info was not provided]                            | USD 70 - 100  | NGN 120 000  | -   |
| <b>4. Criteria for cost determination</b>               | By GT   | -   | By GT, vessel type and species                         | Depending on the horsepower /engine capacity  | Flat rate  | -   |
| <b>5. Duration of license</b>                           | 1 year (exp. in December)   | -   | 3 or 6 months & 1 year (exp. in December)              | 1 year (exp. in December)   | 1 year (exp. in December)  | -   |
| <b>C. Industrial fishing vessels</b>                    |   |   |  |   |  |   |
| <b>1. License required</b>                              | Yes   | Yes   | Yes  | Yes   | Yes  | Yes   |
| <b>2. License differentiation by vessel type</b>        | Yes (trawlers, purse seiners, longliners)   | Yes (trawlers, purse seiners, longliners)   | Yes (trawlers, Tuna purse seiners, Tuna pole and line) | Yes (trawlers, purse seiners, longliners)   | No (industrial vessels, including reefers)                                       | No  |
| <b>3. License differentiation by vessel nationality</b> | Yes (20% reduction for national vessels)  | Yes   | No   | No  | Yes (national and foreign fishing vessels and reefers) [not in law]              | No, each license is granted in by ministerial order ( <i>arrêté</i> )   |

|  | Benin   | C.ivoire   | Ghana   | Liberia   | Nigeria   | Togo  |
|--|---|--|---|---|---|---|
| <b>4. Issuing authority</b>  | <i>Direction de la Production Halieutique</i>                               | <i>Direction de l'aquaculture et de la pêche</i>   | Fisheries Commission  | Division of Marine Fisheries, BNF/MOA   | Federal Department of Fisheries   | <i>Direction des pêches et de l'aquaculture</i> |
| <b>5. Cost of license</b>  | 8 000 to 40 000 CFA francs/ GT  | For national vessels, cost is between 2 000 and 10 000 CFA francs/ GT; For foreign vessels, the cost is determined in the access agreement           | USD [info was not provided]   | 10% of value of catch for trawlers (demersal and pelagic) & agreed price per ton for Tuna fisheries                         | NGN 120 000   | 1 500 000 – 4 000 000 CFA francs                |
| <b>6. Criteria for cost determination</b>  | -   | For national vessels, the cost is based on GT and type of fisheries; For foreign vessels the costing criteria are determined in the access agreement | By GT, vessel type and species  | From the fishing plan – estimated catch   | Flat rate   | According to the size (length) of the ship      |
| <b>7. Duration of license</b>  | 1 year (exp. in December)   | 3 or 6 months & 1 year (licenses for nat'l vessels exp. in Dec.)   | 3 or 6 months & 1 year (exp. in December)   | 1 year (exp. in December) – 6m-trial license  | 1 year (exp. in December)   | 1 year (exp. in December)                       |
| <b>8. Other fees to be paid by industrial vessels for operation</b>                                    | No  | No   | No  | Yes, fees for:<br>(i) Registration<br>(ii) Inspection<br>(iii) Observer<br>(iv) Agency<br>(v) Mobile Transceiver Unit (MTU) | Yes, fees for:<br>(i) Registration to Maritime Authority<br>(ii) Sailing permit to Nigerian Navy  | No  |
| <b>8. Distant fishing (DF) license required for national vessels operating outside national waters</b> | Yes (not yet implemented but the fisheries administration must be informed) | No (provided for in the new fisheries bill)  | Licenses to fish in the EEZ of other coastal States must be approved by the Fisheries Commission; Tuna licenses issued for the Ghanaian EEZ are valid for the high seas | Yes   | Yes [not provided for in legislation]<br><br>DF licenses are issued for national vessels fishing abroad – cat. A – & for reefers wishing to discharge in Nigeria – cat. C | No  |
| <b>9. Cost of DF license &amp; criteria for cost determination</b>                                     | -   | -  | No cost   | Depending on type of fisheries (Tuna/ trawlers)   | NGN 120 000 Same license fee for all trawlers   | -   |
| <b>10. Duration of DF license</b>  | -   | -  | Is linked to the duration of the foreign license  | 1 year (exp. in December)   | 1 year (exp. in December)   | -   |

## 5.5 Comparative table on sanctions to fisheries violations

|  | Benin  | C.Ivoire  | Ghana   | Liberia   | Nigeria   | Togo  |
|--|--|---|---|---|---|---|
| <b>1) Fishing without a license/authorization or with an expired license/authorization</b> | 10M-25M CFA francs<br>6-12 months in prison    | 100 000-50M CFA francs<br>1-2 years in prison   | (1st) 1M-2M USD<br>(2nd) 2M-4M USD + 6-month suspension of license<br>(3rd) 2M-4M USD + withdrawal of license & deletion from ship registry   | < 1M USD + forfeiture of vessel, gear & catch + cancellation/suspension of license  | Without:<br>250 000 USD<br>5 years in prison + forfeiture of catch<br><u>Expired:</u><br>50 000 NGN + forfeiture of catch | National:<br>25 000-5M CFA francs<br>1 months - 3 years in prison<br><u>Foreign:</u><br>(TS) 500 000-20M CFA francs<br>(EEZ) 500 000-50M CFA francs + seizure of catch  |
| <b>2) Fishing with unauthorized or illegal gear (including small mesh size) or methods</b> | 500 000-3M CFA francs<br>6-12 months in prison | <u>Illegal gear:</u><br>500 000-10M CFA francs<br>8 days - 6 months in prison<br><u>Noxious substances:</u><br>100 000-50M CFA francs<br>1-3 years prison | <u>Illegal gear:</u><br>(1st) 1M-2M USD<br>(2nd) 2M-4M USD + 6-month suspension of license<br>(3rd) 2M-4M USD + withdrawal of license & deletion from ship registry<br><u>Noxious substances:</u><br>(industrial/ semi-industrial vessels)<br>250 000-2M USD + forfeiture of catch & gear | < 250 000 USD + forfeiture of vessel, gear & catch + cancellation/suspension of license   | <u>Illegal gear:</u><br>50 000 NGN<br><u>Noxious substances:</u><br>50 000 NGN + 2 years in prison                        | <u>Illegal gear/method:</u><br>50 000-2.5M CFA francs<br>6 months - 4 years in prison<br><u>Unmarked/ non-prescribed use:</u><br>25 000-5M CFA francs<br>1 months - 3 years prison<br><u>Noxious substances:</u><br>100 000-5M CFA francs<br>15 days - 6 months in prison |
| <b>3) Fishing in prohibited areas (including in areas reserved to artisanal fisheries)</b> | 500 000-3M CFA francs<br>6-12 months in prison | 500 000-10M CFA francs<br>8 days - 6 months in prison   | (1st) 1M-2M USD<br>(2nd) 2M-4M USD + 6-month suspension of license<br>(3rd) 2M-4M USD + withdrawal of license & deletion from ship registry   | < 50 000 USD + cancellation/suspension of license   | 50 000 NGN  | 25 000-5M CFA francs<br>1 months - 3 years in prison  |
| <b>4) Use of forged documentation in relation to fishing activities</b>                    | n/a  | n/a   | (1st) 1M-2M USD<br>(2nd) 2M-4M USD + 6-month suspension of licence<br>(3rd) 2M-4M USD + withdrawal of licence & deletion from ship registry   | <u>False statements;</u><br><u>tampering with public records;</u><br><u>forgery and counterfeiting:</u><br>< 1 year in prison<br>< USD 1 000 or double the gain<br><u>Forgery and counterfeiting:</u><br>may go up to 3 or 5 years in prison and USD 10 000 (for corporations) or double the gain | n/a   | n/a   |

