



REPUBLIC OF NAMIBIA

**NATIONAL PLAN OF ACTION TO PREVENT, DETER
AND ELIMINATE ILLEGAL, UNREPORTED AND
UNREGULATED FISHING**



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FOREWORD



The threat posed by illegal, unreported and unregulated (IUU) fishing is widely recognised by the international community. In recent years, the issue itself and what we might do about it has been addressed at fora such as the United Nations General Assembly, the World Summit on Sustainable Development and meetings convened by FAO. For its part, FAO has been instrumental in raising awareness of the cataclysmic effects of IUU fishing, as well as the urgent need for States to take effective action to eliminate this scourge.

But a fundamental question is – why does IUU fishing happen at all? We all know the answer, unless we like to pretend not to! There exists a plethora of excellent and fully available legal and institutional instruments such as the UN Fish Stocks Agreement, the Compliance Agreement, as well as voluntary instruments such as FAO's Code of Conduct and the various International Plans of Action. Namibia has, along with many other States, spent precious time and resources developing these! So then, why does this rape of the sea continue? Why are IUU vessels still able to offload at ports under the noses of certain port states and find lucrative markets for their illicit cargoes? The answer is simple – it is because fishermen, vessel owners, governments and international bodies have to date failed to stop it. We must all share in the blame! But in particular, it is because of a lack of political will to tackle the problem. We should control our vessels and nationals. IUU fishing is not an accident – it is carefully planned and, unfortunately, tolerated. Those who finance it make great profits. Some may have high contacts in the right places. As a result, some States continue to offer ports of convenience. Again, there must be real political commitment to stop it. By the way, I think we should call them Ports of “Inconvenience” – they are only convenient for IUU operators!

Many states have signed up to laudable and prudently crafted international conventions, agreements and arrangements. It is however a pity that we are simply failing to meet our obligations to such instruments. But why is this? In my capacity as Minister for Fisheries and Marine Resources, I have attended numerous fora that come up with noble plans, instruments, call them what you will. Then what happens? Well, we miserably fail to implement them. It seems that we agree on these plans and instruments just as a formality, a diplomatic nicety, but that's all! It is my view that individual states, be they coastal, flag or port states, are the main culprits for allowing IUU fish to be landed in the first place. Why should the political leaders of this world abdicate from their responsibilities? We can talk and develop prudent and well-intended plans and instruments to our heart's content, but if real political will is lacking for implementation, then we are all wasting our time, and the rape will continue unabated!

One might reasonable question whether States will not abuse and disrespect voluntary instruments such as the FAO IPOA on IUU fishing, given that so many are after all failing to abide to their legally-binding duties under international instruments. Nevertheless, I view the laudable actions of FAO as a milestone in the war on IUU fishing. This document is Namibia's National Plan of Action against IUU fishing, and it is my pleasure to wholeheartedly endorse it.

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PART A. PROFILE OF NAMIBIA'S MARINE CAPTURE FISHING INDUSTRY

1 INTRODUCTION

Namibia is bordered by South Africa, Botswana, Zambia and Angola in southwestern Africa. Some 12 small uninhabited islands lie off the coast between Walvis Bay and the Orange River. Predominantly an arid country, its topography can be divided into four general areas: the Namib Desert and coastal plains in the west; the eastward-sloping Central Plateau; the Kalahari Desert along the Botswana and South African borders; and the densely wooded bushveld of the northern Kavango and Caprivi regions. Namibia has been an independent republic since 21 March 1990. It is administratively divided into 13 regions, each with its own regional government. Namibia's prosperous economy is dominated by mining (diamonds and uranium), fishing and tourism. Cattle and sheep herding and subsistence agriculture are also important. GDP is around twice the average for African states.

Namibia's low population results in one of the lowest population densities in Africa. Approximately 75% of the population reside in rural areas, predominantly inland. As a consequence, there is virtually no marine subsistence fishing sub-sector.

2 NAMIBIA'S MARINE FISHERIES SECTOR

Largely as a result of up-welling of the nutrient-rich Benguela Current, Namibia's waters are highly productive. Prior to Namibian Independence in 1990, uncontrolled fishing on a massive scale by foreign fleets greatly reduced the abundance of all the major fish stocks. This period was followed by a dramatic recovery of the resources following Independence in 1990 and the implementation of a resource management system that incorporates a highly effective, cost-efficient system of monitoring, control and surveillance.

More than 20 commercially important species are landed. Landings in 2003 totalled 631,119 tonnes, taken by a total of 279 vessels licensed to fish in Namibian waters, 80% of which were Namibian flag. Some vessels have multiple licences allowing them to target more than one species. The marine sector in 2003 can be divided into the following main fisheries:

Demersal fisheries: around 106 demersal trawlers are currently licensed. A fleet of 62 wet-fish trawlers (23 – 70 m length) and 25 freezer trawlers (24 – 73 m length) target hake (*Merluccius capensis* and *M. paradoxus*), caught in deeper water (trawling is not permitted in less than 200 m depth). Nineteen trawlers (19 – 38 m length) fish more inshore for monkfish (*Lophius* spp.), sole and kingklip. Twenty-four demersal long-liners (19-42 m length range) also target hake, with smaller quantities of highly valuable kingklip and snoek. Catches in 2003 were hake – 189,305 tonnes; monkfish – 13,135 tonnes; and kingklip – 6,603 tonnes.

Mid-water fishery: Twenty mid-water trawlers (55 - 120 m length) are licensed to fish for horse mackerel (*Trachurus capensis*). Horse mackerel stock size is growing steadily. Catches have generally increased each year, rising from 321,400 tonnes in 1996 to 360,447 tonnes in 2003.

Purse-seine fishery: a fleet of 32 purse-seiners (21-51 m length) target pilchard (*Sardinops ocellatus*) for canning. Juvenile horse-mackerel and anchovy (*Engraulis capensis*), which occurs sporadically in Namibian waters and are also taken for fish meal. Namibia's pilchard stock has not progressed as well as other to measures designed to re-build stocks, and there is concern for recruitment levels which appear to be largely influenced by environmental factors. Catches have declined rapidly in recent years. A moratorium was declared in 2002, but a 20,000 tonne TAC was set in 2003 and 25,000 tonnes in 2004.

Deep-water fishery: five deep-water trawlers (19 – 31 m length) are currently licensed to target orange roughy (*Hoplostethus atlanticus*) and alfonso (*Beryx splendens*). The fishery commenced in 1994. Annual catches are around 2,600 tonnes.

Tuna fishery: a fleet of 37 tuna vessels (15 - 81m length) utilising long-line and pole-and-line gear are licensed to target albacore (*Thunnus alalunga*), bigeye (*Thunnus obesus*), swordfish (*Xiphias gladius*) and skipjack (*Katsuwonus pelamis*). Pelagic sharks are also taken. Namibia is an active member of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and participates fully in regard to regional assessment and management for these species. A total of 3,371 tonnes of tuna were landed in 2003.

Rock lobster fishery: the fishery for rock lobster (*Jasus Ialandii*) is based in the southern port of Lüderitz. Thirty-nine vessels (6-53 m) are currently licensed and use lobster traps. The rock lobster stock is showing signs of continued growth. In 2003 a total of 269 tonnes was landed.

