

**On behalf of the Fisheries Governance Project**

**Gaps and Opportunities in Global Fisheries  
Governance to Provide Adequate Protection of  
Fishers' Labour and Human Rights on Board  
Fishing Vessels**

**Country study**

**Study (Part 2)**

**11 March 2022**

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## Abbreviations and acronyms

CFP	Common Fisheries Policy
DWF	Distant Water Fishing
EEZ	Economic Exclusive Zone
FAO	Food and Agriculture Organization of the United Nations
FFA	South Pacific Fisheries Forum Agency
FIP	Fisheries Improvement Project
FSM	Federated States of Micronesia
IATTC	Inter-American Tropical Tuna Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
ILO	International Labour Organization
IMO	International Maritime Organization
IOTC	Indian Ocean Tuna Commission
IUU	Illegal, Unreported and Unregulated
IWC	International Whaling Commission
MCS	Monitoring, Control and Surveillance
MIFV	Marshall Islands Fishing Venture
MIMRA	Marshall Islands Marine Resources Authority
MLC	Maritime Labour Convention
MSC	Marine Stewardship Council
PNA	Parties to the Nauru Agreement
PSMA	Port State Measures Agreement
RFB	Regional Fisheries Body
RFMO	Regional Fisheries Management Organization
RMI	Republic of Marshall Islands
SFPA	Sustainable Fisheries Partnership Agreement
SPRFMO	South Pacific Regional Fisheries Management Organization
SRFC	Sub-Regional Fisheries Commission
TAC	Total Allowable Catch
TAE	Total Allowable Effort
TFMP	Tuna Fisheries Management Plan
UNCLOS	United Nations Convention on the Law of the Sea
UNCTOC	United Nations Convention against Transnational Organized Crime
UNFSA	United Nations Fish Stocks Agreement
USA	United States of America
VDS	Vessel Day Scheme
WCPFC	Western and Central Pacific Fisheries Commission
WCPO	Western and Central Pacific Ocean
WTO	World Trade Organization

## **A. Introduction**

This report complements the study undertaken in 2021, which aimed to assess key instruments underpinning global fisheries governance and related instruments with a view to identifying gaps and opportunities to ensure adequate protection of fishers' labour and human rights on fishing vessels. It provides a brief overview of the fisheries sector in seven selected countries across the world, namely China, Marshall Islands, Peru, Senegal, Seychelles, Spain and Vietnam. The review is divided into four chapters providing basic information on the fisheries sector (production, fleets, ports, processing industry), a mapping of key treaty ratification (treaties reviewed and analysed in the first part of the study), an assessment of implementation of key instruments through a brief review of the national policy and legal framework (fisheries, shipping and human trafficking), and a mapping of key initiatives supporting implementation of key instruments.

For the purpose of this study, the term “fisheries instruments” under the section on mapping of key treaties’ ratification should be construed as encompassing not only the fisheries conventions and agreements governing fisheries management, but also treaties relating to the safety of fishing vessels and training and certification of fishing vessel personnel (IMO Conventions) as well as the labour standards on fishing vessels (ILO convention).

## B. Country Review

### 1. China

#### 1.1 Basic fisheries information

##### 1.1.1 Production

China is the world's top producer of marine captures, accounting for about 15 percent of the world's total production in 2018. However, in recent years, there was a decline in catches from an average 13.8 million tonnes per year between 2015 and 2017 to 12.7 million tonnes in 2018. A continuation of a catch reduction policy beyond its Thirteenth Five-Year Plan (2016-2020) is expected to result in further decreases in coming years.

In 2018, China reported about 2.26 million tonnes of marine catches by its distant-water fishing fleet, but provided details on species and fishing areas only for those catches marketed in China, which represented approximately 40 percent of the total catches for distant-water fisheries.<sup>1</sup>

##### 1.1.2 Fishing fleet

China has the largest fishing fleet in the world. Between 2013 and 2018, China's fishing fleet was reduced by almost 20 percent from 1,071,000 to 864,000 vessels. After reaching a peak number of fishing vessels in 2013, the fleet capacity of China has been steadily reduced.<sup>2</sup>

China also has the largest distant water fishing (DWF) fleet in the world. Although China's DWF fleet is known to be large, there is little information available about its actual size and the scale of its operations. In addition, it is unclear whether the Government of China has a comprehensive overview and knowledge of Chinese DWF fleet, as vessel ownership is highly fragmented among many small companies and the fleet includes vessels registered in other jurisdiction. Prior to 2019, assessments had produced estimates ranging between 1,600 to 3,400 vessels. In a 2019 report, however, London-based researcher Overseas Development Institute (ODI) found that China's DWF fishing was 5 to 8 times larger than previously estimated. It identified a total of 16,966 Chinese DWF vessels, of which only 927 were registered in third countries. The findings also revealed that trawlers were the most common DWF vessels.<sup>3</sup>

At the 2017 World Trade Organization (WTO) summit in Buenos Aires, Argentina, the Chinese government announced plans to restrict the size of its DWF fleet to 3,000 by 2020 in response to WTO efforts to cut government subsidies that contribute to overfishing and in line with its policy aiming at reducing its fishing fleet capacity (see section 1.3.1 below). In order to improve compliance with applicable conservation and management measures by Chinese DWF vessels, China put in place a ranking system for its DWF companies, which takes into account safety and crew management. In March 2021, the Ministry of Agriculture released its second annual compliance rating system for some 180 Chinese companies operating DWF vessels. It is a process whereby DWF companies assess their own performance against the requirements of the Chinese DWF regulations and international

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<sup>1</sup> FAO. 2020. *The State of World Fisheries and Aquaculture 2020. Sustainability in Action*. Rome, at p.10. <https://www.fao.org/3/ca9229en/ca9229en.pdf>

<sup>2</sup> *Ibid*, at p. 42

<sup>3</sup> ODI. 2019. *China's distant water fishing fleet: scale, impact and governance*, at p. 8

conservation and management measures adopted by relevant regional fisheries management organizations.<sup>4</sup>

DWF is enshrined in China's national development blueprint and is a key part of the Belt and Road global infrastructure plan, which includes ocean routes. The blueprint states that "the [fishing] industry is important for ensuring national food security" and "of great significance in safeguarding national maritime rights and interests."<sup>5</sup>

### 1.1.3 Ports

There are dozens of national and provincial fishing ports along the coast of China. As part of overall fisheries policy's reforms, a designated port scheme has been devised to improve the management of the fishing ports in China. While previous oversight focused primarily on the monitoring of at-sea activities, the new reforms put special emphasis on port monitoring and inspection, in particular improved monitoring of fishing vessels' movement in and out of ports, monitoring of catch landing and port inspections to ensure compliance with fisheries management measures and vessel safety requirements.<sup>6</sup>

### 1.1.4 Processing industry

No comprehensive information could be found

## 1.2 Mapping of key treaties' ratification

### 1.2.1 Fisheries instruments

Apart from the 1982 United Nations Convention on the Law of the Sea (UNCLOS), China has not ratified any binding fisheries instrument as of yet. This is seen by many as a sign of China's unwillingness to fully discharge its flag State responsibility under international agreements.

With respect to the 2009 Port State Measures Agreement (PSMA), the Ministry of Agriculture and Rural Affairs, which is the ministry responsible for fisheries, has been trying to facilitate the national processes required to ratify the PSMA. However, the Ministry of Transport, which is the competent authority for ports management, has not been supportive of this initiative lest that ratification of this instrument would translate into extra management burden on its administration.<sup>7</sup>

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1982 UNCLOS</b>	10 Dec 1982	7 June 1996	in force as from 16 Nov 1994
<b>1993 Compliance Agreement</b>			in force as from 24 Apr 2003
<b>1995 UNFSA</b>	6 Nov 1996		in force as from 11 Dec 2001
<b>1995 STCW-F</b>	26 Sept 1996		in force as from 29 Sept 2012

<sup>4</sup> See <https://chinadialogueocean.net/en/fisheries/18512-chinas-distant-water-fishing-firms/>

<sup>5</sup> Chuin-Wei Yap. *China's Fishing Fleet, the World Largest, Drives Beijing's Global Ambitions*. Wall Street Journal. 21 April 2021. <https://www.wsj.com/articles/chinas-fishing-fleet-the-worlds-largest-drives-beijings-global-ambitions-11619015507>

<sup>6</sup> Zhang Chun. *Designated ports could pave the way for sustainable fishing in Chinese waters*. China Ocean Dialogue. 27 January 2021. <https://chinadialogueocean.net/16063-designated-ports-pave-way-for-sustainable-fishing-chinese-waters/>

<sup>7</sup> Personal communication on 3 February 2022.

<b>2007 Work in Fishing Convention (C188)</b>		in force as from 16 Nov 2017
<b>2009 PSMA</b>		in force as from 5 June 2016
<b>2012 CTA</b>		not in force yet

### 1.2.2 Labour conventions

China has ratified 7 of the 10 ILO fundamental Conventions, but not the 2014 Protocol to the Forced Labour Convention (No. 29) nor the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

However, China ratified the technical convention governing labour standards in the shipping industry, the Maritime Labour Convention (MLC, 2006), in 2015.

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1930 Forced Labour Convention (C29)</b>		12 Aug 2022 (a)*	in force as from 1 May 1932
<b>2014 Protocol to C29 (P29)</b>			in force as from 9 Nov 2016
<b>1948 Freedom of Association &amp; Protection of the Right to Organise Convention (C87)</b>			in force as from 4 July 1950
<b>1949 Right to Organise and Collective Bargaining Convention (C98)</b>			in force as from 18 July 1951
<b>1957 Abolition of Forced Labour Convention (C105)</b>		12 Aug 2022 (a)*	in force as from 17 Jan 1959
<b>MLC 2006</b>		12 Nov 2015 (r)	in force as from 16 Aug 2013

\*Conventions C29 and C105 will enter into force for China on 12 August 2023

### 1.2.3 Transnational organized crime

China is a party to the United Nations Convention against Transnational Organized Crime (UNCTOC) adopted in New York on 15 November 2000. The Chinese Government signed UNCTOC on 12 December 2000 and ratified it on 23 September 2003. In accordance with the provisions of Article 35.3 of the Convention on the settlement of disputes, China made a reservation stating that it does not consent to be bound by Article 35.2 of the Convention setting out the process for dispute settlement under the Convention.

China acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children on 8 February 2010. Like for the UNCTOC, China made a reservation stating its refusal to be bound by the dispute settlement mechanism provided for under the Protocol.

### 1.2.4 Membership of regional fisheries organizations

China is a member of 7 Regional Fisheries Management Organizations (RFMOs), namely:

- the International Commission for the Conservation of Atlantic Tunas (ICCAT);
- the Western and Central Pacific Fisheries Commission (WCPFC);
- the Inter-American Tropical Tuna Commission (IATTC);
- the Indian Ocean Tuna Commission (IOTC);

- the South Pacific Regional Fisheries Management Organization (SPRFMO);
- the North Pacific Fisheries Commission (NPFC); and
- the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)

It is also a member of the International Whaling Commission (IWC).

### **1.3 Assessment of implementation of key instruments through a brief review of national policy and legal framework**

#### **1.3.1 Fisheries policy**

Since 1979, which ushered in the policy of Reform and Opening-up, China has developed a global and comprehensive fisheries policy marked by several key milestones:

- With the adoption of the 1986 Fisheries Law, China promoted a policy calling for the simultaneous development of aquaculture, fishing and processing, with special emphasis on aquaculture;
- In 1999, the Ministry of Agriculture started to implement a “Zero Growth” policy aimed at keeping marine fisheries production at the 1998 level with a view to achieving sustainable development of marine fisheries;
- In 2013, the State Council spelled out the principles underpinning China’s marine fisheries policy, including, among other things: (i) make unremitting effort to develop China into a strong maritime country; (ii) focus on accelerating the transformation of marine fisheries development mode; (iii) continue the simultaneous development of capture fisheries and aquaculture; and (iv) expand offshore and distant water fisheries;
- In 2016, China’s Thirteenth Five-Year Plan for Economics and Social Development was adopted. It provided a sound policy platform for the protection of marine ecosystems and the restoration of capture fisheries within China’s exclusive economic zone (EEZ);
- In 2017, with the approval of the State Council, the Ministry of Agriculture adopted a policy of “Negative Growth” for capture fisheries. The policy goals were twofold: (i) achieve total control over annual capture yield according to the status of various fish stocks; and (ii) reduce China’s marine fishing fleet capacity through the reduction of the total number of fishing vessels and the limitation of fishing vessels’ power.<sup>8</sup>

#### **1.3.2 Fisheries legal framework**

The main fisheries legislation is the Fisheries Law of the People’s Republic of China adopted in 1986.<sup>9</sup> It has been amended several times since entering into force. It provides the global legal framework for

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<sup>8</sup> Shuolin Huang and Yuru He. *Management of China’s capture fisheries: review and prospect*. Aquaculture and Fisheries 4 (2019) 173-182. Science Direct. <https://reader.elsevier.com/reader/sd/pii/S2468550X18302521?token=1470DC1F5A7E504905107CE3A126C7DF69B4FB221A629D87B40EF40D2B030B45DF3477ACA4A4E22D489022A2A92463C&originRegion=eu-west-1&originCreation=20220127143011>

<sup>9</sup> It was promulgated by Presidential Order No. 34 of 20 January 1986. See translation of the Fisheries Law 1986 as amended to 28 August 2004.

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/37829/108064/F651627419/CHN37829%20Eng.pdf>

the management of fisheries resources in China. It has been supplemented by numerous national and provincial regulations.

Key features of the Fisheries Law 1986 include the following:

- Determination of total allowable catches (TACs) for major commercial fisheries (Article 22);
- Quota system for major fish stocks (Article 22);
- Licensing of fishing vessels to fish in Chinese waters and jointly managed fishery zones with other countries (Article 23);
- Authorization system for Chinese-flagged vessels operating in waters beyond national jurisdiction (Article 23).

China has also adopted a set of regulations governing the operation of its DWF fleet.

### 1.3.3 Shipping law

The Maritime Code of the Peoples Republic of China of 1992 is the main Chinese merchant shipping law.<sup>10</sup> It provides a definition of the terms:

- “ship”, which encompasses any sea-going ships, except ships or crafts to be used for military or public service purposes and any ships less than 20 gross tonnage (Article 3). Since there is no specific provision expressly excluding shipping vessels from the scope of the Code, it can be inferred that the Code applies to fishing vessels;
- “crew”, which refers to the entire complement of the ship, including the master (Article 31).

It requires that:

- the master, deck officers, chief engineer and radio operator must be in possession of certificates of competency (Article 32);
- any Chinese crew engaged in international voyages must be in possession of a seaman’s book and other relevant certificates issued by the harbour superintendency authorities of the People’s Republic of China.

China’s Ministry of Transport has adopted a regulation governing Seafarers’ Working and Living Conditions onboard vessels.<sup>11</sup> It is unclear whether its scope extends to fishers.

### 1.3.4 Labour law

The basic Labour Law of the People’s Republic of China was adopted in 1994.<sup>12</sup>

### 1.3.5 Law on human trafficking

No relevant information could be found

## 1.4 Mapping of key initiatives supporting implementation of key instruments

No relevant information could be found

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<sup>10</sup> The Maritime Code was promulgated by Presidential Order No. 64 of 7 November 1992.

<http://www.asianlii.org/cn/legis/cen/laws/mcotproc360/#:~:text=Article%205%20Ships%20are%20allowed,the%20People's%20Republic%20of%20China.&text=The%20joint%20ownership%20of%20the,a%20third%20party%20unless%20registered>.

<sup>11</sup> See <https://www.crewcn.com/news/news785.html> (No English version could be found)

<sup>12</sup> The Labour Law was promulgated by Presidential Order No. 28 of 1994.

See <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/37357/108026/>

## 2. Marshall Islands

### 2.1 Basic fisheries information

The COVID-19 pandemic prevented some work in 2020, in particular the presence of observers on fishing vessels, and reduced or delayed other activities such as transhipments, which declined by over 60 percent.