|   | Benin   | C.Ivoire  | Ghana   | Liberia  | Nigeria  | Togo   |
|---|---|---|---|--|--|--|
| <b>5) Provision of false, inaccurate or incomplete information on catch and fishing activities (knowingly w/ intent to deceive)</b> | <u>Non-compliance with duty to provide info:</u><br>200 000-2M CFA francs<br>3-9 months in prison | <u>Non-compliance with duty to provide info:</u><br>500 000-10M CFA francs<br>8 days - 6 months in prison | (1st) 1M-2M USD<br>(2nd) 2M-4M USD + 6-month suspension of license<br>(3rd) 2M-4M USD + withdrawal of license & deletion from ship registry   | < 10 000 USD   | 50 000 NGN   | n/a  |
| <b>6) Illegal transshipment of catch (including of by-catch into canoes and sale of fish at sea)</b>                                | 500 000-3M CFA francs<br>6-12 months in prison  | n/a   | <u>Industrial/semi-industrial:</u><br>100 000-2M USD + confiscation of catch<br><u>Tranship to IUU vessel:</u><br>(1st) 1M-2M USD<br>(2nd) 2M-4M USD + 6-month suspension of license<br>(3rd) 2M-4M USD + withdrawal of license & deletion from ship registry                 | <u>Unauthorized:</u><br>< 1M USD + forfeiture of vessel, gear, catch + cancellation/suspension of license<br><u>Illegal operations:</u><br>< 500 000 USD + cancellation/suspension of license<br><u>Breach of procedures:</u><br>< 50 000 USD + cancellation/suspension of license | <u>Discharging frozen fish in national waters without a licence:</u><br>250 000 USD<br>5 years in prison + forfeiture of catch | (Same as fishing)<br><u>National:</u><br>25 000-5M CFA francs<br>1 months - 3 years in prison<br><u>Foreign:</u><br>(TS) 500 000-20M CFA francs<br>(EEZ) 500 000-50M CFA francs + seizure of catch   |
| <b>7) Trading in illegal fish (knowingly purchasing, selling, importing or exporting fish caught illegally)</b>                     | 500 000-3M CFA francs<br>6-12 months in prison  | n/a<br>(provisions on fraud & seizure of fish in case of breach)  | <u>Caught with noxious substances:</u><br>(by industrial/semi-industrial vessels)<br>250 000-2M USD<br><u>Undersized fish:</u><br>(1st) 1M-2M USD<br>(2nd) 2M-4M USD + 6-month suspension of license<br>(3rd) 2M-4M USD + withdrawal of license & deletion from ship registry | n/a<br>(seizure of fish in case of breach)   | <u>Undersized:</u><br>50 000 NGN   | <u>Breach of measures:</u><br>50 000-500 000 CFA francs<br>1-12 m prison<br><u>Undersized fish:</u><br>50 000-2.5M CFA francs<br>6 months - 4 years in prison<br><u>Protected species:</u><br>50 000-5M CFA francs<br>1 months - 3 years in prison |
| <b>8) Targeting of unauthorized species (e.g. below minimum size/immature or valuable by-catch)</b>                                 | 500 000-3M CFA francs<br>6-12 months in prison  | 500 000-10M CFA francs<br>8 days - 6 months in prison   | <u>Mammals:</u> 50 000-1M USD<br><u>Undersized/moratorium:</u><br>(1st) 1M-2M USD<br>(2nd) 2M-4M USD + 6 m suspension of license<br>(3rd) 2M-4M USD + withdrawal of license & deletion from ship registry   | <u>Crustaceans with eggs:</u><br>< 50 000 USD + cancellation/suspension of license   | <u>Undersized fish &amp; crustaceans with eggs:</u><br>50 000 NGN  | <u>Undersized fish:</u><br>50 000-2.5M CFA francs<br>6 months - 4 years in prison<br><u>Protected species:</u><br>25 000-5M CFA francs<br>1 months - 3 years in prison   |

|  | Benin | C.Ivoire  | Ghana  | Liberia                     | Nigeria   | Togo |
|--|-------|---|--|-----------------------------|---|------|
| <b>9) Damage to artisanal gear by industrial fishing vessels or merchant vessels</b> | n/a   | 36 000-360 000 CFA francs<br>11 days - 3 months in prison | <u>Within IEZ:</u><br>5 000-100 000 USD + full compensation<br><u>Wilful damage:</u><br>(by industrial/ semi-industrial vessels)<br>50 000-2M USD<br>< 2 years in prison + full compensation | < 50 000 USD + compensation | 50 000 NGN + arbitration by Federal Department of Fisheries | n/a  |