Deep-sea red crab fishery: deep-water traps are used to target red crab (*Chaceon maritae*). Three vessels (49 – 56 m length) are currently active in this small but valuable fishery. Research on deep-sea red crab indicates that stock size continues to grow slowly. Being a shared stock, Namibia has initiated joint research activities with neighbouring Angola. Catches in 2003 totalled 2,092 tonnes.

Commercial Line-fishing: a fleet of 26 industrial linefish vessels (5 - 35 m length) operate offshore and target kob, steenbras, snoek and galjoen. In addition, recreational fishing occurs along the coastline using beach-caster rods. Main target species include blacktail (*Diplodus sargus*), galjoen (*Dichistius capensis*), kob (*Argyrosomus* spp.), snoek (*Thyrsites atun*), West Coast steenbras (*Lithognathus aureti*), bronze whaler shark (*Carcharhinus brachyurus*).

Cape fur seals (*Arctocephalus pusillus*) are also harvested around Cape Cross, Wolfs Bay and Atlas Bay. In 2003, around 34,000 animals were harvested. Seaweed, predominantly kelp, is harvested at a number of locations. Production in 2003 was around 290 tonnes.

2.1 CATCH UTILIZATION

Essentially all of the fishing industry is based in two ports: Walvis Bay and Luderitz. Some line fish vessels also land at Swakopmund. Namibian fisheries policy has driven the development of a strong on-shore handling and processing sector. Exports include fresh and frozen round, gilled/gutted and processed forms (fillets, steaks etc).

Since Independence many demersal fish processing plants have been upgraded or established and include some of the most advanced fish processing factories in the world. Government policy to encourage processing of white fish on land has resulted in considerable expansion of employment. Current objective is to have 65% of the hake quota processed ashore by 2005.

Adult horse mackerel taken by the mid-water trawl fleet is frozen at sea. All production is consumed in the SADC Region, the main markets being Democratic Republic of Congo Mozambique and South Africa. A proportion is also salted and dried ashore for the domestic market and neighbouring countries. The mid-water sector also produces fish meal from horse mackerel (around 13,600 tonnes of fish meal in 2003). Around 40,000 tonnes of the horse mackerel TAC is allocated each year to the purse seine fleet, which targets juvenile horse mackerel for the production of fish meal. Other pelagic species such as anchovy and round herring are also utilised in this way. The purse seine sector produced around 14,100 tonnes of fish meal in 2003.

Most of the pilchard quota is used for canning. The dominant market for canned product is South Africa, although European markets (e.g. UK) are growing in importance. Small quantities are also sold for bait or processed into fish meal.

Monkfish and sole are exported mainly to France, Italy, Japan, and China. Orange roughy and small amounts of alfonsino are exported to USA.

The bulk of Namibian hake is mainly exported to EU markets, Spain being the main destination. A wide variety of processed products are exported, mainly frozen but also refrigerated, where they are then distributed throughout EU markets. Other markets for hake are being developed, including Australia and USA.

Rock lobster and deep-sea red crab are exported mainly to Japan. Tuna is exported to Spain, USA and Japan.

3 ECONOMIC ROLE OF THE FISHING INDUSTRY

Total direct employment in 2003 was estimated to be 13,500 people, of which some 5,575 (68% Namibians) are employed on-board vessels and 7,925 (98% Namibians) work ashore.

The fisheries sector has consistently been the second largest sector in the Namibian economy behind mining in terms of export earnings. Although the contribution of income from marine resources to GDP has fluctuated over the years mainly due to the unpredictable nature of the resource but has shown an overall increase from N\$288 million (4%) in 1991 to N\$2 526 million (7.8%) in 2003. The value of fisheries production has also increased substantially since 1991 mainly due to an increase in the prices obtained in the export markets as well as value addition. Landed value has increased from N\$520 million in 1991 to N\$2 638 million in 2003. Final value has increased from N\$644 million in 1991 to N\$3 668 million in 2003. Since an estimated 97% of total fish production is exported, the value of exports closely follow the same trend as final value and has also increased substantially from N\$631 million in 1991 to N\$3 506 million in 2003.

Direct Government revenues collected from the fisheries sector include quota fees, Marine Resource levy fund (a levy on all landed species, used to fund research and training), a by-catch levy (all of which must be landed – discarding is prohibited) with charge rates per tonne set on a species specific basis, and licence fees for vessels and processing facilities. These direct revenues totalled just over N\$100 million in 2003. It is estimated that the revenue generated by recreational fishing is in excess of N\$30 million per year.

In addition, Namibia's fishing companies provide finance and other forms of assistance for the construction of schools, clinics and other much-needed civic facilities. The contribution made over the past 14 years runs in excess of N\$40 million.

4 POLICY AND ADMINISTRATION

Management and development of fisheries in Namibia is the responsibility of the Ministry of Fisheries and Marine Resources (MFMR). MFMR's Mission Statement is: *"To strengthen Namibia's position as a leading fishing nation and to contribute towards the achievement of our economic, social and conservation goals for the benefit of all Namibians"*. Since independence, policy for the sector has been, and continues to be, driven by the following key document: Towards Responsible Development of the Fisheries Sector (1991, revised 2004). Actions specified under the current policy to address IUU fishing include:

- **Development and implementation of national plans of action** in support of the various FAO international plans of action, relating to, *inter alia*, IUU fishing, sea birds, fishing capacity and sharks.
- **Introduction of a national satellite –based Vessel Monitoring System (VMS)** to provide for real time monitoring of vessel movement and activities, and to assist in curbing IUU fishing activities within and outside the EEZ by Namibian flagged vessels. The introduction of the VMS is intended also to enable Namibia to comply with requirements by international fisheries management organisations to which Namibia is a contracting party.
- **Enforce port state responsibilities over all vessels** visiting Namibian ports and implement measures to take legal action against vessels that engage in Illegal, Unreported and Unregulated fishing.
- **Enforce flag state responsibilities** over all vessels flying the Namibian flag in respect to national fisheries legislation as well as management and conservation measures laid down in international plans of action, conventions and agreements for the conservation of marine resources to which Namibia is a party.

The document acknowledges that policy statements and legislation alone cannot achieve results in fighting IUU fishing and therefore adequate human, financial and material resources shall be made available by MFMR for MCS operations.

5 FISHERIES LEGISLATION

The two primary legal instruments governing marine fisheries are:

- Territorial Sea and Exclusive Economic Zone of Namibia Act (no. 3 of 1990);
- Marine Resource Act (no. 27 of 2000).

At Independence, the Government proclaimed a 200 nm zone (EEZ) in accordance with the provisions of the United Nations Convention on the Law of the Sea of 1982.

The Marine Resources Act (2000) and Regulations Relating to the Exploitation of Marine Resources (2001, as amended) provide the basic legal framework for management and regulation of the marine fisheries sector. This Act was developed in the late nineties, following Namibia's accession to various international fisheries conventions, agreements and arrangements, which prompted a revision of the Sea Fisheries Act (1992). The Act sets forth the details of a rights-based management system, the main elements of which are outlined below.

5.1 FISHING RIGHTS

Fishing rights, or rights of harvest, are the central element of the fisheries management regime. The Marine Resources Act states “No person shall ... harvest any marine resource for commercial purposes, except under a right...” The main purpose of fishing rights is to limit entry to the fisheries sector in order to protect the fisheries resources and maintain sustainable operations. Fishing rights are granted for a period of 7, 10, 15 or 20 years depending on various factors, in particular the level of investment and the level of Namibian ownership and employment. Fishing rights are not freely transferable in Namibia, so as not to undermine the Government's goals of Namibianisation and empowerment within the sector. The total number of existing rights in 2003 was 159.