#### 2.1.1 Production

The commercial catches within the Republic of Marshall Islands (RMI) EEZ are taken predominantly by the purse seine fleet and the rest of the production is split between the longline and pole-and-line fleets. In 2020, estimated total catch for all gears combined was 42,270 metric tons (mt) with purse seine vessels accounting for about 87 percent of the total catch, followed by longline vessels with 8 percent and pole-and-line vessels with 5 percent.<sup>13</sup>

<b>Total Catch Purse Seine Fleets<sup>14</sup> in the Marshall Islands EEZ 2015-2020<sup>15</sup></b>					
<b>Year</b>	<b>Skipjack</b>	<b>Yellowfin</b>	<b>Bigeye</b>	<b>Others</b>	<b>Total<sup>16</sup></b>
2015	21,293	4,295	126	0	26,344
2016	72,329	5,790	648	0	78,767
2017	22,765	2,901	788	65	26,519
2018	26,424	2,168	253	58	28,903
2019	4,806	65	410	11	5,394
2020	28,915	7,000	871	55	36,841 <sup>17</sup>

The year-to-year fluctuations are influenced by prevailing environmental conditions, with higher catches recorded during or immediately following strong El Nino periods. This was the case in both 2016 and 2020.

The breakdown of the purse seine catch shows that RMI-flagged vessels caught the largest share of the tonnage, with a provisional total of 9,670 mt or about a quarter of the total catch for 2020.

The total catch estimate of the RMI purse seine fleet in 2020 was 81,913 mt. This tonnage figure reflects tuna caught by the national purse seine fleet throughout the WCPFC area.

<b>Total Catch Longline Fleets<sup>18</sup> in the Marshall Islands EEZ 2015-2020<sup>19</sup></b>					
<b>Year</b>	<b>Albacore</b>	<b>Bigeye</b>	<b>Yellowfin</b>	<b>Others</b>	<b>Total<sup>20</sup></b>
2015	122	2,286	1,380	359	4,147
2016	67	1,522	1,127	420	3,136
2017	71	1,698	1,389	445	3,604

<sup>13</sup> MIMRA Annual Report 2020, p. 37. <http://rmimimra.com/media/attachments/2021/10/21/fy2020-mimra-report.pdf>

<sup>14</sup> RMI, FSM Arrangement, South Korea, Nauru, Kiribati, Taiwan, USA, Solomon Islands, and Japan.

<sup>15</sup> MIMRA Annual Report 2020, p. 32

<sup>16</sup> Figures are in metric tons.

<sup>17</sup> Provisional tonnage for 2020

<sup>18</sup> Marshall Islands chartered, FSM, Japan and China.

<sup>19</sup> MIMRA Annual Report 2020, p. 32

<sup>20</sup> Figures are in metric tons.

2018	52	2,210	1,262	316	3,838
2019	134	1,974	1,699	410	4,216
2020	21	1,640	1,282	256	3,197 <sup>21</sup>

Most of the longline catch was caught by Marshall Islands-chartered longliners, with 1,514 mt and the fleet from the Federated States of Micronesia (FSM), which accounted for 1,340 mt. Vessels from China and Japan caught the balance, 223 mt and 120 mt, respectively.<sup>22</sup>

<b>Total Catch Pole-and-Line Fleets<sup>23</sup> in the Marshall Islands EEZ 2015-2020<sup>24</sup></b>				
<b>Year</b>	<b>Bigeye</b>	<b>Skipjack</b>	<b>Yellowfin</b>	<b>Total<sup>25</sup></b>
2015	0	615	2	617
2016	0	429	1	430
2017	0	72	0	72
2018	0	1,017	1	1,018
2019	0	1,022	2	1,024
2020	0	2,223	9	2,232 <sup>26</sup>

Japan is the only country to use pole-and-line in the Marshall Islands EEZ. The 2020 tonnage represents the highest pole-and-line catch since 2014.

## 2.1.2 Fleets

In 2020, Marshall Islands operated a national ocean fleet of 11 purse seiners.<sup>27</sup>

A total of 243 foreign vessels were licensed to fish in RMI's EEZ in 2020. This included 190 purse seiners, 35 longliners and 21 pole-and-line vessels. The makeup of the DWF fleet licensed to fish in RMI's EEZ differs each year. In 2020, eight countries licensed their vessels to fish in RMI's EEZ in addition to the vessels operating under the Federated States of Micronesia (FSM) Arrangement<sup>28</sup>:

- South Korea, 25 purse seiners (25 in 2019);
- China, 9 purse seiners (9 in 2019) and 20 longliners (22 in 2019);
- Japan 28 purse seiners (26 in 2019) and 5 longliners (9 in 2019);
- USA, 25 purse seiners;
- Taiwan, 18 purse seiners (24 in 2019);
- FSM, 10 longliners (9 in 2019);
- Philippines, 15 purse seiners (10 in 2019);
- Kiribati, 3 purse seiners (7 in 2019);

In 2020, 70 vessels operating under the FSM Arrangement were licensed to fish in RMI's EEZ compared to 54 the previous year.<sup>29</sup>

<sup>21</sup> Provisional tonnage for 2020

<sup>22</sup> MIMRA Annual Report 2020, p. 38

<sup>23</sup> Pole-and-line is exclusively Japan.

<sup>24</sup> MIMRA Annual Report 2020, p. 32

<sup>25</sup> Tonnage is in metric tons.

<sup>26</sup> Provisional tonnage for 2020

<sup>27</sup> This does not include small-scale fishing vessels operating in the coastal fisheries.

<sup>28</sup> The FSM Arrangement was developed as a mechanism for domestic vessels of the Parties to the Nauru Agreement to access the fishing resources of other parties. It was signed on 30 Nov 1994 and came into force on 23 September 1995. Signatories are Federated States of Micronesia, Marshall Islands, Nauru, Palau, Papua New Guinea and Solomon Islands.

<sup>29</sup> MIMRA Annual Report 2020, p. 37

### 2.1.3 Ports

Majuro port is a major hub for the transhipment of tuna in the Western and Central Pacific Ocean (WCPO).

From 2015 to 2019, purse seiners used Majuro for a total of 2,331 transhipments, an average of 466 per year. Each transhipment averaged over 740 tons of tuna moving from fishing vessels to carrier ships for transport to offshore canneries. The 1.7 million tons of tuna moving through Majuro in that five-year period put the RMI's capital on the map as the world's busiest tuna transhipment port. The numbers dropped to 175 in 2020 due to Covid-imposed port entry restrictions, but that was viewed as a temporary condition that would improve once port entry restrictions were eased in 2021.<sup>30</sup>

In 2020, the breakdown of the 175 transhipment operations in Majuro port by purse seine vessels included:

- 48 by Taiwan-flagged vessels for a provisional total of 29,153 mt;
- 47 by Marshall Islands-flagged vessels for a provisional total 35,201 mt;
- 42 by vessels operating under the Federated States of Micronesia Arrangement for a provisional total of 29,077 mt.

Other vessels that used Majuro to tranship in 2020 were flagged in Nauru, Papua New Guinea, United States of America (USA) and China.

In addition to the purse seiner transhipments, 30 longline vessels associated with Marshall Islands Fishing Venture (MIFV)<sup>31</sup> regularly offload their tuna catches during the year to provide raw materials to the MIFV processing plant.<sup>32</sup>

### 2.1.4 Processing industry

In addition to the MIFV's tuna processing plant mentioned in section 2.1.3 above, the Pan Pacific Foods operates a loining plant with six associated purse seiners (which are Marshall Islands-flagged) that supply tuna for processing.

Moreover, MIFV and Pacific International Inc. have steadily increased their numbers of containerized whole tuna exports in recent years. The latter exported the highest volume of whole tuna estimated at 7,908 mt in 2020.<sup>33</sup>

## 2.2 Mapping of key treaties' ratification

### 2.2.1 Fisheries instruments

The RMI has ratified UNCLOS and the 1995 UN Fish Stocks Agreement (UNFSA) on straddling fish stocks and highly migratory fish stocks. Like a majority of small island nations, which are members of the Pacific Islands Fisheries Forum Agency (FFA), the Marshall Islands have not ratified the 2009 PSMA. However, it is important to note that consideration of PSMA's ratification is listed as an activity

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<sup>30</sup> MIMRA Annual Report 2020, pp. 29-30.

<sup>31</sup> MIFV is a Majuro-based tuna processing and export company that is a subsidiary of Luen Thai.

<sup>32</sup> MIMRA Annual Report 2020, p. 35

<sup>33</sup> *Ibid*

in support of the strategic objective aiming at ensuring that Majuro remains a major tuna transhipment port, supported by monitoring, control and surveillance (MCS) and port State measures (PSM) best practices, in the Tuna Fisheries Management Plan 2020-2025 (TFMP).<sup>34</sup>

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1982 UNCLOS</b>		9 Aug 1991 (a)	in force as from 16 Nov 1994
<b>1993 Compliance Agreement</b>			in force as from 24 Apr 2003
<b>1995 UNFSA</b>	4 Dec 1995	19 Mar 2003 (a)	in force as from 11 Dec 2001
<b>1995 STCW-F</b>			in force as from 29 Sept 2012
<b>2007 Work in Fishing Convention (C188)</b>			in force from 16 Nov 2017
<b>2009 PSMA</b>			in force as from 5 June 2016
<b>2012 CTA</b>			not in force yet

## 2.2.2 Labour conventions

RMI has ratified only one of the 10 ILO fundamental Conventions, the Worst Forms of Child Labour Convention, 1999 (No. 182) and only 2 of the 176 ILO Technical Conventions. This includes the ratification of the technical convention governing labour standards in the shipping industry, the Maritime Labour Convention (MLC, 2006).

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1930 Forced Labour Convention (C29)</b>			in force as from 1 May 1932
<b>2014 Protocol to C29 (P29)</b>			in force as from 9 Nov 2016
<b>1948 Freedom of Association &amp; Protection of the Right to Organise Convention (C87)</b>			in force as from 4 July 1950
<b>1949 Right to Organise and Collective Bargaining Convention (C98)</b>			in force as from 18 July 1951
<b>1957 Abolition of Forced Labour Convention (C105)</b>			in force as from 17 Jan 1959
<b>MLC 2006</b>		25 Sept 2007	in force as from 16 Aug 2013

## 2.2.3 Transnational organized crime

The RMI is a party to the United Convention against Transnational Organized Crime (UNCTOC) adopted in New York on 15 November 2000. It acceded to the Convention on 11 June 2011. However, it is not a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children adopted in New York on 15 November 2000.

## 2.2.4 Membership of regional fisheries organizations and other arrangements

The RMI is a member of the Pacific Islands Forum Fisheries Agency (FFA) and the WCPFC. As a signatory to the Nauru Agreement, the RMI is a member of the Parties to the Nauru Agreement (PNA). PNA controls the world's largest tuna purse seine fishery and around 50 percent of the global supply of

<sup>34</sup> TFMP, objective 2.1, p. 12. <http://rmimimra.com/media/attachments/2020/10/19/mimra-tmp-2021-2025.pdf>

skipjack tuna, the most commonly canned tuna. The focus of PNA efforts to sustainably manage tuna is the Vessel Day Scheme (VDS). The PNA VDS sets, on the basis of scientific advice, an overall total allowable effort (TAE) limit on the number of days fishing vessels can be licensed to fish in PNA's EEZs per year. Each country is allocated a share of the TAE for use in its EEZ each year for both the purse seine and long line fleets. The VDS days can be traded between countries in cases where a country has used up all its days while another has spare days.

The RMI is also a member of the IWC.

## 2.3 Assessment of implementation of key instruments through a brief review of national policy and legal framework

### 2.3.1 Fisheries policy

The VDS has been the foundation for the expansion of the RMI's engagement in the tuna fishery value chain since 2008. But, to date, the country's participation remains limited. The Marshall Islands Marine Resources Authority (MIMRA)'s aim for several years has been to begin piloting participation in the entire value chain of tuna from the sale of fishing days to vessels and tuna transhipment to the delivery of tuna tonnage to processing plants and sale of the end products.

MIMRA's two-pronged focus as it moves into the 2020s is finalizing the establishment of a Competent Authority to facilitate access to the European Union's seafood market, the largest in the world, and establishing a corporate entity<sup>35</sup> to pursue opportunities in the tuna value chain that complement the Competent Authority while extending the reach of the Marshall Islands into other areas of the tuna value chain.<sup>36</sup>

In 2020, the RMI adopted a 6-year TFMP. The main purpose of the plan is to provide guidance to MIMRA in implementing best practice fisheries management to bring long-term benefits to the RMI. The TFMP focuses on the commercial tuna fishery, which comprises RMI-flagged vessels operating both inside the RMI's EEZ and throughout the WCPFC and foreign vessels operating within the RMI's EEZ. The plan covers three main tuna species, skipjack (*Katsuwonus pelamis*), bigeye (*Thunnus obesus*) and yellowfin (*Thunnus albacares*). It focuses on purse seine, longline and pole-and-line gear types. Support vessels, such carriers and bunkers, are also included in the plan.<sup>37</sup>

The three strategic goals of the TFMP are: (i) maximize the long-term value of RMI's fisheries for the benefit of the peoples of RMI; (ii) conserve and manage aquatic resources for the present and future generations; and (iii) promote professional, transparent and accountable fisheries management.

RMI is an active participant in the international treaties, agreements and the WCPFC. These arrangements provide for the provision of public information of RMI fishing vessels, international cooperation in the conservation and management of fisheries, and efforts to combat IUU fishing. The PSMA provides for reciprocal arrangements for dockside inspection of fishing vessels. RMI will pursue bilateral agreements with those states where there may be additional needs for cooperative data sharing, surveillance and enforcement activities, as well as other forms of cooperation, such as the alignment of national fishery management approaches. A recent MCS implementation is an MoU between the RMI and Thailand fisheries authorities which allows for collaboration between port state and tuna processing

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<sup>35</sup> Establishment of a new corporate entity called Pacific Islands Tuna Provisions (PITP), which is the result of a collaboration between MIMRA and The Nature Conservation (TNC). It is a partnership between MIMRA and TNC.

<sup>36</sup> MIMRA Annual Report 2020, p. 28

<sup>37</sup> TFMP, p. 7

state to improve traceability. MIMRA is looking to expand this type of MoU with other tuna processing countries.<sup>38</sup>

### 2.3.2 Fisheries legal framework

The RMI fisheries law is codified in the Marshall Islands Revised Code (MIRC) under Title 51 on Management of Marine Resources.<sup>39</sup> It comprises 5 distinct chapters:

- Chapter 1 - Marshall Islands Marine Resources Authority, which is referred to as the Marshall Islands Marine Resources Act 1997<sup>40</sup>
- Chapter 2 – Fisheries, which is referred to as the Fisheries Act 1997<sup>41</sup>
- Chapter 3 – Management and Development of Local Fisheries, which is referred to as the Management and Development of Local Fisheries Act 1997<sup>42</sup>
- Chapter 4 – Fishing Access and Licensing, which is referred to as the Fishing Access and Licensing Act 1997<sup>43</sup>
- Chapter 5 – Fisheries Enforcement, which is referred to as the Fisheries Enforcement Act of 1997<sup>44</sup>

The **Fisheries Act 1997** provides the framework for the management of the fisheries resources occurring within RMI's fishery waters.<sup>45</sup> It vests MIMRA with the authority to determine participatory rights in the fishery, such as allocation of allowable catch or levels of fishing effort (Section 206) and with the power to authorize a fishery as a designated fishery (development of a fishery management plan). It also includes provisions on cooperation on high seas fishing for highly migratory fish stocks (Section 211) and consultation on international fisheries management (Section 212), which promote international cooperation and are in line with the UNFSA.

The **Fishing Access and Licensing Act 1997** regulates:

- the registration and licensing of Marshall Islands-flagged fishing vessels;
- the licensing of foreign-flagged fishing vessels to operate in RMI's fishery waters;
- in-port transhipment operations. Transhipment at sea is prohibited in RMI's fishery waters (Section 409);
- the registration of fishers or any class of fishers and the keeping of a register of fishers (Section 424).