M: millions

## 5.6 Plan of action for the domestication of FCWC provisions

*FCWC member States should endeavour to implement the following actions with a view to completing the domestication of the provisions of FCWC conventions. These recommended actions are based on the analysis of the legal framework for fisheries in FCWC member countries against their obligations. Such obligations were summarized from FCWC conventions and instruments and divided into 9 groups of provisions or goals, as follows:*

### **1. Ratification of treaties, including international and regional instruments as well as membership in relevant organizations, and regulation of access to national waters by foreign fishing vessels**

| Recommended action   | Benin   | Côte d'Ivoire   | Ghana   | Liberia  | Nigeria  | Togo   |
|--|---|---|---|--|--|--|
| <b>1.1</b> FCWC member States should <b>initiate and follow up on internal procedures</b> to ratify international and regional agreements, particularly considering the benefits stemming from such agreements for developing States ( <i>e.g.</i> access to special funding mechanisms) | <ul style="list-style-type: none"> <li>• Accede to 1995 UNFSA &amp; 2007 WFC</li> <li>• Ratify 2009 PSMA</li> </ul> | <ul style="list-style-type: none"> <li>• Accede to 1993 FAOCA, 2007 WFC &amp; 2009 PSMA</li> <li>• Ratify 1995 UNFSA</li> </ul> | <ul style="list-style-type: none"> <li>• Accede to 1995 UNFSA &amp; 2007 WFC</li> <li>• Ratify 2009 PSMA</li> </ul> | <ul style="list-style-type: none"> <li>• Accede to 1993 FAOCA, 2007 WFC &amp; 2009 PSMA</li> </ul> | <ul style="list-style-type: none"> <li>• Accede to 1993 FAOCA, 2007 WFC &amp; 2009 PSMA</li> <li>• Sign the 2013 &amp; 2014 FCWC Access and Information Conventions</li> </ul> | <ul style="list-style-type: none"> <li>• Accede to 1993 FAOCA, 1995 UNFSA, 2007 WFC &amp; 2009 PSMA</li> </ul> |
| <b>1.2</b> Equally, procedures should be initiated to apply for <b>membership with relevant fisheries organizations</b> , which would be a strong signal of cooperation in the global fight against IUU fishing  | <ul style="list-style-type: none"> <li>• Apply for INFOPECHE &amp; ICCAT membership</li> </ul>                      | N/A   | N/A   | <ul style="list-style-type: none"> <li>• Apply for ATLAFCO &amp; Abuja MoU membership</li> </ul>   | N/A  | <ul style="list-style-type: none"> <li>• Apply for ICCAT &amp; ATLAFCO membership</li> </ul>                   |

**1. Ratification of treaties, including international and regional instruments as well as membership in relevant organizations, and regulation of access to national waters by foreign fishing vessels**

| Recommended action  | Benin  | Côte d'Ivoire   | Ghana  | Liberia   | Nigeria  | Togo   |
|---|--|---|--|---|--|--|
| <b>1.3</b> When entering into access agreements with foreign countries for the exploitation of surplus fisheries resources, FCWC member States should consistently require the embarkation of <b>national crew</b> on board foreign fishing vessels | <ul style="list-style-type: none"> <li>Require embarkation of national crew on board foreign fishing vessels when signing fisheries access agreements</li> </ul> | <ul style="list-style-type: none"> <li>Make sure that current agreements requiring the embarkation of national seamen are properly implemented</li> </ul> | <ul style="list-style-type: none"> <li>Require embarkation of national crew on board foreign fishing vessels when signing fisheries access agreements</li> </ul> | <ul style="list-style-type: none"> <li>Make sure that current agreements requiring the embarkation of national seamen are properly implemented</li> </ul> | <ul style="list-style-type: none"> <li>Require embarkation of national crew on board foreign fishing vessels when signing fisheries access agreements</li> </ul> | <ul style="list-style-type: none"> <li>Require embarkation of national crew on board foreign fishing vessels when signing fisheries access agreements</li> </ul> |

**2. Fisheries management measures and plans implementing international principles and standards for the sustainable management of national and shared stocks**

| Recommended action  | Benin | Côte d'Ivoire   | Ghana | Liberia   | Nigeria   | Togo  |
|---|-------|---|-------|---|---|---|
| <b>2.1</b> FCWC member States should introduce in national laws and implement <b>international principles for sustainable fisheries management</b> , i.e. the precautionary approach, the ecosystem approach, the participatory approach, the cross-sectoral approach | N/A   | <ul style="list-style-type: none"> <li>Introduce international principles of sustainable fisheries management in fisheries legislation (this aspect is likely to be included in the Fisheries Bill currently under discussion)</li> </ul> | N/A   | <ul style="list-style-type: none"> <li>Provide for consultation of neighbouring countries for the management of shared stocks</li> <li>Provide for the adoption of a cross-sectoral approach in fisheries management</li> </ul> | <ul style="list-style-type: none"> <li>Introduce international sustainable fisheries principles in the new fisheries act</li> </ul> | <ul style="list-style-type: none"> <li>Introduce international principles of sustainable fisheries management in fisheries legislation (this aspect is likely to be included in the Fisheries Bill currently under discussion)</li> </ul> |