5.2 FISHING LICENSES

All vessels are required to obtain a license in order to fish commercially within Namibia's 200-mile exclusive economic zone (EEZ). Namibia executes its flag-state responsibility by requiring all vessels that fly the Namibian flag to also have a specific license to harvest any marine resources in waters outside of the Namibian EEZ.

5.3 TOTAL ALLOWABLE CATCHES

Total allowable catches (TACs) are set annually for seven species: pilchard, hake, horse mackerel, red crab and rock lobster, orange roughy and monk. TACs are established on the basis of the best scientific evidence available of the size and structure of stocks as determined by the fisheries scientists employed by the Ministry. TACs aim to ensure sustainable fishing operations; that the level of fishing effort does not undermine the status of each stock.

5.4 INDIVIDUAL (NON-TRANSFERABLE) QUOTAS

Once a TAC has been set for a fishing season, it is distributed among the right holders in each fishery in the form of quotas. The main purpose with the quota allocation is to promote economic efficiency – to give companies sufficient knowledge about expected catch levels for the year for proper planning of their fishing activities. Quotas are not permanently transferable for the same reasons that rights are not transferable.

Marine catches are landed mainly at two major ports: Walvis Bay (90% of total) and Lüderitz (10% of total). The absence of an artisanal sector makes monitoring of catches relatively easy.

5.5 FEES

Fees form an important part of Namibian fisheries management. Their role is twofold: firstly, to earn revenue for the government, and secondly to create incentives that work towards the goals of the management system, both conservation and Namibianisation. The most important are quota fees, which are payable on allocated quota.

By-catch fees that are applied in order to deter right holders from targeting species other than those for which they have been issued a quota. This is unique feature of the Namibia management system that is not seen in many other countries. Such fees provide an incentive to avoid catching non-target species. The levels of by-catch fees are carefully balanced to discourage the capture of non-target species, but are also not so punitive as to encourage dumping. A certain percentage of by-catch in the hake-directed fishery is not levied, since a reasonable amount of by-catch can not be avoided.

A Marine Resources Fund levy is imposed per tonne of landed catch to finance fisheries research and training initiatives. License fees are applied to fishing vessels in order to legally fish within Namibia's waters. Each year between 300 and 350 vessels are licensed by the Ministry.

5.6 SUBSIDIES

The Namibian fishing industry is not subsidised. Namibia is strongly opposition to the subsidy policies pursued by other nations due to a belief that subsidies cause over-capitalisation, distort trade unfairly and ultimately lead to over-fishing and the encouragement of illegal, unreported and unregulated (IUU fishing) fishing practices. Namibia instead prefers a system of taxation, applied especially through the quota fees and was one of the main attractions for implementing a rights-based system. On the one hand, the application of a rights-based system has lead to healthier stocks, improved compliance and an efficient industry that supports proper fisheries management and earns healthy profits. On the other hand, limiting access to the resource and fishing mortality for each participant has provided a basis for extracting some of the profits.

5.7 GIVING EFFECT TO INTERNATIONAL FISHERIES AGREEMENTS

The President may enter into a fisheries agreement with a member country of the Southern African Development Community (SADC), providing for such country to harvest marine resources in Namibian waters. Such agreements may be published in the gazette. For any fisheries or international agreements entered into by Namibia, the Minister is empowered to make regulations necessary to give effect to such agreements. Texts of all conservation and management measures adopted under any fisheries or international agreement to which Namibia is a party may be published in the national Gazette.

5.8 MANAGEMENT AND CONSERVATION MEASURES

The Minister of Fisheries and Marine Resources can determine necessary management and conservation measures, including TACs, effort limitations, fishing-gear specifications, protection of juvenile fish through measures such as minimum allowable mesh size, grid selectivity device, minimum fish sizes to be landed, restrictions on by-catch, temporal and spatial closures and measures for shared/straddling stocks.

5.9 MONITORING, CONTROL AND SURVEILLANCE

Namibia's MCS system has evolved over the years into what is today widely regarded by the international community as a very effective system. A crucial element has been the financial, human and material support from the Namibian government. The costs to Government and industry of MCS and other management activities has been kept commensurate with the value of the sector. An integrated program of inspection and patrols at sea, on land and in the air ensures continuing compliance with Namibia's fisheries laws. The major features of the program are described below.

5.9.1 Fisheries Observer Programme

Emplacement of fisheries observers on board larger vessels serves both to ensure compliance and the collection of scientific data. Coverage rates range from 70-100%, depending on the fishery in question. The establishment of the new Fisheries Observer Agency under the Marine Resources Act will improve current capacities in this regard.

5.9.2 Compliance and Enforcement

The Act specifies the powers of enforcement officers in regard to stopping and boarding vessels, search and inspection, hot pursuit, seizure, and arrest. It provides for the establishment and functions

of a Fisheries Observer Agency, which is charged with the collection of scientific operational data onboard fishing vessels, and observation and reporting on the fishing activities thereof.

5.9.3 *Sea, air and shore patrols*

Systematic sea patrols aim to ensure compliance with fishing conditions by licensed vessels through regular at-sea inspections. Air patrols detect and deter unlicensed fishing vessels and monitor the movement and operations of the licensed fleet. Shore patrols ensure compliance by both recreational and commercial fishers with conservation measures for inshore resources.

5.9.4 *Monitoring of landings*

Complete monitoring of all landings at the two commercial fishing ports, Walvis Bay and Lüderitz, by onshore inspectors ensure compliance with quota limits and fee payments. Transshipping fish at sea between catching vessels and carrier vessels is prohibited – all fish must be landed at a Namibian port. This is another unique feature of the management system, and one that ensures comprehensive monitoring of catches.

5.9.5 *Vessel reporting*

All vessels are required to supply EEZ exit and entry reports, as well as daily catch and effort reports via radio and in the form of vessel log-sheets.

5.9.6 *Vessel monitoring system*

Namibia is well advanced in implementing a national satellite-based vessel monitoring system (VMS). Once fully operational the system will benefit fisheries management in real-time monitoring of vessel movement and activities. The system that has been chosen is already in use in the United Kingdom, Germany, United States, Morocco, and, closer to home, South Africa and Mozambique. Namibia is fully supportive of collaborating in the development of a cost-effective, regional VMS.

5.10 OFFENCES AND PENALTIES

Section 52 of the Act provides for offences and penalties for violations of the Act. Unauthorised fishing or contravention of licence conditions by Namibian or foreign flag vessels attract a fine of up to N\$2 million. Assaulting or hindering any officer authorised under Namibian law or and international agreement to which Namibia is a party can face a fine of up to N\$1 million. Other sections of Part IX of the Act provide for forfeiture, jurisdiction and admissible evidence.

5.11 INTEGRATED DECISION-MAKING

MFMR habitually consults extensively with the stakeholders on matters before action is taken to adjust any aspect of policy or management strategy. A number of consultative mechanisms are in place.