The **Fisheries Enforcement Act 1997** comprises 6 parts dealing with: Measures to combat IUU fishing (Part I); Appointment, powers, and duties of authorized officers (Part II); Miscellaneous (Part III);

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<sup>38</sup> RMI National Plan of Action to Prevent, Deter and Eliminate IUU Fishing (2020-2025), at p. 21. <https://www.rmimimra.com/media/attachments/2021/07/07/npoa-iuu-2020-2025-final.pdf>

<sup>39</sup> It was amended in 2011.

<sup>40</sup> Title 51, Chapter 1 of the MIRC.

[http://rmimimra.com/media/attachments/2020/08/03/marshallislandsmarineresourcesact1997\\_3-1.pdf](http://rmimimra.com/media/attachments/2020/08/03/marshallislandsmarineresourcesact1997_3-1.pdf)

<sup>41</sup> Title 51, Chapter 2 of the MIRC. [http://rmimimra.com/media/attachments/2020/08/03/fisheriesact\\_2-1.pdf](http://rmimimra.com/media/attachments/2020/08/03/fisheriesact_2-1.pdf)

<sup>42</sup> Title 51, Chapter 3 of the MIRC.

[http://rmimimra.com/media/attachments/2019/09/08/managementanddevelopmentoflocalfisheriesact\\_1.pdf](http://rmimimra.com/media/attachments/2019/09/08/managementanddevelopmentoflocalfisheriesact_1.pdf)

<sup>43</sup> Title 51, Chapter 4 of the MIRC.

[http://www.rmimimra.com/media/attachments/2019/09/08/fishingaccessandlicensingact\\_1.pdf](http://www.rmimimra.com/media/attachments/2019/09/08/fishingaccessandlicensingact_1.pdf)

<sup>44</sup> Title 51, Chapter 5 of the MIRC.

[http://rmimimra.com/media/attachments/2020/08/03/fisheriesenforcementact\\_1.pdf](http://rmimimra.com/media/attachments/2020/08/03/fisheriesenforcementact_1.pdf)

<sup>45</sup> The notion of “fishery waters” means “the exclusive economic zone, the territorial sea and internal waters, including lagoons, as described in the Marine Zones (Declaration) Act, 1984, and any other waters within the jurisdiction of the Marshall Islands” (Section 102 (31) of the Marshall Islands Marine Resources Act, 1997).

Jurisdiction, legal proceedings and evidence (Part IV); Forfeiture and disposition of seized or confiscated property (Part V); and Complaints, notices and investigations (Part VI).

Some key features of the Fisheries Enforcement Act 1997 include:

- No fishing Marshall Islands-flagged fishing vessel is allowed to operate in areas beyond the RMI's fishery waters unless it has been issued an authorization to do so by MIMRA (Section 504).
- MIMRA is required to maintain a record of all fishing vessels entitled to fly the flag of the Marshall Islands that are authorized to fish in areas beyond the RMI's fishery waters (Marshall Islands Record of Fishing Vessels) (Section 503);
- Port State Measures which are in line with the PSMA: (i) designation and publication of ports in the Marshall Islands to which foreign fishing vessels may be permitted access; (ii) training and qualifications of port inspectors; (iii) advanced request to entry into port; (iv) regulation or prohibition of port access by a vessel included on the list of IUU vessels maintained by a RFMO; (v) inspection of fishing vessels; (vi) regulation or prohibition of use of port services by any vessel that has been identified or reported or has engaged in IUU fishing activities or any operation in support of such activities (Section 506).
- The vessel owner or operator of every fishing vessel permitted to fish in RMI's fishery waters is required to install, maintain and operate a registered mobile transceiver unit at all times while in the fishery waters. This requirement also applies to Marshall Islands-flagged fishing vessels operating in areas beyond national jurisdiction (Section 507).

### 2.3.3 Maritime law

The RMI maritime law is codified in the MIRC under Title 47 on maritime. Chapter 8 deals with merchant seafarers and is referred to as the **Merchant Seafarers Act**. It was adopted in 1990 and was amended six times up until 2013.<sup>46</sup>

It provides a definition of the following key terms:

- “seafarer(s)” means any or all members of the crew and officers other than the Master and pilots, employed or engaged in any capacity on board any vessel;
- “crew” means collectively the persons, other than officers and the Master, serving in any capacity on board a vessel;
- “fishing vessel” means a decked vessel used for catching fish, whales, seals, walrus and other living creatures at sea;

Since the Merchant Seafarers Act applies to all vessels, including fishing vessels, and there is no express provision excluding “fishers” from the broader concept of “seafarer”, it seems reasonable to infer that the legal regime applicable to seafarer on merchant ships also applies to fishers employed on board commercial decked fishing vessels.

Key features of the legal regime applicable to seafarers include the following:

- There shall be in force between the master of any vessel and every seafarer a written work agreement (shipping articles) which at minimum must state the period of engagement, the term or terms for which seafarer must serve and the wages to be paid (Section 820);

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<sup>46</sup> Merchant Seafarers Act. [https://rmiparliament.org/cms/images/LEGISLATION/PRINCIPAL/1990/1990-0098/MerchantSeafarersAct\\_2.pdf](https://rmiparliament.org/cms/images/LEGISLATION/PRINCIPAL/1990/1990-0098/MerchantSeafarersAct_2.pdf)

- No person under the age of sixteen must be employed or work on any vessel registered in the Marshall Islands (Section 826);
- The normal hours of work at sea must be eight hours per day. Any work performed over and above the eight-hour period must be considered as overtime and be compensated accordingly. A sufficient number of crews must be employed to ensure safety of life at sea and avoid excessive overtime (Section 842);
- Any seafarer must be entitled to repatriation: (i) upon termination of the period of employment by reason of completion of the voyage for which he or she was employed; (ii) by termination of the seafarer's work agreement by the seafarer for justified reasons or by the shipowner by reason of the seafarer no longer being able to carry out his or her duties under the work agreement (Section 843).

#### 2.3.4 Law on human trafficking

In 2017, the RMI enacted the **Prohibition of Trafficking in Persons Act**.<sup>47</sup>

The purposes of this Law are to: (i) prevent and combat trafficking in persons in the Republic of the Marshall Islands; (ii) protect and assist the victims of such trafficking, while maintaining full respect and protecting their human rights; (c) ensure just and effective investigation, prosecution and punishment of traffickers; and (d) promote and facilitate national and international cooperation in order to meet these objectives (Section 1002 (1)).

It provides definitions of the following key terms (Section 1003):

“forced labour or services” means all work or service that is exacted from any person under the threat of any penalty and for which the person concerned has not offered him or herself voluntarily.

“servitude” means the labour conditions and/or the obligations to work or to render services from which the person in question cannot escape and which he or she cannot change.

“slavery” means the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised or the status or condition of a person over whom control is exercised to the extent that the person is treated like property.

The Act applies to any offense committed within the territory of the RMI and on board a vessel that is registered under the laws of the RMI at the time the offense was committed (Section 1004).

Trafficking in persons and use of any person in condition of forced labour are criminal offenses which are punishable by a term of imprisonment not exceeding 15 years or a fine not exceeding \$10,000, or both (Sections 1005 and 1008).

The Act also contains provisions addressing the issue of victim assistance and protection (information to victims, provision of basic benefits and services to victims of trafficking in persons, protection of victims and witnesses in court, relocation of victims, compensation, identification of victims of trafficking in persons) (Sections 1016 to 1021).

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<sup>47</sup> <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/109288/135533/F941302563/MHL109288.pdf>

## 2.4 Mapping of key initiatives supporting implementation of key instruments

- European Union (EU) funded project (FISH4ACP) in collaboration with FAO.<sup>48</sup>

It is a multiyear effort aimed at increasing tuna value chain opportunities through Majuro's substantial transhipment operations.<sup>49</sup>

During its first phase FISH4ACP will conduct detailed assessments of the twelve value chains involved in the programme and develop plans for their improvement. The rest of the programme, from years 2-5, will be dedicated to implementing these plans. The programme focuses on:

- (i) helping actors understand and improve their value chains;
- (ii) opening up new markets for small and medium enterprises and improving the business and regulatory environment;
- (iii) improving working conditions along the value chain;
- (iv) making value chains more environmentally sustainable;
- (v) helping businesses access additional sources of finance and investment.

- MIMRA-TNC partnership. The main issues to be addressed by the MIMRA-TNC partnership include:
  - social matters relating to, *inter alia*, an under-developed workforce and unsafe working conditions which are prevalent in tuna supply chain;
  - IUU fishing, in particular its impacts on the marine environment, ecosystems and species.<sup>50</sup>
- Through the Pacific Islands Regional Oceanscape Program (PROP), the World Bank is working closely with Pacific governments, regional organizations and communities to help countries improve their sustainable management of ocean fisheries, coastal fisheries and to strengthen institutions responsible for conservation.

PROP aims to improve ocean management across the Pacific, through:

- more sustainable fishing practices;
- better surveillance of Pacific Islands' EEZs;
- better enforcement of fisheries regulations; and
- improved access to regional and international markets.

- FFA

The FFA Secretariat's Port State Measures work is supported through a five-year investment from the New Zealand Government which commenced in 2017 under the Pacific Islands Port State Measures (PIPSM) project. With the most advanced PSM system in the region, RMI was actively involved in the implementation of this project at the regional level and contributed significantly to the development of the FFA Regional PSM Framework. This framework provides key elements, processes and responses necessary to facilitate targeted and effective PSM across the region. It provides guidance to FFA Members in developing minimum PSM standards to be applied at the national level, promoting inter-agency cooperation and

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<sup>48</sup> <https://www.fao.org/in-action/fish-4-acp/faq/faq-general/es/>

<sup>49</sup> MIMRA Annual Report 2020, p. 29

<sup>50</sup> *Ibid*, at p. 31

coordination, and improving data and information exchange. The scope of the framework applies to all fishing vessels; therefore, members may apply these provisions to their national vessels at their own discretion.<sup>51</sup>

### 3. Peru

#### 3.1 Basic fisheries information

##### 3.1.1 Production

Peru faces the Pacific Ocean and boasts the sixth longest coastline in South America stretching for approximately 2,414 km. The Pacific Ocean off the Peruvian coast is extremely rich in nutrients thanks to the Humboldt Current, an underwater cold stream, which causes an upwelling process that makes the waters rich in plankton. Over the period 2007-2017, Peruvian landings of marine living resources accounted for around 7% of the world total, averaging 5.6 million tons, and putting the country in third place behind China and Indonesia.<sup>52</sup> Peru has the highest volume of landings in Latin America, with more than twice the average volume of marine resources harvested by the top five countries in the region (2.3 million tons).<sup>53</sup> In 2018, the total production of marine living resources in Peru jumped to 7.15 million tons, due to a sharp increase of catches of anchoveta (*Engraulis ringens*), following relatively low catches for this species in previous years. According to Peru's Ministry of Production latest report available, the total landings during 2020 reached 5.662 million tons, of which only 1.42 million tons were destined for human consumption.<sup>54</sup> Catches of anchoveta are often substantial yet highly variable because of the influence of El Niño events.<sup>55</sup> Peru anchoveta fishery is the largest single-species fishery in the world, mainly destined to produce fishmeal and fish oil. In 2020, 4.321 million tons were landed, for non-human consumption (an increase of 25.6% compared with the previous year).<sup>56</sup>

The main industrial fisheries are: the anchoveta fishery (4.401 million tons landed in 2020),<sup>57</sup> more than 80% of the catch), the Pota fishery (492,363 tons landed in 2020),<sup>58</sup> the jack mackerel fishery (158,880 tons landed in 2020),<sup>59</sup> the chub mackerel fishery (98,686 tons landed in 2020),<sup>60</sup> the hake fishery (31,360 tons landed in 2020),<sup>61</sup> and the squid fishery (1,706 tons landed in 2020).<sup>62</sup>

As of 2014, anchoveta was one of the two Peruvian fisheries that was managed under a non-transferable individual quota system, which was implemented in 2009.<sup>63</sup>

<sup>51</sup> <https://www.ffa.int/node/2454>

<sup>52</sup> FAO data

<sup>53</sup> World Bank Group and GEF. 2018. *Fishery Performance Indicators - Peruvian Coastal Fisheries*, at p. 14.

See <https://pescaemprende.com/wp-content/themes/intelfin/uploads/FPI%20report.pdf>

<sup>54</sup> Anuario Estadístico Pesquero y Acuícola, 2020. Ministerio de la Producción – Oficina General de Evaluación de Impacto y Estudios Económicos, at p.13. See <https://ogeiee.produce.gob.pe/index.php/en/shortcode/oee-documentos-publicaciones/publicaciones-anaulales/item/1001-anuario-estadistico-pesquero-y-acuicola-2020>

<sup>55</sup> FAO. 2020. *The State of World Fisheries and Aquaculture 2020. Sustainability in Action*. Rome, at p. 10.

<sup>56</sup> See supra note 54, at p. 13.

<sup>57</sup> *Ibid*, at p. 47

<sup>58</sup> *Ibid*, at p. 47

<sup>59</sup> *Ibid*, at p. 47

<sup>60</sup> *Ibid*, at p. 47

<sup>61</sup> *Ibid*, at p. 47

<sup>62</sup> *Ibid*, at p. 47

<sup>63</sup> The David and Lucile Packard Foundation and Foundation Ensemble. December 2014. *A Marine Conservation Assessment in Peru*. Advanced Conservation Strategies, at p. 52. See <https://www.fondationensemble.org/wp-content/uploads/2015/02/ACS-Marine-Conservation-Assessment-of-Peru-final.pdf>

The artisanal marine fisheries involve multiple species, such as bonito and lisa,<sup>64</sup> and low-tech methods, such as the use of lines, hooks, and gillnets,<sup>65</sup> and are destined primarily for direct human consumption.

### 3.1.2 Fleets

The Peruvian fishing fleet is divided into two major segments, the industrial and artisanal fishing fleets.

Artisanal fisheries are defined based on vessel capacity and length: vessel capacity up to 32.6 m<sup>3</sup> and up to 15 m in length, with a predominance of manual labour.<sup>66</sup>

The Peruvian industrial fishing fleet consists of 834 fishing vessels using a variety of fishing gears.<sup>67</sup> In 2022, the Peruvian national active tuna fleet has only 18 vessels and an overall quota of 7,141 metric tons within the area regulated by the IATTC.<sup>68</sup> Because tunas concentrate within the Peru's EEZ between January and April, and Peru does not have the capacity to harvest these resources, Peru grants temporary fishing permits to foreign fishing vessels to catch tuna within its EEZ.<sup>69</sup>

According to two surveys by the Instituto del Mar del Perú (IMARPE) in 1997 and 2010 and the First National Census of Artisanal Fisheries in the marine area by Ministry of Production (PRODUCE) and the National Institute of Statistics and Informatics in 2012, the number of artisanal fishing vessels increased from 6,268 in 1997 to 9,667 in 2010 and 16,045 in 2012.<sup>70</sup> In 2019, according to a report issued by Peru's Ministry of Production, there were 16,017 artisanal vessels operating with a valid fishing permit along the Peruvian coast.<sup>71</sup>

### 3.1.3 Ports

Major fishing ports in Peru include:

- the fishing port of Paita on Peru's North coast, a port known for the highest landings of tunas by foreign fishing fleets;<sup>72</sup>
- the fishing port of Chimbote in the South, a port with the largest number of port calls by Chinese-flagged squid vessels;<sup>73</sup> and

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<sup>64</sup> Supra 54, at p. 47

<sup>65</sup> Artes y métodos de pesca del Perú: serie ilustrativa, 2021. See <https://spda.org.pe/wpfb-file/artes-metodos-pesca-vf15-03-pdf/>

<sup>66</sup> Art. 30(a) 1.1.2 del Reglamento de la Ley General de Pesca, Decreto Supremo N° 012-2001-PE. See <https://diariooficial.elperuano.pe/pdf/0062/LEYGENERALDEPESCA.pdf>

<sup>67</sup> See <https://omniasolution.com/2020/08/18/flota-industrial-pesquera-del-peru-apunta-al-liderazgo-en-la-region/#:~:text=La%20flota%20industrial%20pesquera%20del,y%20optimizaci%C3%B3n%20de%20sus%20plataformas.>

<sup>68</sup> See [Vessel register | IATTC](#)

<sup>69</sup> "National flag vessels, as well as foreign flag vessels, may access tuna fishing in Peruvian jurisdictional waters, in accordance with the provisions of Articles 47 and 48 of the General Fisheries Law", Reglamento del Ordenamiento Pesquero del Atún, Art. 6º DS N° 032-2003-PRODUCE, 2003. See <https://leap.unep.org/countries/pe/national-legislation/decreto-supremo-no-032-2003-produce-reglamento-del-ordenamiento>

<sup>70</sup> The David and Lucile Packard Foundation and Foundation Ensemble. December 2014. *A Marine Conservation Assessment in Peru*. Advanced Conservation Strategies, at p. 55.