**2. Fisheries management measures and plans implementing international principles and standards for the sustainable management of national and shared stocks**

| Recommended action   | Benin   | Côte d'Ivoire   | Ghana  | Liberia  | Nigeria   | Togo   |
|--|---|---|--|--|---|--|
| <p><b>2.2 Regulations and management plans</b> should be adopted to ensure that appropriate conservation and management measures are in place for the control of fishing activities in their waters, taking into account biological, economic, environmental and social factors</p>  | <ul style="list-style-type: none"> <li>• Adopt fisheries management plans</li> <li>• Adopt regulations to implement the provisions of the new Fisheries Law regarding, <i>inter alia</i>, fishing seasons, prohibited fishing areas, fishing gear, fishing net size, minimum fish size</li> <li>• Define fishing zones according to the types of fisheries</li> </ul> | <ul style="list-style-type: none"> <li>• Adopt fisheries management plans and regulations to provide on fishing gear and methods, the size of fishing nets, by-catch and discards at sea, spatial and temporal controls, and minimum fish size</li> </ul> | N/A  | <ul style="list-style-type: none"> <li>• Require that management plans take into account relevant biological, economic, environmental and social factors</li> <li>• Adopt regulations on protected fishing areas, closed fishing seasons and minimum fish size</li> <li>• Identify and prohibit the capture of protected or endangered species</li> <li>• Regulate by-catch and discards at sea</li> </ul> | <ul style="list-style-type: none"> <li>• Require adoption of management plans taking into account biol., econ., enviro. &amp; social factors</li> <li>• Adopt conservation and management measures ensuring spatial and temporal control of fishing activities (closed seasons, prohibited areas...)</li> <li>• Identify and prohibit the capture of protected or endangered species</li> <li>• Improve regulation of by-catch and discards at sea</li> </ul> | <ul style="list-style-type: none"> <li>• Adopt fisheries management plans and regulations for the implementation of the law, including on fishing seasons, minimum size of fishing nets, by-catch and discards at sea</li> </ul>       |
| <p><b>2.3</b> Legislation should require definition of <b>total allowable catch (TAC)</b>, optimal fishing effort and national fishing capacity as a basis for fisheries management, and identify <b>surplus resources</b> to be allocated to foreign fishing vessels through fisheries access agreements with relevant flag States, in line with LOSC art. 62</p> | <ul style="list-style-type: none"> <li>• Require definition of national fishing capacity to allow identification of surplus resources to be allocated to interested foreign fishing nations</li> </ul>  | <ul style="list-style-type: none"> <li>• Require definition of TAC, optimal fishing effort and national fishing capacity to allow identification of surplus resources to be allocated to interested foreign fishing nations</li> </ul>                    | <ul style="list-style-type: none"> <li>• Require definition of national fishing capacity to allow identification of surplus resources to be allocated to interested foreign fishing nations</li> </ul> | <ul style="list-style-type: none"> <li>• Require definition of national fishing capacity to allow identification of surplus resources to be allocated to interested foreign fishing nations</li> </ul>   | <ul style="list-style-type: none"> <li>• Require definition of TAC, optimal fishing effort and national fishing capacity to allow identification of surplus resources to be allocated to interested foreign fishing nations</li> </ul>  | <ul style="list-style-type: none"> <li>• Require definition of TAC, optimal fishing effort and national fishing capacity to allow identification of surplus resources to be allocated to interested foreign fishing nations</li> </ul> |

### 3. Control of artisanal fishing through zoning, registration, reporting, consultation and sanctions

| Recommended action   | Benin  | Côte d'Ivoire  | Ghana  | Liberia  | Nigeria   | Togo   |
|--|--|--|--|--|---|--|
| <b>3.1</b> FCWC member States should adopt <b>common criteria</b> for the identification of artisanal fishing vessels and harmonize the <b>reserved fishing zone</b> for artisanal vessels | <ul style="list-style-type: none"> <li>• Adopt regulations implementing the provisions of the fisheries law on the definition of artisanal fishing</li> <li>• Put in place a consultation platform for artisanal fishermen</li> </ul>  | <ul style="list-style-type: none"> <li>• Clarify the status of artisanal fisheries in legislation</li> </ul>   | <ul style="list-style-type: none"> <li>• Implement the provisions of the law on artisanal fishing</li> </ul>   | <ul style="list-style-type: none"> <li>• Establish a consultation platform to engage stakeholders in decision-making procedures</li> </ul> | <ul style="list-style-type: none"> <li>• Introduce a licensing regime for artisanal fishing</li> </ul>                | <ul style="list-style-type: none"> <li>• Adopt a decree regulating the functioning of the consultative committee on fisheries</li> <li>• Clarify the status of artisanal fisheries in legislation</li> </ul>   |
| <b>3.2</b> Countries should establish clear requirements for <b>marking and registration</b> of artisanal fishing vessels and promote the use of hand-held <b>VHF</b> on board             | <ul style="list-style-type: none"> <li>• Adopt regulations implementing the provisions of the fisheries law on requirements for registration and marking of artisanal fishing vessels, and on forms and timing of notification on catch and vessel position</li> <li>• Regulate the use of VHF on board artisanal fishing vessels</li> </ul> | <ul style="list-style-type: none"> <li>• Ensure appropriate control of artisanal fishing activities (registration of artisanal vessels, licensing, use of VHF on board, notification of departures/entries, establishment of appropriate penalties)</li> </ul> | <ul style="list-style-type: none"> <li>• Require the use of VHF on board artisanal fishing vessels and notification of departures/entries</li> </ul> | <ul style="list-style-type: none"> <li>• Require the use of VHF for artisanal fishing and notification of departures/entries</li> </ul>    | <ul style="list-style-type: none"> <li>• Promote the use of VHF</li> <li>• Require registration for canoes</li> </ul> | <ul style="list-style-type: none"> <li>• Ensure appropriate control of artisanal fishing activities (registration of artisanal vessels, licensing, use of VHF on board, notification of departures/entries, establishment of appropriate penalties)</li> </ul> |

### 3. Control of artisanal fishing through zoning, registration, reporting, consultation and sanctions

| Recommended action   | Benin  | Côte d'Ivoire   | Ghana   | Liberia | Nigeria | Togo  |
|--|--|---|---|---------|---------|---|
| <b>3.3</b> All artisanal fishing permit <b>application form</b> should include the information provided under Annex 2 of the 2013 FCWC Access Convention | <ul style="list-style-type: none"> <li>Include the information required by Annex 2 of the 2013 FCWC Access Convention in the application form for artisanal fishing permits</li> </ul> | <ul style="list-style-type: none"> <li>Include the information required by Annex 2 of the 2013 FCWC Access Convention in the application form for artisanal fishing licenses</li> </ul> | <ul style="list-style-type: none"> <li>Add following info to application form for canoes: registration/home port, building material, width, tonnage and fishing equipment/supplies</li> </ul> | N/A     | N/A     | <ul style="list-style-type: none"> <li>Include the information required by Annex 2 of the 2013 FCWC Access Convention in the application form for artisanal fishing licenses</li> </ul> |