- Direct face to face meetings with individual companies or groups of companies for sector-specific matters;
- Through the various fishing associations;
- Through the annual consultation between the Minister and industry on the state of the fisheries sector;
- Through formal written communications from companies to the office of the Permanent Secretary;
- Consultation and peer review of research undertakings is facilitated through a number of working groups, e.g. the Hake Working Group and the Horse Mackerel Working Group. Industry representatives are members of such working groups.
- Industry vessels collaborate with MFMR scientists each year in undertaking stock surveys for pilchard, hake, horse mackerel and orange roughy.

- Under the Marine Resources Act (2000), a Marine Resources Advisory Council (MRAC) has been established to provide advice to the Minister on fisheries policy, management and development issues.
- The Ministry has also established a Liaison Group with the Fisheries Observer Agency, to facilitate operational efficiencies and effective cooperation.

6 RESEARCH

MFMR's Directorate for Resource Management undertakes a range of marine research activities. Main activities include stock survey and assessments to determine TACs, gear development (e.g. selectivity devices), oceanography, environmental research and the impact of the environment on stocks. Collaboration with regional and international partners such as BCLME and BEEFIT is a particular feature, as described in section 8.3.

7 TRAINING

Since Independence, MFMR has placed a very high priority on human resource development across the board, from fishermen to vessel skippers, from research scientists to senior managers. Four courses have been developed by MFMR: (a) Fisheries Inspector and Observers Course (9 months duration); (b) Commercial Sampling Programme for Fisheries Observers (3 x 2 weeks); (c) Cadet Programme for patrol boat officers (4 years); and (d) Scientific Technical Assistance course (6 months).

Courses are undertaken at the country's own academic institutions (Namibian Maritime and Fisheries Institute (NAMFI) at Walvis Bay and the Polytechnic of Namibia and University of Namibia (Windhoek). Patrol vessel officers and engineers receive training through on-the-job training with Norwegian technical specialists and also on courses organised with South Africa. The Ministry also utilises training/education opportunities for its staff both regionally and internationally. National scientists undertake various short and long courses leading to diploma, degree and post-graduate qualifications, and MFMR organises regular *ad hoc* workshops and seminars into various aspects of fisheries research, development and management, often through regional programmes such as BENEFIT and BCLME.

8 DEVELOPMENT ASSISTANCE

In addition to MFMR's own budgets, considerable assistance has been received in fisheries development, management and training through external economic and technical assistance. All have been donor supported usually with a significant contribution in cash or in kind from the Namibian Government. Bi-lateral assistance has been provided, and many cases continues to be provided, by Norwegian Agency for Development Co-operation (NORAD), Australian International Development Assistance Bureau (AIDAB), Danish International Development Agency (DANIDA), Department for International Development (DFID) UK, Gesellschaft fur Technische Zusammenarbeit (GTZ), Germany, Centrum fur Internationale Migration und Entwicklung (CIM), Germany, Icelandic International Development Agency (ICEIDA), Iceland, Government of Spain, International Centre for Ocean Development (ICOD), Japanese International Cooperation Agency (JICA), and Fonds d'Aide et de Coopération (France).

Multi-lateral assistance has been provided by: Food and Agriculture Organisation (FAO), United Nations Industrial Development Organisation (UNIDO), Commonwealth Fund for Technical Cooperation (CFTC), Global Environment Facility (GEF), and the European Union (EU).

9 INTERNATIONAL AND REGIONAL LAW AND RELATIONS

9.1 TREATIES AND AGREEMENTS

Namibia has signed and in some cases ratified a number of international and regional instruments. These are detailed in Table 1 below.

TABLE 1: MAJOR FISHERIES-RELATED ORGANISATIONS AND INSTRUMENTS TO WHICH NAMIBIA IS A PARTY

Instrument	Ratification/ Acceptance
1982 United Nations Law of the Sea Convention (LOSC)	18 April 1983 (Ratification)
Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Fish Stocks Agreement, 1995)	19 April 1996 (signature); 8 April 1998 (Ratification)
Implementation Agreement Of Part XI Of UNCLOS	28 July 1995 (Simplified procedure)
Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993 FAO Compliance Agreement)	7 August 1998 (Acceptance)
International Convention for the Conservation of Atlantic Tunas (ICCAT)	28 April 1999 (signature); 10 November 1999 (Ratification)
Convention for the Conservation of Antarctic Marine Living resources (CCAMLR)	5 February 2001 (Ratification)
South-east Atlantic Fisheries Commission (SEAFO)	20 April 2001 (signature); 26 February 2002 (Ratification)
INFOPECHE	30 December 1996 (Accession)
Convention on the International Maritime Organisation (IMO Convention)	Ratification in preparation?
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	18 th Dec 1990 (Ratification)

9.2 MEMBERSHIP IN REGIONAL FISHERY BODIES

MFMR cooperates with following regional and international fisheries organisations:

- **Southern African Development Community (SADC).** The SADC Protocol on Fisheries aims to promote responsible and sustainable use of the living aquatic resources and aquatic ecosystems within the SADC region.
- **INFOPECHE:** In 2001 Namibia signed a cooperation agreement with this International Fisheries Marketing Advisory Body to establish an INFOPECHE Unit in Namibia's capital, Windhoek. This Unit provides information and technical assistance in fish trade, marketing, processing and new innovations to INFOPECHE member states.
- **South East Atlantic Fisheries Organisation (SEAFO):** establishes a management regime for conservation and sustainable utilisation of fish, molluscs, crustaceans and other sedentary species in the high seas portion of FAO Statistical Area 47, but excluding those sedentary species that are subject to the fishery jurisdiction of coastal States and also tuna and tuna-like species because these fall under the jurisdiction of ICCAT. Namibia is host to the SEAFO Secretariat.
- **International Commission For The Conservation Of Atlantic Tunas (ICCAT):** The rapid development of a thriving domestic tuna fishery provided the impetus for Namibia to join ICCAT in 1999, becoming the 28th member of the Commission. Namibia welcomes and supports the considerable effort that ICCAT is making in developing comprehensive management tools to deal with, *inter alia*, IUU fishing in the Atlantic Ocean.
- **Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR):** As a member of CCAMLR, Namibia is committed to the management and conservation of the marine resources of the Antarctic. The Namibian fishing industry is interested in fishing in CCAMLR's waters and is ready to participate responsibly in the harvesting of fishery resources, especially tooth fish.
- **Inter-governmental Oceanographic Commission (IOC):** Namibia became the 129th member of the IOC became on 25 April 2001. The IOC is an important facilitator of

international oceanographic research programmes and Namibia is involved in its various training, technical assistance and research activities.

9.3 PARTICIPATION IN REGIONAL PROGRAMMES

- **SADC Regional Fisheries MCS Programme:** Namibia is a partner in this Programme, which operates under the SADC Protocol on Fisheries. The objectives of the programme address the marine fisheries resources of the Region. Capacity building and regional cooperation for MCS are prominent objectives. Expected results of the RDC MCS Programme include:
 - National fisheries MCS systems functioning;
 - Establishment of a basis for the management of shared stocks and international fishing activities
 - Harmonized approaches to the control of international fishing activities
 - Marine environment more protected
 - Enhanced regional cooperation and communication
- **Benguela Environment Fisheries Interaction and Training Programme (BENEFIT):** has established a research framework for biological and oceanographic investigation of the entire Benguela Current system. The principal focus of the programme is on resources and resource management research in support of the major fisheries of the three co-operating countries: Namibia, South Africa and Angola. Training of researchers is an important part of the programme as the lack of qualified personnel is a pressing problem in these countries.
- **Benguela Large Marine Ecosystem Programme (BCLME):** Launched in 2002, BCLME is of global significance, given the stance by the United Nations Conference on Environment and Development (UNCED) to develop an ecosystem-wide approach to environmental research. The programme aims to examine marine environmental variability throughout the Benguela current system and how environmental factors impact on fish stocks and their dependent fisheries.