<sup>71</sup> See <https://www.gob.pe/institucion/produce/noticias/45180-produce-existen-mas-de-76-mil-pescadores-artesanales-en-el-peru>

<sup>72</sup> See <https://rpp.pe/peru/piura/piura-se-reanuda-la-industria-del-atun-en-la-provincia-de-paita-noticia-1022459>

<sup>73</sup> See <https://es.mongabay.com/2020/11/peru-aumenta-controles-a-la-flota-extranjera-que-utiliza-sus-puertos/>

- the fishing port of Callao in Lima, which serves as the main port, in terms of traffic and storage capacity.

In 2020, a distant water fleet of 522 vessels was reported to be seen active within the SPRFMO convention area (Southeast Pacific), according to members and cooperating or non-contracting parties (CNCPs), fishing for jumbo flying squid (*Dosidicus gigas*).<sup>74</sup> Around South America, the port of Montevideo in Uruguay and the ports of Chimbote and Callao in Peru are the main points for refuelling, maintenance and change of crew for this distant water fleet. In Peru, it is critical to monitor and control the entry of foreign squid vessels into Peruvian ports because this distant water fleet has been involved in cases of illegal fishing in Argentina's waters and recently in the Peruvian EEZ.<sup>75</sup>

Peru is one of the main shark fishing countries in the world,<sup>76</sup> and one of the main exporters of shark fins from the South Pacific.

### 3.1.4 Processing industry

The Peruvian anchoveta fishery is the source of raw materials for the country's fishmeal and fish oil (FMFO) industry. Peru produces approximately one-third of the world's FMFO, with some three-quarters of its production exported to China.

	2012	2013	2014	2015	2016	2017	2018	2019
Peru fishmeal exports	1,352,592	866,331	870,146	713,708	644,455	1,041,525	1,034,924	1,060,905
Peru fish oil exports	311,881	126,160	163,487	118,776	95,054	171,086	195,985	183,083

Amounts declared to customs in tons<sup>77</sup>

According to the Peruvian Ministry of Production's latest report on the matter, published in 2020, fishmeal and fish oil exports amounted to 858,925 tons and 108,251 tons, respectively.<sup>78</sup>

Peruvian anchovy stocks have historically suffered from rampant overfishing and, since the early 1970s in particular, the vagaries of El Niño, which, because of Peru's role as the world's predominant supplier of FMFO, have contributed to high volatility in the global FMFO market. Following the collapse of the anchoveta fishery in 1972, the Peruvian government introduced a quota system to prevent further decline of stocks, but there continue to be periodic collapses in Peru's anchovy catch.

Between 2000 and 2015, 99% of Peruvian anchoveta catches were landed by the industrial fishing fleet. Industrial anchoveta landings are almost exclusively used to make FMFO. There are approximately 90 licensed fishmeal-processing plants in Peru, and the main ports are Chimbote, Pisco, Supe, Callao and Ilo.<sup>79</sup>

The remainder of the processing sector produces canned, frozen and cured products.

<sup>74</sup> Analysis of the Southeast Pacific Distant Water Squid Fleet, Global Fishing Watch, 2021. See <https://globalfishingwatch.org/wp-content/uploads/GFW-2021-FA-SQUID2020-EN-1.pdf>

<sup>75</sup> See <https://www.infobae.com/america/america-latina/2020/09/24/peru-vigila-una-flota-de-400-pesqueros-chinos-que-se-desplaza-frente-a-sus-aguas-territoriales/>

<sup>76</sup> See <https://www.fao.org/3/i4795e/i4795e.pdf>

<sup>77</sup> Changing Markets Foundation. 2020. *What lies beneath: Uncovering the truth about Peru's colossal fishmeal and fish oil industry*, at pp. 17-18

<sup>78</sup> Supra note 54, at p. 97.

<sup>79</sup> Supra note 77, at p. 15.

EXPORT IN 2020	Fishmeal	Fish oil	Canned	Frozen	Cured	Others
%	41,1	8,3	2,1%	39,6	3,0	5,8

The total export value, by the end of 2020, was estimated in USD FOB 2.862.173<sup>80</sup>

### 3.2 Mapping of key treaties' ratification

#### 3.2.1 Fisheries instruments

Peru is one of the few countries in the world that has not ratified UNCLOS. Given that the purpose of the 1995 UNFSA is to implement UNCLOS' provisions on straddling fish stocks and highly migratory fish stocks, it has not been ratified by Peru. Peru ratified the 1993 Compliance Agreement before it came into force. In recent years, Peru ratified both the 2009 PSMA and the 2012 Cape Town Agreement showing its support to the fight against IUU fishing and to the improvement of safety conditions on board fishing vessels. However, Peru, like most South American countries, has not ratified the ILO technical convention governing working conditions on board fishing vessels.<sup>81</sup>

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1982 UNCLOS</b>			in force as from 16 Nov 1994
<b>1993 Compliance Agreement</b>		23 Feb 2001 (r)	in force as from 24 Apr 2003
<b>1995 UNFSA</b>			in force as from 11 Dec 2001
<b>1995 STCW-F</b>			in force as from 29 Sept 2012
<b>2007 Work in Fishing Convention (C188)</b>			in force from 16 Nov 2017
<b>2009 PSMA</b>		27 Sep 2017 (a)	in force as from 5 June 2016
<b>2012 CTA</b>		26 Feb 2021 (r)	not in force yet

#### 3.2.2 Labour conventions

Peru has ratified 8 of the 10 ILO fundamental Conventions<sup>82</sup> and the 2014 Protocol to the 1930 Forced Labour Convention as well as 65 of the 176 ILO technical Conventions. However, Peru is not a party to the Maritime Labour Convention (MLC), 2006.

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1930 Forced Labour Convention (C29)</b>		1 Feb 1960 (r)	in force as from 1 May 1932
<b>2014 Protocol to C29 (P29)</b>		18 June 2021 (r)	in force as from 9 Nov 2016
<b>1948 Freedom of Association &amp; Protection of the Right to Organise Convention (C87)</b>		2 Mar 1960 (r)	in force as from 4 July 1950

<sup>80</sup> Supra note 54, at p.110.

<sup>81</sup> As of writing, Argentina is the sole South American country to have ratified the 2007 Work in Fishing Convention.

See [https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312333](https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312333)

<sup>82</sup> Peru has not ratified the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational and Health Safety Convention, 2006 (No. 187).

<b>1949 Right to Organise and Collective Bargaining Convention (C98)</b>		13 Mar 1964 (r)	in force as from 18 July 1951
<b>1957 Abolition of Forced Labour Convention (C105)</b>		6 Dec 1960 (r)	in force as from 17 Jan 1959
<b>MLC 2006</b>			in force as from 16 Aug 2013

### 3.2.3 Transnational organized crime

Peru has ratified both the UNCTOC and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children on 23 January 2002

### 3.2.4 Membership of regional fisheries organizations and other arrangements

Peru is a member of the SPRFMO, IATTC, IWC and an acceding state to CCAMLR.

## 3.3 Assessment of implementation of key instruments through brief review of national policy and legal framework

### 3.3.1 Fisheries legal framework

The main fisheries law in Peru is the **General Fisheries Act No. 25977 of 22 December 1992**.<sup>83</sup> It is supplemented by Supreme Decree No. 012-2001-PE of 13 March 2001<sup>84</sup> and a raft of other regulations. While dated, the basic fisheries law and regulations have been amended over the years to advance the sector's sustainability. Systems have been established concerning minimum size, fishing seasons limits and quotas, among other conservation and management measures and these have contributed to progress towards sustainability of the industrial fishery. A good example is the amendment to the anchoveta quota system, which was changed from an aggregate quantity to a system based on catch quotas per vessel, established in accordance with the fleet's historic catch (Legislative Decree No. 1084 of 2008).<sup>85</sup>

In 2003, Peru introduced a vessel monitoring system (SISESAT) through the adoption of Supreme Decree No. 026-2003-PRODUCE to better monitor the activity of the industrial fishing vessels licensed to operate within the Peruvian EEZ. This regulation was amended several times over the years, and finally repealed and replaced in 2014, by Supreme Decree No. 001-2014-PRODUCE, which has also been modified several times since then.<sup>86</sup>

The **General Fisheries Act of 1992** consists of 12 parts and 90 articles. Its main objective is to regulate fishing activities with a view to promoting and ensuring sustainable development and responsible exploitation of fisheries resources.

In addition, fisheries management measures have been adopted in certain areas to address fisheries management issues (e.g., excessive fishing effort) or regulate species of particular interest (e.g., anchovy, hake, tuna, mackerel, squid, octopus and eel).

<sup>83</sup> See <https://diariooficial.elperuano.pe/pdf/0062/LEYGENERALDEPESCA.pdf>

<sup>84</sup> *Ibid.* at p. 10.

<sup>85</sup> See <https://www.leyes.congreso.gob.pe/Documentos/DecretosLegislativos/01084.pdf>

<sup>86</sup> <https://www.ecolex.org/details/legislation/decreto-supremo-no-001-2014-produce-reglamento-del-sistema-de-seguimiento-satelital-para-embarcaciones-pesqueras-sisesat-lex-faoc134423/>?

### 3.3.2 Maritime law

In 1998, Peru adopted **Ministerial Directive No. 0094-98/DCG**<sup>87</sup> setting out safety-of-life standards on board fishing vessels, which was that same year amended by Resolution N° 404/98/DGC, by adding further complementary regulations.<sup>88</sup>

### 3.3.3 Law on human trafficking

The Peruvian **Criminal Code** was modified by **Law No. 28950 of 16 January 2007 related to trafficking in persons and illicit trafficking of migrants**.<sup>89</sup> It introduced a specific Title on violation of human dignity (Title IV) containing a specific chapter on human trafficking, including for the purpose of labour exploitation (Articles 153 and 153-A). Trafficking in persons is a criminal offence which is punishable by imprisonment for a term of not less than 12 years and not more than 20 years when the act is committed by two or more persons, the victim is at least 14 years of age and less than 18 years of age, or in other circumstances in relation to the perpetrator(s). In cases where the perpetrator is part of a criminal organization, the victim dies or his/her life is put in serious danger, or the victim is less than 14 years of age, the offense is punishable by imprisonment for a term not less than 25 years but not more than 30 years (Article 153-A).

In 2019, Peru adopted Supreme Decree No. 015-2019-TR promulgating its **3<sup>rd</sup> National Plan to fight against forced labour**, aiming to improve the State's response through coordinated actions to mitigate the harm that is suffered by victims of forced labour, as well as establish measures to restore violated rights and promote victims' access to basic services such as legal assistance, health care and capacity building for work.<sup>90</sup>

## 3.4 Mapping of key initiatives supporting implementation of key instruments

- World Bank funded project: National Program for Innovation in Fisheries and Aquaculture (US\$ 40 Million) (2017-2022). The objective is to strengthen Peru's capacity in the delivery of innovations in the fisheries and aquaculture value chains. Among the four project's components two relate to fisheries. The first component aims at promoting innovation in the fisheries subsector. The third component intends to strengthen the National System of Innovation in Fisheries and Aquaculture.
- World Bank – GEF: The Coastal Fisheries Initiative – Challenge Fund (CFI-CF) in Peru seeks the sustainable management of fisheries resources through the strengthening of government institutions, the private sector and local communities. The project supports sustainable business ideas from a financial, environmental and social point of view to improve income prospects and reduce costs, through providing technical assistance that includes support, training to identify opportunities for business and to access different sources of financing.

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<sup>87</sup> See <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC014456>

<sup>88</sup> See <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC015426/>

<sup>89</sup> See <http://extwprlegs1.fao.org/docs/pdf/per204120.pdf>

<sup>90</sup> See [https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms\\_756265.pdf](https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_756265.pdf)

## 4. Senegal

### 4.1 Basic fisheries information

The marine fisheries sector in Senegal is a pillar of the national economy for its significant contribution to food security, employment and as a source of hard currency through exportation. In 2018, marine fisheries contributed an estimated 1.8 percent of GDP.<sup>91</sup>

#### 4.1.1 Production

The total catch landed in Senegal from marine fisheries (combined catches from the national and foreign fleets) was estimated at 524,851 t, in 2018, for a commercial value of about CFAF 272,466 billion, compared to 510,596 t for a commercial value of approximately CFAF 222,719 billion, in 2017. This was an increase in both volume and value of 14,255 t and CFAF 49,748 billion, respectively, representing a 3% growth in volume and 22% in value. The national fishing fleet's production was estimated at 517,204 tons for a value of CFAF 266,676 billion and that of the foreign fleet 7,648 t, for a value of CFAF 5,790 billion.

The part of the catches landed in Senegal by the artisanal fishing fleet was 398,643 t and by the industrial fishing fleet 126,209 t (94% from the national fleet and 6% by foreign-flagged fishing vessels), representing 76% and 24%, respectively, of the national production.<sup>92</sup>

National marine fisheries production over the period 2013-2018						
	2013	2014	2015	2016	2017	2018
<b>Artisanal fisheries (tons)</b>	398,204	372,548	384,222	397,871	394,036	398,643
<b>Industrial fisheries (tons)</b>	43,040	52,454	47,445	89,570	108,723	118,561
<b>Total</b>	441,244	425,002	431,667	487,441	502,759	517,204

Source: Marine Fisheries Directorate

Despite the fact that most commercial fish stocks are fully exploited or overfished, total marine fisheries production continued to grow over the 6 years period, from a total of 441,244 t in 2013 to 517,204 t in 2018.

#### 4.1.2 Fleet

The marine fisheries subsector in Senegal consists of two main fisheries, the artisanal and the industrial fisheries:

##### a) Artisanal fishery

The category of “artisanal fishing vessel” includes “any undecked vessel, using fishing gear operated without any mechanical support and whose only conservation method is ice or salt”.<sup>93</sup> In 2017, the

<sup>91</sup> Agence Nationale de la Statistique et de la Démographie, Comptes nationaux provisoires de 2018 et définitifs de 2017.

<sup>92</sup> Résultats généraux des pêches maritimes 2018, Ministère des pêches et de l'économie maritime.

<https://aquadocs.org/bitstream/handle/1834/15921/R%C3%a9sultats%20g%C3%a9n%C3%A9raux%20des%20p%C3%a9ches%202018%20final.pdf?sequence=1&isAllowed=y>

<sup>93</sup> Article 2 of decree No. 2016-1804 of 22 November 2016 implementing Law No. 2015-18 of 13 July 2015 establishing the Marine Fisheries Code.

estimated number of artisanal fishing vessels was approximately 22,356 of which 15,874 had been registered by the Marine Fisheries Directorate and 11,935 were operating actively in the Senegal fishing zone.<sup>94</sup> Eighty-three percent of the artisanal fishing fleet are motorized.