### 4. Establishment of licensing systems by coastal States for national and foreign industrial vessels fishing in their waters and by flag States for national vessels fishing on the high seas

| Recommended action   | Benin  | Côte d'Ivoire  | Ghana   | Liberia   | Nigeria  | Togo  |
|--|--|--|---|---|--|---|
| <b>4.1</b> FCWC member States should work towards the <b>harmonization of licensing conditions</b> , including the distinction between industrial and semi-industrial fishing vessels, licensing fees and pricing criteria | <ul style="list-style-type: none"> <li>Clarify criteria for license fee determination</li> </ul> | <ul style="list-style-type: none"> <li>Distinguish between industrial and semi-industrial vessels</li> </ul> | <ul style="list-style-type: none"> <li>Differentiate licenses by vessel nationality (national &amp; foreign)</li> </ul> | <ul style="list-style-type: none"> <li>Differentiate licenses by vessel nationality (national &amp; foreign)</li> </ul> | <ul style="list-style-type: none"> <li>Apply a different licensing rate according to the size and type of the fishing vessel</li> <li>Differentiate licenses by vessel nationality (national &amp; foreign)</li> </ul> | <ul style="list-style-type: none"> <li>Distinguish between industrial and semi-industrial vessels</li> <li>Differentiate licenses by vessel nationality (national &amp; foreign)</li> </ul> |

**4. Establishment of licensing systems by coastal States for national and foreign industrial vessels fishing in their waters and by flag States for national vessels fishing on the high seas**

| Recommended action  | Benin  | Côte d'Ivoire  | Ghana   | Liberia   | Nigeria  | Togo   |
|---|--|--|---|---|--|--|
| <b>4.2 Application forms</b> for industrial fishing licenses should fully comply with the requirements set out under Annex 1 of the 2013 FCWC Access Convention | <ul style="list-style-type: none"> <li>• Include the information required by Annex 1 of the 2013 FCWC Access Convention in the application form for industrial fishing licenses</li> </ul> | <ul style="list-style-type: none"> <li>• Include the information required by Annex 1 of the 2013 FCWC Access Convention in the application form for industrial fishing licenses</li> </ul> | <ul style="list-style-type: none"> <li>• Add following info to application form for ind./ semi-ind. fishing (Form A, Schedule to 2010 Fisheries Regulations): name/address of local rep. or agent, name of captain, fax number, e-mail, home port, hold capacity, refriger./freezing capacity, fishing equipment/ supplies, fishing operations to be developed, place of unloading, fishing areas, species to be captured and type of beacon (Argos, Inmarsat C,...)</li> </ul> | N/A   | <ul style="list-style-type: none"> <li>• Verify that the information required in the application form for motor fishing vessels (Schedule to the Licensing Regulations) is fully compliant with the information established in the application form appended to the 2013 FCWC Access Convention (Annex 1)</li> </ul> | <ul style="list-style-type: none"> <li>• Include the information required by Annex 1 of the 2013 FCWC Access Convention in the application form for industrial fishing licenses</li> </ul> |
| <b>4.3</b> All countries should require the indication of the <b>IMO identification number</b> of the vessel on the fishing license                             | <ul style="list-style-type: none"> <li>• Include the IMO number on industrial fishing licenses</li> </ul>  | <ul style="list-style-type: none"> <li>• Include the IMO number on industrial fishing licenses</li> </ul>  | <ul style="list-style-type: none"> <li>• Include the IMO number on industrial fishing licenses</li> </ul>   | <ul style="list-style-type: none"> <li>• Indicate the IMO number of the vessel on all fishing licenses</li> </ul> | <ul style="list-style-type: none"> <li>• Indicate the IMO number on licenses</li> </ul>  | <ul style="list-style-type: none"> <li>• Include the IMO number on industrial fishing licenses</li> </ul>  |

**4. Establishment of licensing systems by coastal States for national and foreign industrial vessels fishing in their waters and by flag States for national vessels fishing on the high seas**

| Recommended action   | Benin   | Côte d'Ivoire   | Ghana   | Liberia   | Nigeria  | Togo  |
|--|---|---|---|---|--|---|
| <b>4.4</b> FCWC member States should subject the granting of <b>high seas</b> licenses to their ability to ensure effective jurisdiction over the concerned vessel so as to discourage IUU fishing activities being performed under their flag | <ul style="list-style-type: none"> <li>• Adopt a decree to implement the provisions of the law on the authorization to fish on the high seas, and subject the granting of such authorization to the ability of the national authorities to exercise effective jurisdiction on the concerned vessel</li> </ul> | <ul style="list-style-type: none"> <li>• Provide for an authorization to fish on the high seas, and subject the granting of such authorization to the ability of the national authorities to exercise effective jurisdiction on the concerned vessel</li> </ul> | N/A   | <ul style="list-style-type: none"> <li>• Subject the granting of high seas fishing licenses to the ability of the government to ensure effective jurisdiction over the concerned vessels</li> </ul> | <ul style="list-style-type: none"> <li>• Clarify the regulatory framework of distant-water fishing and subject the granting of licenses to the ability of the government to exercise effective jurisdiction</li> </ul>   | <ul style="list-style-type: none"> <li>• Require an authorization to fish on the high seas, and subject the granting of such authorization to the ability of the national authorities to exercise effective jurisdiction on the concerned vessel</li> </ul> |
| <b>4.5</b> Countries should ban vessels <b>without nationality</b> from their national waters  | <ul style="list-style-type: none"> <li>• Ban vessels without nationality or whose nationality has not been established from Beninese waters</li> </ul>  | <ul style="list-style-type: none"> <li>• Ban vessels without nationality or whose nationality has not been established from Ivorian waters</li> </ul>   | N/A   | <ul style="list-style-type: none"> <li>• Ban vessels without nationality or whose nationality has not been established from Liberian waters</li> </ul>  | <ul style="list-style-type: none"> <li>• Ban vessels without nationality or whose nationality has not been established from Nigerian waters</li> </ul>   | <ul style="list-style-type: none"> <li>• Ban vessels without nationality or whose nationality has not been established from Togolese waters</li> </ul>  |
| <b>4.6</b> All countries should prohibit <b>transshipment at sea</b> and make sure that transshipment operations are only carried out at port or in the roadstead to facilitate inspections  | <ul style="list-style-type: none"> <li>• Prohibit transshipment at sea</li> </ul>   | <ul style="list-style-type: none"> <li>• Include provisions in fisheries law to prohibit transshipment at sea and regulate transshipment at port or in the lagoon</li> </ul>  | <ul style="list-style-type: none"> <li>• Prohibit transshipment at sea</li> </ul> | <ul style="list-style-type: none"> <li>• Prohibit transshipment at sea</li> </ul>   | <ul style="list-style-type: none"> <li>• Prohibit transshipment at sea (Nigerian legislation does not use the term <i>transshipment</i> but refers to the <i>discharge of frozen fish in national waters</i>)</li> </ul> | <ul style="list-style-type: none"> <li>• Prohibit transshipment at sea</li> </ul>   |