PART B. NAMIBIA'S NPOA-IUU

1 INTRODUCTION

This document is Namibia's NPOA to deter, eliminate and prevent IUU fishing. It is designed to support effective implementation of FAO's International Plan of Action (IPOA-IUU) as provided for in paragraphs 25 to 27 of the IPOA-IUU. The basic terminology of IUU fishing, as defined in the IPOA-IUU, is given in **Annex 1**. To ensure that the NPOA continues to remain relevant and up-to-date, it will be reviewed periodically. The review process will enable the Ministry to identify cost-effective strategies to increase the effectiveness of the Plan.

The NPOA details seven types of mutually reinforcing measures designed to facilitate implementation of the IPOA-IUU. These measures are categorized as follows:

- 1 **All States' responsibilities:** measures directed to all States irrespective of their role in the fisheries e.g. acceptance and implementation of international fishery instruments; adoption and implementation of NPOA's to combat IUU fishing;
- 2 **Flag State responsibilities:** to ensure that flag vessels do not engage in, or support, IUU fishing e.g. maintenance of a vessel registration system; records of fishing vessels; authorization to fish system;
- 3 **Coastal State measures:** implemented in the exercise of sovereign rights within EEZs to combat IUU fishing e.g. implementation of effective MCS programmes; enter into cooperation and exchange arrangements for data and information with other States;
- 4 **Port State measures:** in supportive of flag States in fulfilling our obligations under international law e.g. requiring prior notice for fishing vessels to enter ports; refusing the landing or transshipment of catch where there is clear evidence that a vessel granted entry to a port has engaged in IUU fishing; taking legal action against IUU vessels in port;
- 5 **Internationally agreed market-related measures:** in support of fisheries conservation and management by reducing the incidence of IUU fishing e.g. preventing the importation of IUU-caught fish; cooperation to adopt multilaterally agreed trade-related measures consistent with the principles, rights and obligations of the World Trade Organization (WTO), to prevent, deter and eliminate IUU fishing;
- 6 **Regional fisheries management organizations:** to enable RFMOs to effectively address IUU fishing e.g. ensure compliance with, and enforcement of, policies and measures adopted to combat IUU fishing by RFMOs; cooperate by applying the conservation and management measures adopted by RFMOs; and
- 7 **Special requirements of developing countries:** assistance needed to support training and capacity building to meet flag and port state obligations.

2 ALL STATE RESPONSIBILITIES

2.1 IMPLEMENTATION OF RELEVANT INTERNATIONAL INSTRUMENTS

Section 37 of the Act (Giving effect to fisheries and international agreements) states that the Minister may, for the purpose of any fisheries agreement entered into or any international agreement to which Namibia is a party, make such regulations as the Minister may consider necessary or expedient for the carrying out and for giving effect to the provisions of any such agreement or any amendment of such agreement. The Minister shall publish in the *Gazette* the texts of all conservation and management

measures¹ adopted under any international agreement to which Namibia is a party and any measure so published shall be deemed to be a regulation prescribed under section 61 of the Act.

Namibia will ensure that the texts of all fisheries and international agreements have been duly published, and will continue to adhere to its obligations to all international instruments to which it is a party (refer **table 1** above).

In particular regard to IUU fishing, its policies and legal framework incorporate many of the principles and objectives of the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement and the 1995 FAO Code of Conduct for Responsible Fisheries. In order to accelerate capacity in implementing the provisions of these instruments, Namibia may request special assistance for developing States as provided for under Part V of the IPOA-IUU.

2.2 NATIONAL LAWS, REGULATIONS AND PRACTICES RELATING TO IUU FISHING

2.2.1 Existing fisheries legislation

Namibia completed a review of its legal framework for fisheries in the late nineties, culminating in the enactment of the Marine Resources Act (2000). The new Act makes provision for ensuring that Namibia fully complies with its international and regional obligations in regard to responsible fisheries management and operations of vessels flying its flag and its nationals.

As described in Part A, the current legal regime already makes use of many of the tools for combating IUU fishing detailed in the IPOA-IUU. **Evidentiary standards and admissibility**, including the use of electronic devices and new technologies such as vessel monitoring systems, as called for in the IPOA, are already provided for in the Marine Resources Act (Part IX: Offences and Proceedings). These evidentiary provisions are innovative in terms of permitting certificate evidence and contain modern provisions relating to burden of proof for fisheries offences. They are also satisfactory for the introduction of evidence of new technologies. There is however no special reference to the admissibility of evidence taken in such situations as high seas boarding and inspection by a non-national inspecting officer. It may be appropriate to undertake such a review.

Namibia will endeavour to ensure that the Marine Resources Fisheries Act and regulations are reviewed so as to consider whether to give legal status to the following areas through laws, regulations or other legally-binding instruments, or to take other measures to address these areas.

2.2.2 State control over nationals

Fishing vessels are required under section 40 of the Act to obtain specific licences to fish **either in Namibia waters or on the high seas**. Such licences require that vessels operated by Namibian right holders detail: the area where fishing may take place, allowable gear specifications and other license conditions, such as mandatory reporting requirements and the placement of on-board fisheries observers. Namibia will apply that measures to ensure that nationals operating outside Namibian waters **do not support or engage in IUU fishing**, including: (a) provision of reports from vessels operated by Namibian nationals that are consistent with any requirements prescribed by RFMOs to which Namibia is a member and Namibia's obligations under the 1995 UN Fish Stocks Agreement; (b) comply with boarding, inspection and observer requirements on the high seas; and (c) prohibit the use of vessels from engaging in high seas IUU fishing or undermining conservation and management measures of designated² RFMOs or arrangements.

¹ "conservation and management measures" means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, and the Implementation Agreement (i.e. the Agreement for the Implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks).

² Designation by Notice in the *Namibian Gazette*, as called for under section 37 of the Act, provides the necessary certainty as to the high seas conservation and management measures that are applicable to Namibian nationals.

Consideration will be given to a legal requirement prohibiting Namibian nationals from engaging in fishing activities that violate the fisheries laws of another State or that undermine the effectiveness of conservation and management measures adopted by designated RFMOs. Legislation will be considered that makes it unlawful for any person subject to Namibian jurisdiction to import, export, transport, sell, receive, acquire, possess or purchase any fish taken, possessed or sold in violation of any foreign law, treaty or regulation. Once developed, such legislation could be used to prosecute Namibian nationals who engage in IUU fishing.

There is currently no provision in the Act to provide a licence to a **foreign flag vessel on charter** to a Namibian right holder who wishes to fish with such a vessel outside Namibia waters. However, regulations are currently being drafted that will allow Namibian right holders to obtain licences for chartered foreign vessels to catch Namibia's share of marine resources regulated by ICCAT on high seas, under section 37 of the Act (giving effect to fisheries and international agreements).

Namibia maintains strong opposition to **flag-of-convenience** vessels and discourages the use of such vessels. Legal provisions will be considered to prohibit Namibia nationals from flagging fishing vessels under the jurisdiction of States that do not meet flag State responsibilities in regard to IUU fishing.