#### b) Industrial fishery

The number of industrial fishing vessels authorized to fish in Senegalese waters from 2014 to 2018 varied from 106 to 141 and has been stable since 2015. In 2017, 139 industrial fishing vessels were licensed with the following breakdown:

- 119 Senegalese vessels of which 100 were trawlers targeting coastal and deep-sea demersal fish stocks, 15 tuna vessels and 4 vessels targeting small pelagic fish stocks; and
- 20 foreign fishing vessels, all tuna vessels operating within the framework of the Sustainable Fisheries Partnership Agreement with the EU.

#### 4.1.3 Ports

The Autonomous Port of Dakar is the third largest port in West Africa after Abidjan, Ivory Coast and Lagos, Nigeria.

The Dakar fishing port, which is located inside the Autonomous Port of Dakar, is used by national and foreign-flagged industrial fishing vessels.

The Senegalese coastline is dotted with scores of fishing harbours and landing sites for the artisanal fishing fleet.

#### 4.1.4 Processing industry

Small pelagic species that are landed by artisanal fishing vessels are processed (smoked fish, salted fish) for local consumption or export to regional markets (Mali, Burkina Faso).

Catches from the industrial fisheries are, for the most part, exported either chilled or frozen. There are two canneries, both located in the port of Dakar:

- the Condak cannery, owned by Senegalese shareholders, which processes small pelagic species for the local or sub-regional markets. It also produces canned tuna with a maximum capacity of 3,000 t per year.
- the SCASA cannery, controlled by the South Korean group Dongwon, which produces canned tuna and tuna loins for export.<sup>95</sup>

#### 4.1.5 Employers (vessel owners)/workers (fishers) organizations

There are several fishers' organizations in the artisanal fisheries subsector, including:

- the Artisanal Fisheries Interprofessional National Council (CONIPAS);
- the National Union of Senegal's Artisanal Fishers (UNAPAS);

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<sup>94</sup> Data drawn from the national program of artisanal fishing vessels' registration. Figures reproduced in the 2018 sectoral review published by the Ministry of Fisheries and Maritime Economy.

<sup>95</sup> Poseidon, Megapesca, F&S. April 2019. *Evaluation rétrospective et prospective du protocole de l'accord de partenariat dans le domaine de la pêche durable entre l'Union européenne et le Sénégal*. Final Report, at p. 14. Directorate-General Maritime Affairs and Fisheries.

See <https://op.europa.eu/fr/publication-detail/-/publication/64f8d28e-60bb-11e9-b6eb-01aa75ed71a1/language-fr/format-PDF/source-94%c2%a0730%c2%a0349>

- the National Union of Senegal's Wholesalers (UNAMS);
- the Artisanal Fisheries Women's Network (REFEPAS).

The main employers' organization for the industrial fisheries subsector is the Organization of Senegal's fishing vessel owners and entrepreneurs (GAIPES).

## 4.2 Mapping of key treaties' ratification

### 4.2.1 Fisheries instruments

Senegal has ratified UNCLOS and the three binding fisheries instruments namely, the 1993 Compliance Agreement, the 1995 UNFSA and the 2009 PSMA. It is worth noting that Senegal is also one of the few countries that has ratified the 2007 Work in Fishing Convention. However, Senegal has yet to ratify the technical conventions relating to fishing vessel's safety and training and certification of fishing vessel personnel.

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1982 UNCLOS</b>	10 Dec 1982	25 Oct 1984 (r)	in force as from 16 Nov 1994
<b>1993 Compliance Agreement</b>		8 Sept 2009 (a)	in force as from 24 Apr 2003
<b>1995 UNFSA</b>	4 Dec 1995	30 Jan 1997 (r)	in force as from 11 Dec 2001
<b>1995 STCW-F</b>			in force as from 29 Sept 2012
<b>2007 Work in Fishing Convention (C188)</b>		21 Sept 2018 (r)	in force from 16 Nov 2017
<b>2009 PSMA</b>		23 Mar 2017 (a)	in force as from 5 June 2016
<b>2012 CTA</b>			not in force yet

### 4.2.2 Labour

Senegal has ratified the 10 ILO fundamental Conventions and 29 of the 176 ILO Technical Conventions. This includes the ratification of the MLC, 2006. It should be noted, however, that Senegal has not ratified the 2014 Protocol to the Forced Labour Convention.

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1930 Forced Labour Convention (C29)</b>		4 Nov 1960 (r)	in force as from 1 May 1932
<b>2014 Protocol to C29 (P29)</b>			in force as from 9 Nov 2016
<b>1948 Freedom of Association &amp; Protection of the Right to Organise Convention (C87)</b>		4 Nov 1960 (r)	in force as from 4 July 1950
<b>1949 Right to Organise and Collective Bargaining Convention (C98)</b>		28 July 1961 (r)	in force as from 18 July 1951
<b>1957 Abolition of Forced Labour Convention (C105)</b>		28 July 1961 (r)	in force as from 17 Jan 1959
<b>MLC 2006</b>		19 Sep 2019 (r)	in force as from 16 Aug 2013

### 4.2.3 Transnational organized crime

Senegal has ratified both the UNCTOC and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children on 27 October 2003.

#### **4.2.4 Membership of regional fisheries organizations**

Senegal is actively involved in the management of sub-regional fisheries and in the fight against IUU fishing, in particular through its membership to the Sub-Regional Fisheries Commission (SRFC-CSRP), whose headquarters are based in Dakar. It is also a member of the Fishery Committee for the Eastern Central Atlantic (CECAF), the Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic Ocean (ATLAFCO), ICCAT and IWC. While Senegal no longer operates any vessel in the IOTC area of competence, it is still a cooperating non-contracting party of that RFMO.<sup>96</sup>

### **4.3 Assessment of implementation of key instruments through a brief review of national legal framework**

#### **4.3.1 Fisheries policy**

Currently, the development and management of the marine fisheries subsector is undertaken within the framework of the **Sectoral Policy for the development of fisheries and aquaculture of 2016**.<sup>97</sup> This policy document guides the work of the fisheries administration. Its main objectives are threefold: (a) ensure the sustainable use of fisheries resources; (b) develop aquaculture; and (c) promote the production of higher quality fish products (increase value added).

With respect to the first objective, three strategic actions have been identified:

- a) regulate access to fisheries resources. Proper access control is recognized as being critical and seen as a necessary condition without which no improvement of the management of fisheries resources can be expected;
- b) develop Fisheries Management Plans (FMPs). The goals are to strengthen existing plans, identify and prioritize fisheries for which a FMP should be developed and promote co-management approaches within the framework of FMPs;
- c) restore marine ecosystems through the promotion of conservation measures (e.g. spatial and seasonal closures), the participation of local authorities and communities, and the development of adaptation measures to climate change.

#### **4.3.2 Fisheries legal framework**

The principal fisheries legislation is **Law No. 2015-18 of 13 July 2015 establishing the Marine Fisheries Code**. It is supplemented by Decree No. 2016-1804 of 22 November 2016 implementing the Marine Fisheries Code and an array of ministerial decrees and orders.

The **Marine Fisheries Code 2015**:

- extends the jurisdiction of the fisheries legislation to the high seas (the previous Code was confined to Senegalese waters), but fails to cover waters under the sovereignty or jurisdiction of another country (Article 1);
- promotes a participatory approach to fisheries management (Article 5);

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<sup>96</sup> Since 2006

<sup>97</sup> It covers the period 2016-2023.

- makes provisions for the development of fisheries management plans (Article 13);
- promotes an ecosystem approach to fisheries management (Article 14) and provides, among other things, for the establishment of marine protected areas to facilitate the implementation of this approach (Article 16);
- provides for the establishment of a national registry of industrial fishing vessels (Article 31) and of local registers of artisanal fishing vessels to be merged into one single national register of artisanal fishing vessels (Article 32);
- subjects the exercise of industrial fishing in Senegalese waters to the grant of a license in respect of the vessel to be used (Article 35). This requirement applies to both national and foreign-flagged vessels. In addition, foreign-flagged fishing vessels have the obligation to operate under the framework of an agreement between the State of Senegal and the flag State or the organization representing that State or under a charter agreement (Article 27);
- subordinates any fishing-related activity to a system of authorization, in particular transhipment (Article 54 to 56);
- imposes MCS measures in relation to industrial fishing vessels: marking; keeping of a fishing logbook; reporting of entry into and exit from the Senegalese waters; observer requirements (compulsory to take an observer on board for foreign fishing vessels while in Senegalese waters) (Articles 69 to 72);
- requires that all catches of species taken in Senegalese water are landed in a port or landing site in Senegal. There might be exemptions to this rule under a fisheries agreement (article 73);
- includes port State measures which are in line with the provisions of the 2009 PSMA (article 74 to 77).

#### 4.3.3 Fisheries Agreements

Senegal has entered into two types of agreements to authorize foreign fishing vessels to operate in Senegalese waters: (i) reciprocal agreements with neighbouring countries; and (ii) fishing agreements with countries operating distant-water fishing fleets.

There are currently two reciprocal agreements in force:

- the Convention on marine fisheries signed between Senegal and the Gambia on 11 November 1992. Fishing opportunities in the waters of both parties are set out in the Protocol implementing the Convention signed on 26 January 1994;
- the Convention on marine fisheries signed between Senegal and Cape Verde on 29 March 1985.

There is currently one agreement in force authorizing distant-water fishing fleets to operate within Senegalese waters, it is the Sustainable Fisheries Partnership Agreement (SFPA) signed between Senegal and the EU in 2014. Fishing opportunities are set out in the five-year Protocol covering the period 2019-2024 which provides for:

- tuna: 28 purse seine vessels (16 for Spain and 12 for France), 10 pole and line vessels (8 for Spain and 2 for France), 5 longline vessels (3 for Spain and 2 for France);
- demersal fish stocks: two trawlers (Spain).<sup>98</sup>

Additionally, Senegal has concluded agreements with Mauritania, Guinea Bissau and Liberia to secure access to the waters under the jurisdiction of these countries by Senegalese-flagged fishing vessels:

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<sup>98</sup> See [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22019A1120\(02\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22019A1120(02)&from=EN)

- with Mauritania, the Protocol currently in force, signed in July 2018, grants a total allowable catch of 50 000 t per year of small pelagic species, excluding mullet, to Senegal to provide Saint Louis market with fish. The fishing effort is limited to a maximum of 400 artisanal fishing vessels using no more than 200 seine nets;
- with Guinea Bissau, the Protocol currently in force, signed on 14 January 2019, provides the following fishing opportunities for Senegal-flagged vessel:
  - ✓ artisanal fishing: 250 licenses for artisanal fishing vessels powered by engine less than 40 HP every year, and 50 licenses for artisanal fishing vessels powered by engine more than 40 HP, but not exceeding 60 HP every year;
  - ✓ industrial fishing: 10 licenses for tuna, an equivalent of 1 200 GT/year for crustaceans, 750 GT/year for cephalopods, 1 000 GT for demersal fish stocks, 2 000 GT/year for pelagic fish stocks;
- with Liberia, the agreement was signed recently for an initial period of 5 years and granted Senegal 300 licenses, of which 100 for fishing vessels powered by engines not exceeding 60 HP and 200 for vessels powered by engines more than 60 HP but not exceeding 100 HP.

#### 4.3.4 Maritime law

5,269 persons are employed in the industrial fisheries sector of which 1,710 as crew members. More than half of the jobs (77,6%) are provided by the fishing activity and the rest (22,4%) by the onshore industry (processing and trade).

Mariners employed on board industrial fishing vessels fall into the broader category of seafarer. This occupation is regulated under **Law No. 2002-22 of 16 August 2002 establishing the Merchant Shipping Code**.<sup>99</sup> Conditions to be satisfied to qualify as a mariner are the following:

- be a Senegalese national;
- be at least 18 years of age. It should be noted that the National Agency for Maritime Affairs may authorize the taking on board of any person, being at least 16 years of age, as a trainee or apprentice;
- be physically fit;
- meet professional credentials required by the regulations in force; and
- be free of any conviction carrying a jail term in excess of 6 months (article 287).

The occupation of mariner is regulated under the Merchant Shipping Code 2002, the labour legislation and the Collective Bargaining Convention of Senegal. Under this framework, mariners employed on board Senegalese industrial fishing vessels are eligible to economic and social benefits (e.g., medical, invalidity, pension).

#### 4.3.5 Law on human trafficking

In 2005, Senegal enacted **Law No. 2005-06 of 10 May 2005 on the fight against human trafficking and related practices and the protection of victims**.<sup>100</sup> It is a short document comprising 17 articles.

Trafficking in persons including for the purpose of forced labour is a criminal offense which is punishable by imprisonment for a term of not less than 5 years and not more than 10 years and a fine of not less than 5 million francs and not more than 20 million francs (Article 1).

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<sup>99</sup> See <http://www.jo.gouv.sn/spip.php?article1661>

<sup>100</sup> See <https://www.ilo.org/dyn/natlex/docs/SERIAL/72255/95466/F1384086898/SEN-72255.pdf>

The Law also contains provisions designed to protect victims of human trafficking and witnesses (Articles 12 to 17).

#### **4.4 Mapping of key initiatives supporting implementation of key instruments**

- FISH4ACP

FISH4ACP is an EU funded project in collaboration with FAO.

In Senegal, the FISH4ACP project focuses on boosting oyster production through modernization of processing techniques and increased farming with a view to helping Senegal realise its goal of expanding aquaculture to stimulate growth and create jobs, while protecting its vulnerable mangrove ecosystems.

- PESCAO

The project 'Improved regional fisheries governance in western Africa (PESCAO) was adopted by Commission Decision C(2017) 2951 of 28 April 2017.

The expected results or outputs are as follows:

Result 1: A west African fisheries and aquaculture policy is developed and coordination of regional stakeholders is improved.

Result 2: Prevention of and responses to IUU fishing are strengthened through improved MCS at national and regional levels.

Result 3: Marine resources management at the regional level is improved, building resilience of marine and coastal ecosystems to perturbations.

The European Fisheries Control Agency supports the Sub-Regional Fisheries Commission (SRFC/CSRP) and the Fisheries Committee for the West Central of Gulf of Guinea (FCWC/CPCO) in attaining the second result, including the specific results indicated below:

Result 2.1: Fisheries' legal frameworks are harmonised and consistent with international standards to ensure proper fight against IUU fishing.

Result 2.2: Cooperation between countries, administrations and organisations is facilitated.

Result 2.3: Infrastructure and equipment of a regional centre for MCS is improved as well as linkage with national MCS structures.

Result 2.4: Countries' and RFB's capacities in operational MCS are strengthened, along with their ability to sustain this in the long term through enhanced training programmes.

Result 2.5: Joint regional fisheries/patrol missions are organised in the Gulf of Guinea.

Result 2.6: A network of regional observers is set up to improve the monitoring of the industrial fleet operating in the region.

- Port State Measures Support Project (2022-206) (Project GCP/INT/307/NOR) implemented by FAO

The outcome of the Project is to improve States' capacity for the effective implementation of PSMs and complementary monitoring, control and surveillance (MCS) operations, measures and tools to combat IUU fishing. The Project will assist national institutions, entities and authorities of The Gambia, Kenya, Madagascar and Senegal responsible for matters related to the policy, legal and operational aspects concerned with the implementation of the PSMA and related international instruments and regional

mechanisms, in strengthening national policy and legislative frameworks and in enhancing national capacities and competencies to carry out MCS operations to combat IUU fishing.

## 5. Seychelles

### 5.1 Basic fisheries information

#### 5.1.1 Production

The **artisanal fishery** comprises all domestic fisheries, including boats ranging in length from 4 to 15 m. The main gears used by the artisanal fishing fleet include hook and line, drop-lines, traps and nets that are used to catch a diverse array of demersal and pelagic fish species.

The fishery is limited to the Mahé Plateau from the near shore to the edges of the plateau, an area of around 41,000 km<sup>2</sup> and operates from Mahé, Praslin and La Digue. More recently the schooner fishery has expanded to the Amirantes Group of islands which is 12 nautical miles from the closest point off Mahé Plateau and 112 nautical miles from the Victoria fishing port.