**5. Set up of a register of licensed vessels by coastal States for national and foreign industrial vessels authorized to fish in their waters and by flag States for national vessels authorized to fish on the high seas**

| Recommended action  | Benin  | Côte d'Ivoire  | Ghana  | Liberia  | Nigeria  | Togo   |
|---|--|--|--|--|--|--|
| <p><b>5.1</b> FCWC member States should coordinate the adoption of a <b>common format</b> for the register of fishing vessels authorized to fish in the FCWC zone (coastal States have the duty to keep a register of national and foreign industrial vessels authorized to fish in their waters, and flag States shall maintain a register of national vessels authorized to fish beyond areas of national jurisdiction)</p> | <ul style="list-style-type: none"> <li>• Ensure that current register of licensed fishing vessels is consistent with that of other FCWC members</li> </ul> | <ul style="list-style-type: none"> <li>• Establish in legislation the need for a register of licensed fishing vessels</li> </ul> | <ul style="list-style-type: none"> <li>• Ensure that current register of licensed fishing vessels is consistent with that of other FCWC members</li> </ul> | <ul style="list-style-type: none"> <li>• Ensure that current register of licensed fishing vessels is consistent with that of other FCWC members</li> </ul> | <ul style="list-style-type: none"> <li>• Establish in legislation the need for a register of licensed fishing vessels</li> </ul> | <ul style="list-style-type: none"> <li>• Establish in legislation the need for a register of licensed fishing vessels</li> </ul> |

**6. Collection and sharing of information and data from fishing vessels, including through satellite monitoring systems and observers, and set up of electronic information systems, registers and logbooks**

| Recommended action  | Benin   | Côte d'Ivoire  | Ghana  | Liberia | Nigeria  | Togo   |
|---|---|--|--|---------|--|--|
| <b>6.1</b> The <b>duty to communicate data</b> should be clearly stated in national legislation, and regulations should be adopted to ensure effective implementation of such duty upon fishing vessels   | <ul style="list-style-type: none"> <li>• Adopt regulations to implement the provisions of the 2014 Fisheries Law, particularly with regard to vessel marking, fishing logbooks, as well as data and information to be communicated to the fisheries administration by all fishing vessels</li> <li>• Require advance notification of port entry from all fishing vessels</li> </ul> | <ul style="list-style-type: none"> <li>• Provide on the duty of fishing vessels to regularly communicate catch data to the fisheries administration, to notify entry into and exit from national waters, and to make advance notification of port entry</li> </ul> | <ul style="list-style-type: none"> <li>• Adopt regulations to specify the data and information on fishing activities to be provided by industrial, semi-industrial and artisanal vessels fishing in Ghanaian waters</li> </ul> | N/A     | <ul style="list-style-type: none"> <li>• Provide for the set up of a reliable system for the collection and sharing of information from vessels (catch data, logbook, VMS, EEZ entry/exit, port entry, observers)</li> </ul> | <ul style="list-style-type: none"> <li>• Provide on the duty of fishing vessels to regularly communicate catch data to the fisheries administration, to notify entry into and exit from national waters, and to make advance notification of port entry</li> </ul> |
| <b>6.2</b> All countries should require the presence of <b>observers</b> on board industrial fishing vessels, either to collect information and data on fishing activities or to ensure compliance with conservation and management measures in force | N/A   | <ul style="list-style-type: none"> <li>• Require the presence of observers on board</li> </ul>   | N/A  | N/A     | <ul style="list-style-type: none"> <li>• Require the presence of observers on board</li> </ul>   | <ul style="list-style-type: none"> <li>• Require the presence of observers on board</li> </ul>   |

**6. Collection and sharing of information and data from fishing vessels, including through satellite monitoring systems and observers, and set up of electronic information systems, registers and logbooks**