Because Namibians do not, as a rule, seek employment as crew on non-Namibian flag fishing vessels, Namibia's practices will be focused on control over its national vessels. Namibia already maintains a register of the operators or beneficial owners of vessels flying its flag, including their nationality. In this way Namibia can identify its nationals should a vessel be involved in IUU fishing. Namibia will encourage other coastal States and RFMOs to maintain similar information, and encourage cooperation and information exchanges for purposes of controlling nationals who may be involved in IUU fishing.

Namibia maintains a **database** of all Namibia flag vessels that have obtained authorisation to fish on the **high seas**, consistent with standards of RFMOs to which Namibia is a member. This information is maintained and shared with relevant RFMOs and other coastal States as requested.

Namibia will **develop measures to discourage** its nationals from flagging fishing vessels under the jurisdiction of a State that does not meet its flag State responsibilities, including a review of the benefits they may receive from Namibia (such as landing rights) with a view to withholding such benefits.

2.2.3 Vessels without nationality

As a member of the International Maritime Organisation, Namibia will consider what legal measures could be taken, consistent with international law, in relation to **vessels without nationality**³ that are involved in IUU fishing on the high seas. Namibia will ensure communication as appropriate through any RFMO of which it is a member to notify other States of information it receives or action it takes. It will also be ready to receive information from any RFMO or other State regarding a vessel without nationality that may appear to be heading for Namibia waters, and will take appropriate measures. Namibia will also consult with other coastal states concerning actions, which could be taken bilaterally or regionally.

Namibia currently lacks capacity to take active measures in relation to vessels without nationality that fish on the high seas, but will cooperate as appropriate with member countries of appropriate RFMOs that have such legislation and capacity.

2.2.4 Sanctions

Sanctions are detailed in Section 52 of the Act (Offences and penalties). Any person who, being the owner, the lessee, the charterer or the master of a **foreign flag vessel** uses such vessel in Namibian waters for harvesting marine resources, or allows it to be so used without the authorization of a valid licence in respect thereof shall be guilty of an offence and liable on conviction to a fine not exceeding

³ I.e. vessels having no flag, or more than one flag.

N\$2 million. Any person who, being the owner, the lessee, the charterer or the master of a **Namibian flag vessel**, uses such vessel to harvest marine resources (i.e. both inside or outside Namibia waters), or allows it to be so used, without the authorisation of a valid licence in respect thereof shall be guilty of an offence and liable on conviction to a fine not exceeding N\$2 million.

In addition, any person who assaults, obstructs, resists, hinders, threatens or intimidates a fisheries inspector, or fisheries observer, or **any person authorized by any international agreement to which Namibia is a party to board or inspect a Namibian flag vessel on the high seas**, in the exercise of any power or the performance of any duty under this Act; shall be guilty of an offence and liable on conviction to a fine not exceeding N\$1 million.

Any person who, *inter alia*, violates any condition of a right, an exploratory right, a fisheries agreement, a quota or a licence; shall be guilty of an offence and liable on conviction to a fine not exceeding N\$500,000.

Section 54 provides for **forfeiture** of any marine resource, fishing gear, vessel, vehicle or item in respect of which the offence was committed in addition to any other penalty imposed

Under Section 56, Namibia courts have jurisdiction to try charges for an offence under the Act committed within Namibian waters.

It may be prudent for Namibia to undertake a review of these sanctions to assess whether they are of sufficient severity to effectively prevent, deter and eliminate IUU fishing and deprive the offenders of the benefits accruing from such fishing. Such a review may encompass: levels of fine, the seizure, sale and forfeiture of items used in the offence, terms of imprisonment, fines and penalties specifically for IUU fishing beyond areas of national jurisdiction, and other relevant considerations. Consideration should be made to the list of serious violations given in Article 21(11) of the 1995 UN Fish Stocks Agreement, in order to ensure that penalties for such offences are at the appropriate level.

In addition, the level of fine for non-reporting or misreporting will be reviewed (including by reference to similar fines in the region) in order to better enforce against IUU fishing, including by use of catch certification schemes, and landing and transshipment documentation requirements.

2.2.5 Non-cooperating States

Namibia will cooperate with all RFMOs to which it belongs to prevent, deter and eliminate the activities of non-cooperating States that engage in IUU fishing. In particular, it will implement all relevant resolutions of ICCAT, CCAMLR and SEAFO.

2.2.6 Economic incentives

Namibia shall maintain its position of not providing state subsidies to the Namibian fishing industry. Financial laws and practices, tax arrangements and investment criteria already provide adequate insurance that economic benefit or support is not provided to Namibian companies, vessels or persons involved in IUU fishing. Namibia shall continue to encourage other states through all means available to discontinue direct subsidies for fishing.

Namibia does not, nor does it intend to, extend tax exonerations or other benefits to attract additional partners for fishing. Namibia will continue to encourage other States, through regional and international avenues, to review their practices so as to **eliminate subsidies** and other economic support for fishing, which in Namibia's view distorts trade and encourages the proliferation of IUU fishing.

2.2.7 Monitoring, control and surveillance

As described in Part A, the Act makes adequate provision for MCS in regard to Namibian flag vessels inside and outside Namibian waters, as well as foreign flag vessels fishing inside Namibian waters and, to the extent authorised by international agreements to which Namibia is a party, outside Namibian waters. Specific provisions relate to **licensing, vessel records**, establishment of a **VMS, observers and port inspections, consultative mechanisms and public awareness, boarding and inspection** regimes and **MCS data** collection, storage, analysis and dissemination. The Act also provides sufficient legal flexibility for **regional cooperation** in MCS.

The Ministry's MCS and fisheries licensing capabilities have continued to strengthen since Independence in 1990. The **fisheries observer programme**, devolved in May 2002 to the autonomous **Fisheries Observer Agency**, is effective. The Ministry maintains close working relations with the FOA. The Ministry's Fisheries Inspectors carry out port inspections of all landings made. Since Independence, Namibia has focussed strongly on reducing IUU operations through building up an effective MCS capability. The Ministry shall continue to adopt an MCS strategy that addresses IUU fishing, with the following priorities:

- Enforcement of national laws and regulations within the EEZ;
- Compliance with vessel and gear marking requirements;
- Increased observer coverage;
- Continued training and human resource capacity building, including training for within-zone and high seas boarding and inspection;
- Improved liaison with the Fisheries Observer Agency and vessel registration unit within the Ministry of Works, Transport and Communications;
- Further enhancement of the fisheries observer programme;
- Continued inspection of all landings at both ports;
- Full implementation of the national VMS, in step with amendments to the law regarding VMS and high seas fishing;
- Improved liaison with RFMOs of which Namibia is member;
- Improved communication with other organizations and networks, such as FAO and the MCS Network.

The Ministry shall continue to ensure that adequate human, material and financial resources are allotted to fisheries MCS operations as part of the annual budgetary planning exercise.