Artisanal fishery catches (mt) – Years 2014 to 2018					
Years	2014	2015	2016	2017	2018
Total catches	3,633	3,214	2,516	4,211	4,740
Demersal catches	1,645	1,224	1,076	1,716	2,104
Pelagic catches	1,672	1,850	1,301	2,256	2,309
Other species catches	316	140	139	239	328
Number of boats	428	445	476	420	460

Source: Seychelles Fishing Authority

The **semi-industrial longline fishery** started in 1995. The main target species are broadbill swordfish, big eye and yellowfin tuna with marlin and sharks as the primary bycatch.

The highest recorded catch from the semi-industrial fishery was in 2018 which amounted to 1228.8 mt. A majority of the catches from this fishery are exported, except for a small proportion of line fish and tuna. Contrary to the industrial fishery, the semi-industrial longline fishery is a comparatively small fishery. However, it has substantial capacity for growth. The fishery has previously experienced a decline in catch and export of swordfish to the EU due to a ‘red alert’ as a result of high cadmium and mercury levels in 2003 and 2013 respectively. In 2014, the alert on swordfish was lifted and this has re-opened the EU market.

Year	No. of vessels	Catches (Mt)							
		Yellowfin	Bigeye	Swordfish	Sailfish	Marlin	Shark	Others	Total catch
2014	9	15	5	58	1	1	2	0	82
2015	11	98	33	47	5	11	1	0	195
2016	29	576	130	185	20	53	2	2	969
2017	31	740	117	215	24	60	2	6	1162
2018	30	831	112	229	20	69	1	5	1267

Source: Seychelles Fishing Authority

There are two industrial fisheries in Seychelles, the tuna longline fishery and the tuna purse seine fishery.<sup>101</sup>

### 5.1.2 Fleets

The semi-industrial fishery comprises medium-size vessels ranging from 14 to 23 metres in length. In 2018 there were 41 locally-owned vessels, amounting to an average total capacity of 1,600 gross tonnage. The number of vessels in 2018 shows a 73% increase over 2015 (11 vessels). The fishery operates from the edge off the Mahé Plateau (for some species) and also on the high seas.

In 2021, a total of 44 purse seiners and 14 supply vessels were licensed to operate in the Seychelles EEZ, including 13 Seychelles-flagged purse seiners and 5 Seychelles-flagged supply vessels. These vessels are registered in the Seychelles, but owned by Spanish and French interests. The skippers on these vessels are either Spanish or French nationals and the crew is mostly from West Africa, in particular from Senegal.

Flag	Purse seiner	Supply vessel	Grand total
France	10	2	12
Italy	1		1
South Korea	2	1	3
Mauritius	3	1	4
Seychelles	13	5	18
Spain	15	5	20
<b>Grand total</b>	<b>44</b>	<b>14</b>	<b>58</b>

Source: Seychelles Fishing Authority

The industrial longline fishery is dominated by the Southeast Asian fleets which are focused mainly on the high value frozen tuna for sashimi markets. As of 15 January 2021, 127 industrial longliners were licensed to operate within and outside the Seychelles EEZ. These vessels, which are mostly foreign-owned or owned in partnership with Seychellois investors, were flagged in China (8), France (1), Portugal (2), Seychelles (46), Spain (2) and Taiwan (68).

Catches from the tuna longline fishery are not transacted in Port Victoria as longliners rarely call to Port Victoria, including Seychelles-flagged longliners. Transhipments are conducted at sea outside of Seychelles EEZ or in other ports in the region, mostly in Port-Louis, Mauritius.

Purse seine and longline vessels flagged by EU member States operate within the framework of the sustainable fisheries partnership agreement signed between the EU and the Republic of Seychelles.<sup>102</sup>

### 5.1.3 Ports

The Victoria fishing port is a major hub for the transhipment and offloading of tuna by purse seine vessels in the Indian Ocean.

### 5.1.4 Processing industry

The Victoria fishing port is home to Indian Ocean Tuna Ltd (IOT), one of the largest tuna canning factories in the world. IOT is owned by the Thai Union Group.

<sup>101</sup> No production figures are available for the industrial fishery on the Seychelles Fishing Authority's website.

<sup>102</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/seychelles\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/seychelles_en)

In 2019, IOT employed 2,019 people, 68 percent of whom are foreigners and 32 percent are Seychellois.<sup>103</sup>

IOT is a manufacturer and exporter of canned tuna. It processes tuna caught in the Indian Ocean that is used by some of the most famous seafood brands including John West, Petit Navire and Mareblu.

Processed fish is the main export of Seychelles and is the country's second-largest industry behind tourism. In 2019, Seychelles exported more than 6,600 tonnes of fish and crustaceans, injecting over \$13 million in the country's economy.<sup>104</sup>

### 5.1.5 Employers (vessel owners)/workers (fishers) organizations

In 2019, there were eleven fishers and/or vessel owners associations in the Seychelles. These associations are fragmented and there is no central organization to legally represents the associations at the national level.<sup>105</sup>

## 5.2 Mapping of key treaties' ratification

### 5.2.1 Fisheries instruments

Seychelles has ratified UNCLOS, the 1993 Compliance Agreement, the 1995 UNFSA and the 2009 PSMA. However, it has yet to ratify the technical conventions relating to fishing vessel's safety and training and certification of fishing vessel personnel and to labour standards on board fishing vessels.

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1982 UNCLOS</b>	10 Dec 1982	16 Sept 1991 (r)	in force as from 16 Nov 1994
<b>1993 Compliance Agreement</b>		7 Apr 2000 (a)	in force as from 24 Apr 2003
<b>1995 UNFSA</b>	4 Dec 1996	20 Mar 1998	in force as from 11 Dec 2001
<b>1995 STCW-F</b>			in force as from 29 Sept 2012
<b>2007 Work in Fishing Convention (C188)</b>			in force from 16 Nov 2017
<b>2009 PSMA</b>		19 June 2013 (a)	in force as from 5 June 2016
<b>2012 CTA</b>			not in force yet

### 5.2.2 Labour conventions

Seychelles has ratified 9 of the 10 ILO fundamental Conventions and 26 of the 176 ILO Technical Conventions, including the Maritime Labour Convention (MLC, 2006). However, it has not ratified the 2014 Protocol to the Forced Labour Convention.

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1930 Forced Labour Convention (C29)</b>		6 Feb 1978	in force as from 1 May 1932

<sup>103</sup> See

<http://www.seychellesnewsagency.com/articles/14014/Indian+Ocean+Tuna+expands+storage+capacity%2C+stocks+up+on+supply+for+Seychelles>

<sup>104</sup> *Ibid*

<sup>105</sup> Ministry of Fisheries and Agriculture. 2019. *Fisheries Comprehensive Plan*, p. 41.

<http://www.mofbe.gov.sc/wp-content/uploads/2021/09/Fisheries-Comprehensive-Plan.pdf>

<b>2014 Protocol to C29 (P29)</b>			in force as from 9 Nov 2016
<b>1948 Freedom of Association &amp; Protection of the Right to Organise Convention (C87)</b>		6 Feb 1978	in force as from 4 July 1950
<b>1949 Right to Organise and Collective Bargaining Convention (C98)</b>		4 Oct 1999	in force as from 18 July 1951
<b>1957 Abolition of Forced Labour Convention (C105)</b>		6 Feb 1978	in force as from 17 Jan 1959
<b>MLC 2006</b>		25 Sept 2007	in force as from 16 Aug 2013

### 5.2.3 Transnational organized crime

Seychelles became a party to the UNCTOC on 22 April 2003 and to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children on 22 June 2004.

### 5.2.4 Membership of regional fisheries organizations and other arrangements

Seychelles is a member of the Indian Ocean Tuna Commission (IOTC), whose Secretariat is based in Victoria, Seychelles, and of the Southwest Indian Ocean Fisheries Commission (SWIOFC). It is also a signatory to the Southern Indian Ocean Fisheries Agreement (SIOFA).

## 5.3 Assessment of implementation of key instruments through brief review of national policy and legal framework

### 5.3.1 Fisheries policy

In 2019, Seychelles adopted two strategic documents, the Seychelles Fisheries Sector Policy and Strategy 2019<sup>106</sup> and the Fisheries Comprehensive Plan.<sup>107</sup>

The Government of Seychelles has enacted several policies to ensure the long-term protection of the marine environment. The decision to protect and preserve, under the Marine Spatial Planning Initiative, up to 30 percent of its maritime space under a mix of managed and closed areas is making sure Seychellois are able to catch and eat seafood today and in the future.

The overarching goal of the fisheries policy is to provide effective, efficient, transparent and accountable service delivery through a participatory approach to ensure long-term sustainable fisheries and aquaculture management and conservation so that the sector continues to play a key role in the sustainable development of the country and the socio-economic well-being of the Seychellois nation. Among the policy objectives is the stimulation of economic growth and transformation of the economy to create decent work, and vibrant, equitable and sustainable livelihoods contributing towards food security for all.

The Fisheries Comprehensive Plan is a document developed to guide the future actions and spearhead the development for the fisheries sector for the period 2020-2022.

<sup>106</sup> See <http://www.mofbe.gov.sc/wp-content/uploads/Seychelles-Fisheries-Sector-Policy-.pdf>

<sup>107</sup> See footnote 106

### 5.3.2 Fisheries law

The main fisheries law in Seychelles is the **Fisheries Act, 2014 (Act 20 of 2014)**.<sup>108</sup> It is supplemented by the Fisheries Regulations, 1987 as amended, the Licences (Fisheries) Regulations, 1987<sup>109</sup> and the Fisheries (Shark Finning) Regulations, 2006. The Seychelles Fishing Authority (SFA) was established by the Seychelles Fishing Authority (Establishment) Act, 1984.

The Fisheries Act, 2014 provides for the management, conservation and development of fisheries within Seychelles waters. It also regulates the operations of Seychelles-flagged fishing vessels in waters beyond Seychelles waters. No joint venture fishing vessel, local fishing vessel, or Seychelles fishing vessel<sup>110</sup> is allowed to operate on the high seas or in waters under the jurisdiction of another State unless it has been authorized to do so by the SFA (Section 25). The term “fishing vessel” is defined broadly and includes a support vessel, a carrier vessel or any other vessel directly or indirectly involved in the fishing operations or used for the treatment or processing of fish or wholly or partly for the transport of fish (Section 3).

### 5.3.3 Fisheries Access Agreements

In accordance with Section 12 of the Fisheries Act, 2014 Seychelles has signed a Sustainable Fisheries Partnership Agreement (SFPA) with the EU. The Protocol on the implementation of the SFPA covers a period of six years (2020-2026). The fishing opportunities granted to Union vessels under the agreement are as follows: (a) 40 tuna purse seine vessels; and (b) 8 surface longline vessels. There is also provision for the authorization of a few support vessels in accordance with the applicable IOTC resolutions (Article 2.1 of the Protocol).

The Annex to the Protocol lays down the conditions for the pursuit of fishing activities by the Union vessels in the Seychelles fishing zone. Among these, each Union vessel is required to embark at least two qualified Seychelles seamen while operating in the Seychelles fishing zone. It is specified that the ILO Declaration on Fundamental Principles and Rights at Work and other relevant ILO conventions shall apply as of right to Seychelles seamen signed on by Union vessels. This concerns in particular the freedom of association, and the effective recognition of the right to collective bargaining, the elimination of discrimination in respect of employment and occupation and the working and living conditions on board fishing vessels.

Where Seychelles seamen are embarked, employment contracts shall be drawn up between the ship-owners' agent and the seamen or their trade unions or representatives in consultation with the competent Seychelles authorities. Those contracts shall guarantee the Seychelles seamen the social security cover applicable to them, including sickness and accident insurance, the pension benefits, leave and end of contract's compensation benefits as well as the basic wage. A copy of the contract shall be given to the signatories and the competent Seychelles authorities.

Where Seychelles seamen are embarked, their wages shall be paid by the ship owners. The basic wage conditions granted to Seychelles seamen shall be set either on the basis provided by Seychelles

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<sup>108</sup> See <https://seyllii.org/sc/sc/legislation/Act%202020%20of%20202014%20Fisheries%20Act%2C%20202014.pdf>

<sup>109</sup> These regulations were adopted under the Licences Act, 1986 (Act 3 of 1986), which regulates all types of licences issued in the Seychelles, including fishing licences.

<sup>110</sup> The notion of “Seychelles fishing vessel” refers to any fishing vessel which meets the following three cumulative criteria: (a) registered in Seychelles under the Merchant Shipping Act; (b) licensed for tuna and tuna-like species and other species as per condition of the licence; and (c) wholly beneficially owned by one or more foreign citizens or by a company established under the written law of Seychelles of which all the shares are beneficially owned by foreign citizens (Section 3).

legislation or the minimum standard set by the ILO, whichever is higher. The other benefits shall not be lower than those applied to seamen from other African Caribbean and Pacific (ACP) countries performing similar duties (Chapter IV of the Annex).

### 5.3.4 Maritime law

The **Merchant Shipping Act, 1992** as amended is Seychelles' main maritime legislation.<sup>111</sup>

It provides a definition of the term “fishing vessel” which means “a vessel which is for the time being used for or in connection with fishing” (Section 3).

Part IX of the Merchant Shipping Act, 1992 on masters and seafarers<sup>112</sup> prescribes the general conditions of employment and work on board vessels, including fishing vessels and addresses the following topics: crew agreements (Sections 134 to 136), wages (Sections 137 to 140), crew accommodation (Sections 141 and 142), welfare (Sections 143 to 151), discipline (Sections 152 to 160) and general (Sections 161 to 175).

The **Merchant Shipping (Masters and Seafarers) Regulations, 1995** (S.I. 61 of 1995) were adopted to regulate, among other things, crew agreements and payment of wages. It applies to any vessel that is registered under the Merchant Shipping Act, 1992, including fishing vessels.

The master of every ship is required to:

- sign an agreement with every member of the crew (Section 3);
- pay every seafarer his/her wages within two days after the termination of the agreement with the crew or at the time when the seafarer is discharged, or at the end of each month whichever first happens (Section 6).

### 5.3.5 Law on human trafficking

In 2014, Seychelles enacted the **Prohibition of Trafficking in Persons Act** (Act 9 of 2014).<sup>113</sup> The Act provides for the prohibition, prevention and combating of trafficking in persons including with respect to the provision of assistance to victims and the creation of a special trafficking fund. It also makes provisions for the establishment of an authority to deal with trafficking, the National Coordinating Committee on Trafficking in Persons.

Any person who, intentionally, benefits from the exploitation of trafficking in persons or causes or enables another person to benefit from trafficking in persons commits an offence and is liable on conviction to imprisonment for a term not exceeding 25 years or to a fine not exceeding SCR 800,000 or to both (Section 6).

## 5.4 Mapping of key initiatives supporting implementation of key instruments

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<sup>111</sup> The Merchant Shipping Act, 1992 was amended twice in 2014 and 2019. See <https://seyl.li.org/sc/legislation/consolidated-act/127a>

<sup>112</sup> The term “seafarer” was introduced in 2019 through the Merchant Shipping (Amendment) Act, 2019 to replace the term “seaman”.

<sup>113</sup> See <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/97407/115569/F-1537072123/SYC97407.pdf>

- As a member of the Indian Ocean Commission (IOC), Seychelles will benefit from the Ecofish project funded by the EU.<sup>114</sup> The project is executed by the IOC in close collaboration with the Common Market for Eastern and Southern Africa (COMESA), the East African Community, the Intergovernmental Authority on Development (IGAD), the Lake Tanganyika Authority and the Lake Victoria Fisheries Organization. It is a five-year project (2019-2023) with a 28 million euros budget.

The project aims at: (i) promoting the sustainable use of marine fisheries resources of the Indian Ocean Islands; (ii) supporting the regional plan on fisheries surveillance; and (iii) supporting concrete initiatives to strengthen fisheries governance and management.

- World Bank's Third Southwest Indian Ocean Fisheries Governance and Shared Growth Project (SWIOFish3). In September 2017, the World Bank approved a package of over US\$20 million for the Republic of the Seychelles to improve the conservation of its marine resources and expand seafood value chains for the period 2018-2023.