| Recommended action  | Benin   | Côte d'Ivoire  | Ghana  | Liberia  | Nigeria  | Togo   |
|---|---|--|--|--|--|--|
| <b>6.3</b> The installation and use of <b>AIS and VMS</b> on board industrial and semi-industrial fishing vessels should be made mandatory in all FCWC member States  | <ul style="list-style-type: none"> <li>Require the mandatory installation of VMS on industrial fishing vessels authorized to fish in national waters or on the high seas</li> </ul> | <ul style="list-style-type: none"> <li>Provide for the mandatory installation of VMS for industrial vessels authorized to fish in national waters or on the high seas</li> </ul> | N/A  | N/A  | <ul style="list-style-type: none"> <li>Provide for the mandatory installation of VMS for industrial vessels authorized to fish in national waters or on the high seas</li> </ul> | <ul style="list-style-type: none"> <li>Provide for the mandatory installation of VMS for industrial vessels authorized to fish in national waters or on the high seas</li> </ul> |
| <b>6.4</b> All countries should promote the <b>progressive set up of electronic information systems</b> , fishing logbooks and administrative registers to enhance fisheries MCS activities                       | <ul style="list-style-type: none"> <li>Provide for the progressive adoption of electronic information systems, registers and logbooks</li> </ul>                                    | <ul style="list-style-type: none"> <li>Promote the progressive adoption of electronic information systems, registers and logbooks</li> </ul>                                     | <ul style="list-style-type: none"> <li>Provide for the progressive set up of electronic information systems, registers and logbooks</li> </ul>                                       | <ul style="list-style-type: none"> <li>Provide for the progressive set up of electronic information systems, registers and logbooks</li> </ul> | <ul style="list-style-type: none"> <li>Promote the progressive set up of electronic information systems, registers and logbooks</li> </ul>                                       | <ul style="list-style-type: none"> <li>Promote the progressive adoption of electronic information systems, registers and logbooks</li> </ul>                                     |
| <b>6.5</b> Adequate provisions should be made in legislation to allow fisheries administrations to <b>exchange information and data</b> on fishing activities between countries, as required by international law | <ul style="list-style-type: none"> <li>Explicitly provide for information &amp; data exchange between countries</li> </ul>  | <ul style="list-style-type: none"> <li>Explicitly provide for information &amp; data exchange between countries</li> </ul>   | <ul style="list-style-type: none"> <li>Adopt regulations to authorize the cooperation and exchange of information (implementation of art. 139(4)(j) of the Fisheries Act)</li> </ul> | <ul style="list-style-type: none"> <li>Explicitly provide for information &amp; data exchange between countries</li> </ul>                     | <ul style="list-style-type: none"> <li>Explicitly provide for information &amp; data exchange between countries</li> </ul>   | <ul style="list-style-type: none"> <li>Explicitly provide for information &amp; data exchange between countries</li> </ul>   |



**7. Market-related measures, namely traceability of fish products and organization of wholesale fish merchants, to ensure that IUU fish does not enter the value-chain**

| Recommended action  | Benin  | Côte d'Ivoire   | Ghana  | Liberia  | Nigeria  | Togo  |
|---|--|---|--|--|--|---|
| <b>7.1</b> FCWC member States should adopt a <b>coordinated traceability system</b> for fish products | <ul style="list-style-type: none"> <li>• Adopt regulations to ensure fish product traceability and introduce market-related measures to fight IUU fishing</li> </ul> | <ul style="list-style-type: none"> <li>• Strengthen fish traceability and adopt related market measures to fight IUU fishing</li> </ul> | <ul style="list-style-type: none"> <li>• Adopt provisions to ensure fish product traceability</li> </ul>   | N/A  | <ul style="list-style-type: none"> <li>• Put in place a fish product traceability system and adopt related market measures to fight IUU fishing</li> </ul> | <ul style="list-style-type: none"> <li>• Introduce a system for fish product traceability and market measures to fight IUU fishing</li> </ul> |
| <b>7.2</b> FCWC member States should promote the <b>organization of wholesale fish merchants</b>      | <ul style="list-style-type: none"> <li>• Promote the organization of wholesale fish merchants</li> </ul>   | <ul style="list-style-type: none"> <li>• Promote the organization of wholesale fish merchants</li> </ul>                                | <ul style="list-style-type: none"> <li>• Adopt regulations implementing the provisions of the Fisheries Act on the organization of wholesale fish merchants</li> </ul> | <ul style="list-style-type: none"> <li>• Provide for the organization of wholesale fish merchants</li> </ul> | <ul style="list-style-type: none"> <li>• Promote the organization of wholesale fish merchants</li> </ul>   | <ul style="list-style-type: none"> <li>• Promote the organization of wholesale fish merchants</li> </ul>                                      |

**8. Effectiveness of law enforcement by conferring appropriate powers to inspectors and by ensuring inter-institutional coordination between relevant authorities**

| Recommended action   | Benin   | Côte d'Ivoire   | Ghana | Liberia | Nigeria  | Togo  |
|--|---|---|-------|---------|--|---|
| <b>8.1</b> FCWC member States should grant <b>similar powers</b> to their respective law enforcement officers under fisheries legislation                            | <ul style="list-style-type: none"> <li>Specify that inspectors have the power to request and take copies of relevant documentation</li> </ul> | <ul style="list-style-type: none"> <li>Specify that inspectors have the power to take samples and to request and take copies of relevant documentation</li> </ul> | N/A   | N/A     | <ul style="list-style-type: none"> <li>Grant inspectors the power to take samples in case of suspicion of breach</li> </ul>    | <ul style="list-style-type: none"> <li>Specify that inspectors have the power to search all vessels and facilities, to take samples and to request and take copies of relevant documents</li> </ul> |
| <b>8.2</b> Where needed, <b>inter-institutional coordination</b> between relevant authorities in charge of fisheries law enforcement should be ensured or reinforced | <ul style="list-style-type: none"> <li>Provide for inter-institutional coordination between enforcement authorities</li> </ul>                | <ul style="list-style-type: none"> <li>Provide for inter-institutional coordination between enforcement authorities</li> </ul>                                    | N/A   | N/A     | <ul style="list-style-type: none"> <li>Provide for inter-institutional coordination between enforcement authorities</li> </ul> | <ul style="list-style-type: none"> <li>Provide for inter-institutional coordination between enforcement authorities</li> </ul>  |