2.3 COOPERATION BETWEEN STATES

Namibia will **coordinate and cooperate** measures and activities described under this NPOA with other States and appropriate RFMOs and regional programmes, particularly in regard to:

- **Exchange and verification of data** and other information on fishing and support vessels and their activities in the Region, including vessels that are refused registration or fishing licences, or are de-registered or have their licences removed, for IUU offences;
- Investigations of vessels, persons or organisations suspected of being directly or indirectly linked to IUU fishing;
- Transfer of expertise, technology and sharing of MCS assets;
- Harmonisation of policy and legal measures for combating IUU activities;
- Accelerated implementation and maintenance of VMS, consistent with international best practice and operational standards;
- Mechanisms that allow a rapid, coordinated regional response to instances of IUU fishing;
- Boarding and inspection on the high seas, to the extent possible, consistent with international law, recognizing the rights and obligations of masters and of inspection officers; and
- Harmonisation of national fisheries observer programmes within the SADC Region, including cover for Namibian vessels or foreign vessels chartered to Namibian right holders on the high seas.

The provisions of the SADC Regional Protocol on Fisheries shall be utilised to the extent possible in facilitation of the above cooperation between SADC States. Technical assistance will be sought from regional bodies and ongoing programmes as appropriate.

2.4 PUBLICITY

Namibia will launch an information campaign, to deter nationals from engaging in or supporting IUU fishing, both within and outside Namibian waters.

2.5 TECHNICAL CAPACITY AND RESOURCES

MFMR will continue to provide adequate human, financial and material resources to its MCS and enforcement activities in support of the activities detailed in this NPOA. Technical assistance available through RFMOs, donor organisations and regional programmes will be utilised as required in support of the NPOA.

3 FLAG STATE RESPONSIBILITIES

3.1 MEASURES TO IMPROVE REGISTRATION SYSTEM FOR FISHING VESSELS

3.1.1 Keeping the vessel register current

Namibian law currently requires registration of all fishing vessels. The register is however maintained by the Directorate of Maritime Affairs, Ministry of Works Transport and Communications (MWTC). The register must be well maintained and kept fully up to date in regard to details concerning vessel specifications and ownership. Measures will be taken to ensure effective communication between MFMR Ministry and MWTC so that both parties are kept abreast of **IUU vessel lists** maintained by, for example, RFMOs and FAO, thus ensuring that no vessel with an IUU history is able to gain Namibian registration.

3.1.2 Control of registered vessels

Namibia will continue to take measures to ensure its ability to control vessels before granting registration. This will include the following:

Sufficient registration information

As a priority, the information required for vessel registration will be reviewed to ensure it reflects the standards of transparency being developed at regional and international levels. In particular, the ICCAT rules to prevent vessels involved in chartering arrangements from being used for IUU fishing will be reviewed and implemented.

Measures to deny registration

Measures to allow registration to be denied to a fishing vessel that has been convicted of IUU fishing, or, if registered, that will allow the vessel to be deregistered upon conviction or require deregistration if a vessel carries more than one registration.

3.1.3 Coordination of government activities

The Ministry will strengthen its relationship with the **Ships' Registry Office**, through regular liaison and coordination, with a view to establishing information requirements and procedures so as to prevent and deter IUU fishing, including deregistration requirements for vessels convicted of IUU fishing.

It is the current policy of the Namibian Government to allow foreign investors to form business ventures with Namibian right holders, rather than entering into access agreements allowing foreign vessels to fish in Namibian waters. Namibia will continue to take measures to ascertain whether any potential partner has been involved in IUU fishing, and if so will disqualify that partner from any investment opportunity or other role in the Namibian fishing sector.

3.1.4 Review of chartering arrangements

Although measures are already in place to ensure effective flag state control over vessels that fly the Namibian flag, measures will also be taken to ensure that Namibia can maintain control, in areas beyond national jurisdiction, of foreign vessels fishing under joint ventures or chartering arrangements. Such measures will require transparent chartering arrangements to ensure clear, current and accurate information is provided, and legal provisions will be considered:

- Requiring that the chartered vessels take on the nationality of Namibia – that is, be registered in Namibia and fly its flag – after a certain period of time, during which the viability of the fishery should have been proven; or
- Requiring the charter arrangement to make both Namibia and the flag State responsible for controlling the high seas fishing conducted pursuant to a charter arrangement.

The charter arrangement could, for example, provide express authority for both States to board and inspect the vessel on the high seas and require reporting of catch data to both States. Section 52 of the Act states “any person, being the owner, the lessee, the **charterer** or the master ...” of a vessel can be held liable for most offences. This means that the charterer may be prosecuted if IUU fishing takes place.

3.2 COMPREHENSIVE RECORD OF FISHING VESSELS

3.2.1 Data for registration of high seas fishing vessels

The following data is required for the registration of fishing vessels authorised to fish on the high seas and in Namibia's EEZ:

- Name of fishing vessel, registration number, previous names (if known) and port of registry;
- Previous flag (if any);
- International Radio Call Sign (if any);
- Name and address of owner or owners;
- Where and when built;
- Type of vessel;
- Length;
- Name and address of operator (manager) or operators (managers) (if any);
- Type of fishing method or methods;
- Moulded depth;
- Beam;
- Gross registered tonnage;
- Power of main engine or engines;
- Past harvesting activities on the High Seas;
- High Seas areas where harvesting will take place.

3.2.2 Submission of data to FAO

Submission of the above data to FAO will be arranged on a regular basis, as required by FAO.

3.3 AUTHORIZATION TO FISH

The Act requires fishing vessels to have a licence to fish prior to engaging in fishing activities, and this will continue to be enforced. Namibia will cooperate through regional organizations and programmes to develop arrangements to share fishing vessel licensing information.

3.4 MEASURES TO CONTROL TRANSPORT AND SUPPORT VESSELS

The Act prohibits transshipment at sea, and this law will continue to be enforced. Namibia will adhere to ICCAT's rules that at-sea transshipments take place only between ICCAT members or between ICCAT members and cooperating non-party States.

Notification requirements for landings and inspection for marine fisheries are already sufficient to ensure the detection of IUU practices. The legal authority to prohibit landings and in-port transshipments in a timely and effective manner is already in place, and does not warrant review.

Resolutions and recommendations determined by ICCAT and CCAMLR and other RFMOs to which Namibia is a party will be reviewed, and an assessment made on how best to improve their implementation and enforcement.

4 COASTAL STATE MEASURES

4.1 MEASURES TO COMBAT IUU FISHING IN NAMIBIAN WATERS

Namibia currently exercises its rights as a coastal State and signatory to the 1982 Law of the Sea in regard to conservation and management of the living marine resources under its jurisdiction. Current policy, legislation and management measures have been effective in reducing IUU fishing within the Namibia EEZ to a low level.

Namibia will ensure that:

- MCS and enforcement activities continue to ensure compliance with national laws and licence conditions by all vessels that are authorised to fish in Namibia's EEZ;
- No vessel fishes in Namibia waters (or outside, in the case of Namibia flag vessels) without a valid authorisation (licence);
- Only vessels that are duly recorded on a vessel register are authorised to fish;
- Transshipment occurs only in Namibia ports, as authorised by MFMR;
- No vessel with a history of IUU fishing is given an authorisation to fish, or is able to become registered to fly the Namibia flag.

4.2 COOPERATION WITH OTHER COASTAL STATES AND RFMOs

Namibia will cooperate with its neighbouring coastal States, especially those in which Namibian vessels are fishing or those who have vessels operating under charter arrangements in Namibia waters, with a view to exchanging data and cooperating in enforcement of IUU fishing. Cooperation will be carried out bilaterally and through the RFMOs of which Namibia is a member. In addition, information will be sought from ICCAT, CCAMLR, SEAFO, FAO and other sources as appropriate as to the vessels that may be fishing in Namibia's EEZ.