The development objective of SWIOFish 3 for Seychelles is to improve the management of marine areas and fisheries in targeted zones and strengthen fisheries value chains in the Seychelles. The project comprises of four components. The first component, expansion of sustainable use of marine protected areas will support the Government of Seychelles in implementing its pledge to protect an increasing share of its maritime space. The second component, improved governance of priority fisheries, will have a greater focus on fisheries management at the national level. The third component, sustainable development of the blue economy will help finance the sustainable development of the Seychelles blue economy and support increased value addition in the aquaculture, industrial, semi-industrial, and artisanal fishing and processing sectors.

## 6 Spain

### 6.1 Basic fisheries information (salient characteristics)

#### 6.1.1 Production

In 2017, Spain produced 1,217,000 tonnes of fish, including 902,000 tonnes from capture fisheries (sources Eurostat and FAO).<sup>115</sup> The same year 51 percent of landings in Spain included fresh products, 48 percent frozen products and 1 percent included salted, smoked and cooked products. The main commercial species landed are skipjack tuna (17%), mackerel (12%), hake (9%), yellowfin tuna (8%), anchovy (6%) and others (48%) (source EUMOFA based on Eurostat data).<sup>116</sup> Spain is the first EU Member State in terms of landing and catches. Spain accounts for 19 percent of EU landings and 17% of EU catches.

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<sup>114</sup> See <https://www.ecofish-programme.org/>

<sup>115</sup> European market observatory for fisheries and aquaculture products. Country profile: Spain (April 2020). See <https://www.eumofa.eu/documents/20178/61322/Spain.pdf>

<sup>116</sup> *Ibid*

Spain is a net importer of fish and fish products. Between 2008 and 2018, exports increased by a total of 29 percent, while imports increased by 6 percent.<sup>117</sup>

## 6.1.2 Fleets

The Spanish fishing fleet is the third largest fishing fleet in the EU after Greece and Italy with a total of 8,886 fishing vessels in 2019, representing about 10.9% of the EU fishing fleet.<sup>118</sup> From 2014 to 2018 the number of Spanish fishing vessels decreased steadily from 9,635 in 2014 to 8,972 in 2018, in line with the fleet adjustment plan which has been maintained since Spain joined the EU.<sup>119</sup> In this regard, 174 units were scrapped in 2018.<sup>120</sup> The same year, out of the 8,972 fishing vessels, vessels less than 12 m in length accounted for 73.2% of the fleet, vessels of 12 m in length but less than 24 m in length accounted for 19% of the fleet, vessels of 24 m in length but less than 40 m in length accounted for 6.6% of the fleet and vessels of 40 m in length and greater accounted for 1.2% of the fleet.<sup>121</sup> While the overwhelming majority of Spanish fishing vessels operates in Spanish waters (96%), the fleet operating in EU, other third countries and international waters account for more than 60% of the Spain's total catches.<sup>122</sup>

In 2019, the cumulative gross tonnage of the Spanish fishing fleet amounted to 332,787 GT, accounting for 21.5% of the total tonnage of the EU fishing fleet.<sup>123</sup>

Spain operates the largest DWF fleet out of the EU Member States and the fifth largest in the world. In 2016 and 2017, its operations primarily focused on fisheries in West and East Africa and the Indian Ocean. The Spanish fleet usually acquires access to coastal countries' waters through the EU's SFPAs. These agreements posted on the European Commission's website are transparent and outline the access rights, fishing opportunities, allowable catch, management measures, funding structures and other conditions. According to the online and publicly available SFPAs, the EU has currently 13 SFPAs protocols in force with third countries out of which Spain has been allocated fishing possibilities in:

- Cape Verde (2019-2024): 16 tuna seiners, 21 surface longliners, and 8 pole and line vessels;<sup>124</sup>
- Cook Islands: 3 tuna seiners;<sup>125</sup>
- Ivory Coast (2018-2024): 16 tuna seiners and 6 surface longliners;<sup>126</sup>
- Gabon (2021-2026): 15 tuna seiners, 5 pole and line vessels and 4 trawlers for deep sea crustaceans under exploratory fishery;<sup>127</sup>

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<sup>117</sup> OECD. 2021. Fisheries and Aquaculture in Spain. See [https://www.oecd.org/agriculture/topics/fisheries-and-aquaculture/documents/report\\_cn\\_fish\\_esp.pdf](https://www.oecd.org/agriculture/topics/fisheries-and-aquaculture/documents/report_cn_fish_esp.pdf)

<sup>118</sup> EU fleet register. [https://ec.europa.eu/oceans-and-fisheries/facts-and-figures/facts-and-figures-common-fisheries-policy/fishing-fleet\\_en](https://ec.europa.eu/oceans-and-fisheries/facts-and-figures/facts-and-figures-common-fisheries-policy/fishing-fleet_en)

<sup>119</sup> European Parliament. 2020. Implementation of the current EU fisheries control system by EU Member States (2014-2019). Study, Table 76 at p. 178. See [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652205/IPOL\\_STU\(2020\)652205\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652205/IPOL_STU(2020)652205_EN.pdf)

<sup>120</sup> See <https://www.agroberichtenbuitenland.nl/actueel/nieuws/2019/06/25/spanish-fishing-sector-copy>

<sup>121</sup> European market observatory for fisheries and aquaculture products. Country profile: Spain (April 2020)

<sup>122</sup> See <https://www.agroberichtenbuitenland.nl/actueel/nieuws/2019/06/25/spanish-fishing-sector-copy>

<sup>123</sup> EU fleet register. [https://ec.europa.eu/oceans-and-fisheries/facts-and-figures/facts-and-figures-common-fisheries-policy/fishing-fleet\\_en](https://ec.europa.eu/oceans-and-fisheries/facts-and-figures/facts-and-figures-common-fisheries-policy/fishing-fleet_en)

<sup>124</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/cabo-verde\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/cabo-verde_en)

<sup>125</sup> The protocol with the Cook Islands expired in November 2021. See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/cook-islands\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/cook-islands_en)

<sup>126</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/cote-divoire\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/cote-divoire_en)

<sup>127</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/gabon\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/gabon_en)

- Guinea Bissau (2019-2024): 14 seiners and longliners, 10 pole and line vessels and trawlers (tonnage is allocated per target species);<sup>128</sup>
- Mauritania (2021-2026): allocation of allowable catch per target species;<sup>129</sup>
- Mauritius: 22 tuna seiners and 12 surface longliners;<sup>130</sup>
- Morocco (2019-2023): 22 artisanal seiners and 25 artisanal longliners (less than 40 GT) in the northern area, 10 artisanal seiners in the southern area, 7 longliners and 5 trawlers targeting demersal fish, and allowable catch for industrial pelagics;<sup>131</sup>
- São Tome and Principe (2019-2024): 16 tuna seiners and 5 surface longliners;<sup>132</sup>
- Senegal (2019-2024): 16 tuna seiners, 8 pole and line vessels, 3 longliners and 3 trawlers;<sup>133</sup>
- Seychelles (2020-2026): 22 tuna seiners and 2 surface longliners;<sup>134</sup>
- The Gambia (2019-2025): 16 tuna seiners, 8 pole and line vessels and 2 trawlers.<sup>135</sup>

In addition, a number of so-called private access agreements have been concluded by OPAGAC<sup>136</sup> and ANABAC<sup>137</sup> with coastal states where there is no SFPA (e.g., Comoros). Spanish companies also participate in joint-ventures and charter agreements. For example, in Seychelles the domestic tuna fishing fleets (seiners) is jointly owned by Spanish and French companies, with Seychellois partners.

### 6.1.3 Ports

The main fishing ports in Spain are Vigo and la Coruña. In 2020, 36.8% and 33.3% of the annual fishing tonnage were landed in Vigo and la Coruña, respectively.<sup>138</sup>

### 6.1.4 Processing industry

Spain is home to the largest fish processing industry in Europe. There were 607 fish processing facilities in operation in 2017 with a turnover of around €6.05 billion. According to Eurostat-SBS, 20,086 persons were employed in the Spanish fishing industry in 2017.<sup>139</sup>

## 6.2 Mapping of key treaties' ratification

### 6.2.1 Fisheries instruments

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<sup>128</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/guinea-bissau\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/guinea-bissau_en)

<sup>129</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/mauritania\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/mauritania_en)

<sup>130</sup> The protocol with Mauritius expired in December 2021. See [https://ec.europa.eu/oceans-and-fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/mauritius\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/mauritius_en)

<sup>131</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/morocco\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/morocco_en)

<sup>132</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/sao-tome-and-principe\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/sao-tome-and-principe_en)

<sup>133</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/sao-tome-and-principe\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/sao-tome-and-principe_en)

<sup>134</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/seychelles\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/seychelles_en)

<sup>135</sup> See [https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/gambia\\_en](https://ec.europa.eu/oceans-and-fisheries/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas/gambia_en)

<sup>136</sup> OPAGAC is the Spanish organisation of producers of frozen tuna.

<sup>137</sup> ANABAC is the national association of refrigerated tuna vessels.

<sup>138</sup> See <https://www.statista.com/statistics/973618/fishing-tonnage-in-spain-by-port/>

<sup>139</sup> European market observatory for fisheries and aquaculture products. Country profile: Spain (April 2020)

Spain has ratified UNCLOS and the 1995 UNFSA and the 2009 PSMA. It has also ratified the technical conventions relating to fishing vessel's safety and training and certification of fishing vessel personnel. However, it has yet to ratify the 2007 Work in Fishing Convention.

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1982 UNCLOS</b>	4 Dec 1984	15 Jan 1997 (r)	in force as from 16 Nov 1994
<b>1993 Compliance Agreement</b>			in force as from 24 Apr 2003
<b>1995 UNFSA</b>	3 Dec 1996	19 Dec 2003 (r)	in force as from 11 Dec 2001
<b>1995 STCW-F</b>	3 Feb 2009	29 Sept 2012 (a)	in force as from 29 Sept 2012
<b>2007 Work in Fishing Convention (C188)</b>			in force from 16 Nov 2017
<b>2009 PSMA</b>		7 July 2011 (r) <sup>140</sup>	in force as from 5 June 2016
<b>2012 CTA</b>		Ratified find date 2019 (a)	not in force yet

### 6.2.2 Labour conventions

Spain has ratified the 10 ILO fundamental Conventions, including the 2014 Protocol to the Forced Labour Convention, and 121 of the 176 ILO Technical Conventions, including the Maritime Labour Convention (MLC, 2006).

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1930 Forced Labour Convention (C29)</b>		29 Aug 1932 (r)	in force as from 1 May 1932
<b>2014 Protocol to C29 (P29)</b>		20 Sep 2017 (r)	in force as from 9 Nov 2016
<b>1948 Freedom of Association &amp; Protection of the Right to Organise Convention (C87)</b>		20 Apr 1977 (r)	in force as from 4 July 1950
<b>1949 Right to Organise and Collective Bargaining Convention (C98)</b>		20 Apr 1977 (r)	in force as from 18 July 1951
<b>1957 Abolition of Forced Labour Convention (C105)</b>		6 Nov 1967 (r)	in force as from 17 Jan 1959
<b>MLC 2006</b>		4 Feb 2010 (r)	in force as from 16 Aug 2013

### 6.2.3 Transnational organized crime

Spain ratified both the UNCTOC and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children on 1 March 2002.

### 6.2.4 Membership of regional fisheries organizations

Spain is a member of the Commission for the Conservation of Antarctic Marine Living Resources and of the General Fisheries Commission for the Mediterranean alongside the EU and of the IWC.

<sup>140</sup> While Spain has not ratified the PSMA as an individual State, it is a member of the European Union which ratified the Agreement on 7 July 2011.

In other RFMOs, Spanish interests are represented by the EU delegation. The EU participates actively in 14 tuna and non-tuna RFMOs. Of particular relevance for Spain are ICCAT, IOTC and WCPFC.

## 6.3 Assessment of implementation of key instruments through brief review of national legal framework

### 6.3.1 Fisheries policy and legal framework

As a Member State of the EU, Spain is subject to the EU **Common Fisheries Policy** (CFP) which is laid down in Regulation (EU) No. 1380 of 2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy. The CFP is a set of rules for managing European fishing fleets and for conserving fish stocks. Designed to manage a common resource, it gives all European fishing fleets equal access to EU waters and allows fishers to compete fairly. The CFP was introduced in the 1970s and went through successive updates, the most recent of which took effect on 1 January 2014.

With the latest reform from 2013, the CFP is the first comprehensive legal framework, featuring:

- attention to the **environmental, economic and social dimensions** of fisheries
- fish stock management at **maximum sustainable yield** by 2020 for all managed stocks
- gradual introduction of a **landing obligation** by 2019
- continued application of the so-called **multiannual plans** (MAPs) to manage fisheries in different sea basins
- **regionalisation** to allow EU countries with a management interest to propose detailed measures, which the Commission can then adopt as delegated or implementing act and transpose them into EU law
- **fleet capacity ceilings** per EU country in combination with the obligation for EU countries to ensure a stable and enduring balance between fishing capacity and fishing opportunities over time. EU countries may need to develop action plans to reduce overcapacity (for which they can use scrapping money).<sup>141</sup>

Key EU regulations which apply to the Spanish fishing fleet include:

- Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures;
- Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets;
- Council Regulation No. 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy;
- Council Regulation (CE) No. 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (EU IUU Regulation).

After the evaluation of the current control system, the European Commission decided in 2018 to initiate a revision of the fisheries control system. The overall objective of the revision is to modernise, strengthen and simplify the EU fisheries control system, ensure sustainability and ensure the level playing field in fisheries control.<sup>142</sup>

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<sup>141</sup> See [https://ec.europa.eu/oceans-and-fisheries/policy/common-fisheries-policy-cfp\\_en](https://ec.europa.eu/oceans-and-fisheries/policy/common-fisheries-policy-cfp_en)

<sup>142</sup> *Ibid*

The **EU regulation on the Sustainable Management of External Fishing Fleets** (Regulation (EU) 2017/2403), which is one of the pillars of the fisheries control system, attempts to guarantee the sustainable fishing activities of its fleets beyond EU waters, while facilitating a more effective control of operations.

At the national level, the main fisheries legislation in Spain is **Law 3/2001 od 26 March 2001 on State Marine Fisheries**.<sup>143</sup> It is supplemented by a raft of implementing regulations, including:

- the **Royal Decree 114/2013 of 15 February 2013** establishing and regulating the national register of serious infringements of the CFP, setting out the rules of application of the point system and updating the amounts of the sanctions provided for in Law 3/2001; and
- the **Royal Decree 182/2015 of 13 March 2015** adopting the rules of procedures of the sanctioning regime for maritime fishing in foreign waters.

In line with the Spanish Constitution, which regulates the distribution of competences between the State and the Autonomous Communities,<sup>144</sup> **Law 3/2001** provides that the State has exclusive competence over maritime fisheries. The objectives of the law are to: (a) regulate marine fisheries; (b) provide the basic rules for the organisation of the marine fisheries sector; (c) provide the basic rules for the organisation of commercial activities for the production of fish and fish products and for the external trade of these products; and (d) establish the regime of marine fisheries infringements and sanctions.

### 6.3.2 Maritime law

The main maritime law in Spain is **Law 14/2014 of 24 July 2014 on Maritime Navigation**.<sup>145</sup>

### 6.3.3 Labour law

Spain adopted **Royal Decree 1216/1997 of 18 July 1997 establishing minimum occupation safety and health standards on board fishing vessels**.<sup>146</sup> It was amended by Royal Decree 1696/2012 of 21 December 2012.<sup>147</sup>

### 6.3.4 Law on human trafficking

As far as could be ascertained, Spain has not enacted a specific law on human trafficking. However, the Spanish **Criminal Code** contains an entire title on trafficking in human beings (Title VII Bis) and criminalizes human trafficking, prescribing penalties from five to eight years' imprisonment (Article 177bis).<sup>148</sup>

## 6.4 Mapping of key initiatives supporting implementation of key instruments

No relevant information could be found

## 7. Vietnam

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<sup>143</sup> The Ley 3/2001 de Pesca Marítima del Estado was amended in 2014.