**9. Effectiveness of sanctions, including by providing for different types of penalties (administrative, financial, commercial and criminal)**

| Recommended action  | Benin  | Côte d'Ivoire  | Ghana   | Liberia  | Nigeria   | Togo   |
|---|--|--|---|--|---|--|
| <b>9.1</b> States should <b>define common offenses</b> at the FCWC level in order to allow <b>harmonization of sanctions</b> for similar breaches of fisheries legislation, particularly for industrial vessels fishing in the EEZ, with a view to effectively deterring IUU fishing: | <ol style="list-style-type: none"> <li>1) <i>Fishing without a license/authorization or with an expired license/authorization</i></li> <li>2) <i>Fishing with unauthorized or illegal gear (including small mesh size) or methods</i></li> <li>3) <i>Fishing in prohibited areas (including in areas reserved to artisanal fisheries)</i></li> <li>4) <i>Use of forged documentation in relation to fishing activities</i></li> <li>5) <i>Provision of false, inaccurate or incomplete information on catch and fishing activities (knowingly with the intent to deceive)</i></li> <li>6) <i>Illegal transshipment of catch (including of by-catch into canoes and sale of fish at sea)</i></li> <li>7) <i>Trading in illegal fish (knowingly purchasing, selling, importing or exporting fish caught illegally)</i></li> <li>8) <i>Targeting of unauthorized species (e.g. below minimum size/immature or valuable by-catch)</i></li> <li>9) <i>Damage to artisanal gear by industrial fishing vessels or merchant vessels</i></li> </ol> |  |   |  |   |  |
| <b>9.2</b> States should strengthen the response to violations related to the <b>communication of information and data</b> by fishing vessels to the fisheries administration, as appropriate (violations 4 & 5)  | <ul style="list-style-type: none"> <li>• Introduce sanctions for violations 4 &amp; 5 (beyond non-compliance with the duty to provide information on catch and fishing activities)</li> </ul>  | <ul style="list-style-type: none"> <li>• Introduce sanctions for violations 4 &amp; 5 (beyond non-compliance with the duty to provide information on catch and fishing activities)</li> </ul>  | N/A   | N/A  | <ul style="list-style-type: none"> <li>• Introduce sanctions for use of forged documentation (violation 4)</li> </ul>   | <ul style="list-style-type: none"> <li>• Introduce sanctions for use of forged documentation (violation 4) &amp; for intentional provision of false information (violation 5)</li> </ul> |
| <b>9.3</b> States should reinforce the provisions sanctioning <b>trade in illegally caught fish</b> (violation 7) so as to deprive offenders of the benefits accruing from IUU fishing  | <ul style="list-style-type: none"> <li>• Introduce sanctions for trade in fish caught without a license, in a prohibited area or season, or fish of IUU origin</li> </ul>  | <ul style="list-style-type: none"> <li>• Introduce sanctions for trade in illegally caught fish (undersized, protected species, without a licence, in a prohibited area or season, with prohibited methods or gear, IUU origin)</li> </ul> | <ul style="list-style-type: none"> <li>• Explicitly sanction trade in fish of IUU origin</li> </ul> | <ul style="list-style-type: none"> <li>• Introduce sanctions for trade in illegally caught fish (undersized, protected species, without a licence, in a prohibited area or season, with prohibited methods or gear, IUU origin)</li> </ul> | <ul style="list-style-type: none"> <li>• Introduce sanctions for trade in illegally caught fish (beyond undersized fish), including fish of IUU origin</li> </ul> | <ul style="list-style-type: none"> <li>• Explicitly sanction trade in fish of IUU origin</li> </ul>  |

|  |   |  |  |   |   |  |
|--|---|--|--|---|---|--|
| <p><b>9.4</b> Legislation should explicitly exclude <b>imprisonment of crewmembers</b> operating on board foreign fishing vessels as a sanction in case of an offense committed in the EEZ of an FCWC member State, as required under LOSC art. 73</p> | <ul style="list-style-type: none"> <li>• Exclude imprisonment for foreign vessels operating in the Beninese EEZ</li> </ul>        | <ul style="list-style-type: none"> <li>• Exclude imprisonment for foreign vessels operating in the Ivorian EEZ</li> </ul>  | <ul style="list-style-type: none"> <li>• Exclude imprisonment for foreign vessels operating in the Ghanaian EEZ</li> </ul> | N/A   | <ul style="list-style-type: none"> <li>• Exclude imprisonment for foreign vessels operating in the Nigerian EEZ</li> </ul>  | N/A  |
| <p><b>9.5 Monetary sanctions</b> should be increased to enhance deterrence and harmonized as much as possible to avoid the establishment of <i>preferred</i> IUU fishing zones, where fines are significantly low</p>                                  | N/A   | N/A  | <p>N/A</p> <p>(Ghana has the highest fines, progressively increasing in case of recidivism)</p>                            | <ul style="list-style-type: none"> <li>• Define a minimum fine for each offense, if possible (current legislation only provides for a maximum fine)</li> </ul>              | <ul style="list-style-type: none"> <li>• Increase monetary sanctions to enhance deterrence</li> <li>• Establish a range of fines according to the seriousness of the breach (like in other FCWC countries), instead of a flat fine</li> </ul> | <ul style="list-style-type: none"> <li>• Increase amount of minimum fine in the range of applicable fines for each offense</li> </ul>                                  |
| <p><b>9.6 Administrative sanctions</b> should be used more frequently to facilitate imposition of sanctions by the fisheries administration outside the judicial process</p>   | <ul style="list-style-type: none"> <li>• Increase the duration of administrative sanctions in case of serious offenses</li> </ul> | <ul style="list-style-type: none"> <li>• Provide for administrative sanctions, such as suspension or withdrawal of license, and deletion from ship registry</li> </ul> | N/A  | N/A   | <ul style="list-style-type: none"> <li>• Require motivated decision for the suspension or cancellation of a license to enhance administrative transparency</li> </ul>   | <ul style="list-style-type: none"> <li>• Provide for administrative sanctions, such as suspension or withdrawal of license, and deletion from ship registry</li> </ul> |
| <p><b>9.7</b> States should grant to the fisheries administration the power to compound certain offences through <b>out-of-court settlement procedures</b> in order to avoid initiating judicial procedures, where appropriate</p>                     | N/A   | N/A  | N/A  | <ul style="list-style-type: none"> <li>• Grant the power to the fisheries administration to compound certain offenses through out-of-court settlement procedures</li> </ul> | <ul style="list-style-type: none"> <li>• Grant the power to the fisheries administration to compound certain offenses through out-of-court settlement procedures</li> </ul>   | N/A  |