<sup>144</sup> Article 149.1.19a of the Spanish Constitution

<sup>145</sup> See <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/98186/116742/F439694818/ESP98186.pdf>

<sup>146</sup> See

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/47561/122805/F1323813753/REAL%20DECRETO%202012%2016%201997.pdf>

<sup>147</sup> See <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/92018/106970/F-1932240218/ESP92018.pdf>

<sup>148</sup> See [https://www.legislationline.org/download/id/6443/file/Spain\\_CC\\_am2013\\_en.pdf](https://www.legislationline.org/download/id/6443/file/Spain_CC_am2013_en.pdf)

## 7.1 Basic fisheries information

### 7.1.1 Production

Vietnam is among the top ten producers of marine fisheries catches in the world. According to FAO data, it ranked seventh in 2018 with a total production of 3.19 million tons in live weight. This continues a trend of steady production increase in marine capture fisheries over the period 2015 to 2017 from 2.71 million tons in live weight in 2015 to 3.15 million tons in live weight in 2017.<sup>149</sup>

A sizeable share of the harvest volume is made-up of low value products, such as small or juvenile fish, low-value species, and fish spoiled by poor post-harvest conservation practices. Vietnamese marine fishers also harvest a wide variety of demersal and pelagic species, crustaceans (mainly shrimps, prawns, lobsters and crabs), cephalopods (cuttlefish, squid, and octopus) and mollusks. While accounting for only about 2 percent of the total value of fisheries, tuna and billfishes are the most important target species for offshore fishers.

With an export value of nearly US\$ 9 billion per year, fishery and aquaculture is a key national economic sector for Vietnam, contributing 9 to 10 percent of total export turnover, ranking fifth in export value and representing 4 to 5 percent of GDP.<sup>150</sup> Since 2014, Vietnam is the third major exporter of fish and fish products in the world. It has successfully maintained steady growth in recent years, thanks mainly to strong trading connections with fast-growing Chinese market, an expanding Pangas catfish (*Pangasius* spp.) aquaculture sector in the Mekong Delta, and a booming processing and re-export industry.<sup>151</sup>

### 7.1.2 Fleets

The Vietnamese fishing fleet is made up of mostly small-scale fishing vessels made of wood. According to data from the Department of Fisheries, the total number of fishing vessels was estimated to be about 109,762 in 2016, of which 33,173 vessels were powered by engine more than 90 HP and 76,589 by engine less than 90 HP.<sup>152</sup> Since the 1990s, there is a restructuring of the Vietnamese fishing fleet towards larger scale deep-sea fishing and away from coastal fishing.<sup>153</sup>

With the depletion of many fish stocks in Vietnamese waters due to severe overfishing, a growing number of Vietnamese vessels were pushed further out at sea in search of fish. In doing so, a significant number of vessels is increasingly fishing illegally in neighbouring countries' waters (e.g., Cambodia, Malaysia, Indonesia) and beyond, some travelling as far as the Pacific Islands and Australia, some 6,000 km from their home ports.<sup>154</sup> From the start of 2018 to mid-2019, there have been reports of at least 250 Vietnamese vessels' detentions and arrests of over 640 crews in at least 11 countries across the Asia-

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<sup>149</sup> FAO. 2020. *The State of World Fisheries and Aquaculture 2020. Sustainability in Action*. Rome, at p.13.

<sup>150</sup> World Bank. 2021. *A Trade-Based Analysis of the Economic Impact of Non-Compliance with Illegal, Unreported and Unregulated (IUU) Fishing Regulations: the Case of Vietnam*. Problue, at pp. 3-6

<sup>151</sup> FAO. 2020. *The State of World Fisheries and Aquaculture 2020. Sustainability in Action*. Rome, at p.75.

<sup>152</sup> See Figure 4 in Fisheries Country profile: Vietnam (SEAFDEC) at <http://www.seafdec.org/fisheries-country-profile-viet-nam/>

<sup>153</sup> World Bank. 2021. *A Trade-Based Analysis of the Economic Impact of Non-Compliance with Illegal, Unreported and Unregulated (IUU) Fishing Regulations: the Case of Vietnam*. Problue, at p. 8

<sup>154</sup> See <https://onlinelibrary.wiley.com/doi/epdf/10.1111/apv.12240>

Pacific region.<sup>155</sup> In 2019, Indonesia sunk 38 Vietnamese fishing vessels that were caught fishing illegally in Indonesian waters.<sup>156</sup>

The government encourages Vietnam's fishing fleet to sail out into disputed waters and provide a maritime defence function as part of a fishing militia. In 2009, Vietnam's National Assembly passed the Law on Militia and Self-Defence Forces that paved the way for the 'fishing militia' to officially operate. A year later, then-prime minister Nguyen Tan Dung ratified Plan 1902 to pilot the operation of the maritime self-defence forces. An estimated 8000 vessels and 1.22 per cent of Vietnam's maritime labour are members of the fishing militia.<sup>157</sup>

Persistent involvement in IUU fishing activities led the EU, on 23 October 2017, to officially issue a yellow card warning for Vietnamese seafood exported to its market because of insufficient effort by Vietnam to meet the EU IUU regulation requirements. Since the issuance of the yellow card, Vietnam has been working hard to comply with the recommendations formulated by the EU.

### 7.1.3 Ports

Vietnam has a coastline of approximately 3,450 km and several ports lining its coastline. The major expanse of the coast, which borders the South China Sea, makes Vietnam a significant trading point for both the West and the East. The total number of ports, including many small ports, amounts to about 320. There are only a few commercial ports in the country that can handle large vessels. Some of the major ports of Vietnam are: Hai Phong Port, Da Nang Port, Saigon Port, Vung Tau Port, and Quang Ninh Port.<sup>158</sup>

### 7.1.4 Processing industry

Seafood processing has generated considerable employment over the past two decades, and around three quarters are women. While recent figures could not be found, earlier analysis points to the importance of this industry for job creation and poverty alleviation. In 2013, there were 567 seafood-processing plants, some 450 of which were qualified for exporting to the EU.<sup>159</sup>

## 7.2 Mapping of key treaties' ratification

### 7.2.1 Fisheries instruments

Vietnam has ratified UNCLOS in 1994 and more recently the 1995 UNFSA and the 2009 PSMA, which were requirements from the EU in the dialogue on IUU fishing. However, it has yet to ratify the technical conventions relating to fishing vessel's safety and training and certification of fishing vessel personnel and to working conditions on board fishing vessels.

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
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<sup>155</sup> See EJF. 2019. *Caught in the net: Illegal fishing and child labour in Vietnam's fishing fleet*, at p. 4 <https://ejfoundation.org/resources/downloads/ReportVietnamFishing.pdf>

<sup>156</sup> See <https://www.maritime-executive.com/article/indonesia-sinks-51-confiscated-fishing-vessels>

<sup>157</sup> European Parliament. 2018. *Fisheries in Vietnam*. Research for PECH Committee. Department for Structural and Cohesion Policies, Directorate for Internal Policies, at p. 21. See [Research for PECH Committee - Fisheries in Vietnam \(europarl.eu\)](https://www.europarl.europa.eu/RegData/etudes/rapport/-/raport/883837/20180607RPT0001/attach/1/Fisheries_in_Vietnam_en.pdf)

<sup>158</sup> See <https://www.marineinsight.com/know-more/5-major-ports-of-vietnam/>

<sup>159</sup> European Parliament. 2018. *Fisheries in Vietnam*. Research for PECH Committee. Department for Structural and Cohesion Policies, Directorate for Internal Policies, at p. 23.

<b>1982 UNCLOS</b>	10 Dec 1982	25 July 1994 (r)	in force as from 16 Nov 1994
<b>1993 Compliance Agreement</b>			in force as from 24 Apr 2003
<b>1995 UNFSA</b>		18 Dec 2018 (a)	in force as from 11 Dec 2001
<b>1995 STCW-F</b>			in force as from 29 Sept 2012
<b>2007 Work in Fishing Convention (C188)</b>			in force from 16 Nov 2017
<b>2009 PSMA</b>		3 Jan 2019 (a)	in force as from 5 June 2016
<b>2012 CTA</b>			not in force yet

### 7.2.2 Labour conventions

Vietnam has ratified 9 of the 10 ILO fundamental Conventions and 13 of the 176 ILO Technical Conventions, including the Maritime Labour Convention (MLC, 2006). However, it has not ratified the 1948 Freedom of Association and Protection of the Right to Organise Convention nor the 2014 Protocol to the Forced Labour Convention.

Treaties	Signature	Ratification (r) Accession (a)	Status of treaties
<b>1930 Forced Labour Convention (C29)</b>		5 Mar 2007 (r)	in force as from 1 May 1932
<b>2014 Protocol to C29 (P29)</b>			in force as from 9 Nov 2016
<b>1948 Freedom of Association &amp; Protection of the Right to Organise Convention (C87)</b>			in force as from 4 July 1950
<b>1949 Right to Organise and Collective Bargaining Convention (C98)</b>		5 July 2019 (r)	in force as from 18 July 1951
<b>1957 Abolition of Forced Labour Convention (C105)</b>		14 July 2020 (r)	in force as from 17 Jan 1959
<b>MLC 2006</b>		8 May 2013 (r)	in force as from 16 Aug 2013

### 7.2.3 Transnational organized crime

Vietnam has acceded to both UNCTOC and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children on 8 June 2012.

### 7.2.4 Membership of regional fisheries organizations

The Regional Fisheries organisations play a minor role in regulating fisheries in the South China Sea. There is no specific multilateral regional organisation in place that regulates the South China Sea, but there are bilateral fishing agreements for organising regional cooperation of the sector. The most important bilateral agreement was concluded between Vietnam and China in 2000, regarding the maritime border in the Gulf of Tonkin. The agreement followed a number of incidents between the Chinese and Vietnamese fleets linked to the contested sovereignty of the Paracel and Spratly islands. The dispute is of importance as the region is rich in fish. The aggressive encounters of Chinese boats and the Vietnamese boats pushed some Vietnamese fishers to move further south. In October 2011 Vietnam and China came to an agreement in principle regarding their maritime issues, hoping to put an end to these incidents.<sup>160</sup>

<sup>160</sup> *Ibid*, p. 17

Vietnam is a cooperating non-member of WCPFC.

## 7.3 Assessment of implementation of key instruments through brief review of national legal framework

### 7.3.1 Fisheries legal framework

In response to EU pressure to review its fisheries legal framework to address IUU fishing, Vietnam enacted a new Fisheries Law on 21 November 2017 (Law No. 18/2017/QH14). This law came into force on 1 January 2019. It is supplemented by Governmental Decree No.26/2019/NĐ-CP of 8 March 2019 regulating a number of articles and measures to implement the Fisheries Law and Decree No. 42/2019/NĐ-CP of 16 May 2019 regulating the sanctioning administrative offences in the field of fisheries.

The **Fisheries Law of 2017** contains revised provisions for the fisheries sector in Vietnam and consists of 105 articles, divided into 9 Chapters.<sup>161</sup>

Salient features include the following:

- The Law applies to: (i) Vietnamese organizations and individuals, foreign individuals engaged in fishery in land, islands, archipelago and sea of Vietnam; and (ii) Vietnamese individuals engaged in commercial fishing activities outside the Vietnam's maritime boundary (Article 2);
- Its provisions concern, *inter alia*: (i) co-management in fishery resources protection; (ii) planning on protection and exploitation of aquatic resources; (iii) establishment of marine protected areas (MPAs) and protection of MPAs and habitats from fishing activities; (iv) fisheries resources assessment; (v) capture and management of fishing vessels; (vi) combating illegal, unreported and unregulated (IUU) fishing;
- It defines the concept of "illegal commercial fishing". Among the illegal commercial fishing activities is the use of stateless commercial fishing vessels or vessels with the nationality of non-member countries for illegal commercial fishing in the international waters under the management of RFMOs (Article 60);
- It also provides definitions of the following key terms:
  - (i) "Commercial fishing vessels" means watercrafts with engine or not, including vessels for catching aquatic resources and fishing logistic vessels;
  - (ii) "fishing port" means a port for commercial fishing vessels, including port land areas and port waters;
  - (iii) "crew members" means people who are assigned to work on commercial fishing vessels and ships of fishery authorities by the shipowner or master other than ship officers (Article 3);
- It provides with respect to the classification, management and use of fishing ports (Articles 77 to 86), and introduces the obligation of cooperation in inspecting and taking actions against illegal commercial fishing inside and outside the territory of Vietnam in accordance with regulations of international treaties to which the Socialist Republic of Vietnam is a signatory (Article 8.5);
- No organization or individual can use a commercial fishing vessel of 6 m in length or greater to fish in Vietnamese waters without a fishing licence (Article 50.1). Among the conditions to be met for a licence to be issued in respect of a commercial fishing vessel are: (i) the requirement for every vessel 15 m in length or greater to be equipped with a tracking device

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<sup>161</sup> See <http://extwprlegs1.fao.org/docs/pdf/vie171855Eng.pdf>

(Article 50.2dd); and (ii) the obligation for the master and chief engine officer to have prescribed degrees or certificates (Article 50.2g);

- Organizations and individuals engaged in commercial fishing outside the Vietnamese waters are required to be approved or licensed by the Ministry of Agriculture and Rural Development (Article 54.1);
- All Vietnamese commercial fishing vessels 6 m in length and over are required to be registered in the national register of commercial fishing vessels and be issued a safety certificate (Article 71.1);
- To work as a crew member on board a Vietnamese commercial fishing vessel, any person must satisfy health and working age requirements and have obtained degrees or certificates required for his or her position (Article 74.1). Crew members are entitled to: (i) have their labour allowances, legal rights and benefits ensured when they work on board commercial fishing vessels in accordance with applicable labour laws; and (ii) refuse to work on commercial fishing vessels that do not comply with safety regulations (Article 74.2);
- A foreign commercial fishing vessel may only enter the fishing port specified in the commercial fishing license or the fishing ports approved by the Ministry of Agriculture and Rural Development. Foreign vessels shall comply with notification, documentation and other port entry and use requirements (Article 83).

### 7.3.2 Maritime law

Only specific provisions of the **Maritime Code 2005** (Law No. 40/2005/QH11),<sup>162</sup> which provides for maritime shipping activities, apply to fishing vessels (Article 1). Indeed, the definition of the notion of “seagoing vessel” expressly excludes fishing vessels from its scope (Article 11). Chapter III on ship crew, which provides the legal regime for seafarers and regulates working conditions on board seagoing vessels does not apply to fishing vessels and thus fishers.

### 7.3.3 Law on human trafficking

In 2011, Vietnam enacted **Law No. 66/2011/QH12 on the prevention and combat of human trafficking**.<sup>163</sup> This law provides for: (i) the prevention, detection and handling of human trafficking acts; (ii) the protection of, and support for, victims; and (iii) international cooperation in the prevention of, and the fight against, human trafficking (Article 1).

It provides a definition of the concept of “forced labour” which means using force or threatening to use force or using other tricks to force a person to work against his or her will (Article 2.3).

Sanctions for acts of human trafficking are provided for in the Criminal Code.

## 7.4 Mapping of key initiatives supporting implementation of key instruments

- The Vietnam yellowfin tuna Fisheries Improvement Project (FIP), supported by WWF, was launched in 2014, following the completion of a Marine Stewardship Council (MSC) pre-assessment and ensuing FIP action plan undated in 2020. The overarching goal is to achieve MSC certification by 2022. Among other things, this project supports the process of Vietnam joining the WCPFC.

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<sup>162</sup> See [https://www.wto.org/english/thewto\\_e/acc\\_e/vnm\\_e/wtaccvnm43\\_leg\\_9.pdf](https://www.wto.org/english/thewto_e/acc_e/vnm_e/wtaccvnm43_leg_9.pdf)

<sup>163</sup> See <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/91653/106409/F-1429920306/VNM91653%20Eng.pdf>