5 PORT STATE MEASURES

5.1 IMPROVEMENT OF PORT STATE MEASURES TO COMBAT IUU FISHING

5.1.1 Advance notification for port access

Namibia will continue to ensure compliance with regulations requiring both national and foreign fishing vessels to provide advance notification in seeking access to either Walvis Bay or Lüderitz ports. For reasons of *force majeure* or distress or for rendering assistance to persons, ships or aircraft

in danger or distress vessel, vessels will automatically be provided port access, in accordance with international law.

5.1.2 Inspection of foreign vessels in port

The Ministry's Inspectorate staff will continue to ensure that all foreign fishing vessels entering Namibian ports are thoroughly inspected to ensure that they have not contravened national laws and regulations of Namibia or other states, or conservation and management measures developed by RFMOs of which Namibia is a member. Data and information to be collected during routine inspections include: (a) the vessel's flag State and identification details; (b) name, nationality, and qualifications of the master and senior officers; (c) fishing gear on board; (d) catch on board, including origin, species, form, and quantity; (e) where appropriate, other information required by relevant regional fisheries management organizations or other international agreements such as valid fishing licence, presence of fully functional and approved vessel monitoring system communicator ; and (f) total landed and trans-shipped catch.

5.1.3 Evidence indicating IUU fishing

Where evidence is found indicating that a foreign vessel in port has engaged in or supported IUU fishing, measures will be taken to prohibit landing or transshipment of catch in Namibia ports. Any such action taken will be promptly reported to the flag State of the vessel, as well as RFMOs and other States, as appropriate.

5.1.4 Procedures for port State control of vessels

Namibia will ensure that Fisheries Inspectors are properly trained in ensuring compliance with catch documentation schemes developed by RFMOs such as ICCAT and CCAMLR.

Namibia will establish a national strategy and procedures for port State control of vessels involved in fishing and related activities, including training, technical support, qualification requirements and general operating guidelines for Fisheries Inspectorate staff. Support and assistance from RFMOs and regional programmes may be sought in developing capacity and for implementation of this strategy.

5.2 COOPERATION WITH PORT STATES TO COMBAT IUU FISHING

Namibia will cooperate with other States, both regionally and internationally, to agree on measures and procedures for effective port State control of fishing vessels.

5.3 IMPLEMENTATION OF PORT STATE MEASURES ADOPTED BY RFMOs

Legislative authority to deter IUU fishing that undermines conservation and management measures adopted or recommended by any RFMO to which Namibia is party is provided for under Section 37 of the Act. For the purpose of any fisheries agreements entered into, or any international agreements to which Namibia is a party, the Minister may make such regulations necessary or expedient for giving effect to the provisions of such agreements. The port State measures adopted by relevant RFMOs to which Namibia is a member shall be reviewed and regulations proposed, as required. In particular, provisions will be considered that would prohibit any person from landing, importing, exporting, selling, buying etc. any fish taken contrary to international conservation and management measures adopted a RFMO to which Namibia is party. Sanctions would be severe, including high fines, and forfeiture as applicable.

In addition, cooperation with the catch certification schemes developed by ICCAT and CCAMLR will be intensified to facilitate detection and the fisheries legislation will be reviewed to ensure the appropriate inspection and reporting requirements are sufficient, and the sanctions provide an adequate deterrent.

6 INTERNATIONALLY AGREED MARKET-RELATED MEASURES

6.1 IMPLEMENTATION OF MARKET-RELATED MEASURES ADOPTED BY RFMOs

6.1.1 *Import and export restrictions*

The fisheries legislation does not provide any provision controlling the **import** or **export** of fish in commercial quantity, this being the subject of legislation under the jurisdiction of the Ministry of Trade and Industry.

Measures will be developed, consistent with international law, to prevent fish and fish products caught by vessels and/or States that are identified by RFMOs to which Namibia is a member as having engaging in or supported IUU fishing, from being **imported** or **traded** in Namibia.

Existing legislation pertaining to the **export** of fish and fish products shall be reviewed in regard to whether there is adequate provision to deny an export permit in the event the fish were caught in an IUU fishery, or creating an offence for an exporter to trade in such fish. Appropriate amendments will be arranged to pertinent legislation to address such circumstance.

Regarding fish **illegally caught by non-nationals in Namibian waters**, then landed in and exported from other countries, Namibia will work through regional organisations and programmes and directly with the landing and importing countries as appropriate in an attempt to eliminate this practice.

6.1.2 *Multilaterally-agreed trade related measures*

Namibia will cooperate with inter-governmental organisations and RFMOs in adopting appropriate multilaterally agreed trade-related measures, consistent with the WTO, to prevent, deter and eliminate IUU fishing for specific fish stocks or species.

Appropriate mechanisms for implementing trade sanctions, prohibition of port calls or landings or other relevant sanctions against IUU fishers and fishing vessels will also be reviewed.

6.1.3 *Provision of information to RFMOs*

Namibia will provide information to ICCAT, CCAMLR, SEAFO and other relevant RFMOs as appropriate on vessels suspected of IUU fishing in their respective Areas of Competence.

6.1.4 *Catch documentation and certification schemes*

Namibia will implement the catch documentation and certification schemes for fishing vessels that are adopted by ICCAT, CCAMLR and any other relevant RFMO to which Namibia may become a member.

6.2 IMPLEMENTATION OF OTHER MARKET-RELATED MEASURES

6.2.1 *Transparency measures*

The Ministry of Trade and Industry has already adopted the use of the Harmonized Commodity Description and Coding System for fish and fisheries products. Technical assistance may however be requested to develop measures to improve the transparency of markets to allow the traceability of fish and fish products.

6.2.2 *Prohibition in law*

Amendments to the legislation will be considered that makes it a violation to conduct business with identified as engaged in IUU fishing, or to trade in fish or fish products derived from IUU fishing.

6.2.3 *Information dissemination*

Namibia will mount a public awareness programme to disseminate information on IUU fishing to individuals and companies whose activities are related to fishing.

7 IMPLEMENTATION OF IPOA-IUU THROUGH RFMOs

7.1 IMPLEMENTATION OF THE IPOA-IUU THROUGH RFMOs

Namibia will continue to work through RFMOs to implement the IPOA-IUU. Namibia will support proposals made for relevant activities, and implement any decisions taken to the fullest extent possible. In order to participate in RFMOs and to actively implement their resolutions and processes (such as provision of information), Namibia may seek technical assistance to further Namibia's participation in some of the following endeavours.

- Institutional strengthening of RFMOs;
- Additional compliance mechanisms to be adopted by RFMOs;
- Better collection and exchange of information through RFMOs;
- Strengthen monitoring, control and surveillance through RFMOs;
- Development of comprehensive port State systems through RFMOs;
- Improve documentation and certification schemes through RFMOs;
- Regulate chartering arrangements through RFMOs;
- Formalise cooperation among RFMOs and between RFMOs and other international organizations.

As host of SEAFO, Namibia shall continue its efforts to encourage signatory States to the SEAFO Convention who have yet to ratify the Convention to do so. Namibia will also encourage non-contracting parties with a real interest in the fishing opportunities within the SEAFO Convention Area to also sign and ratify the Convention.

8 SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES

Namibia will cooperate to support training and capacity building and technical assistance to other developing countries, in order to fully meet commitments under the IPOA and obligations under international law, especially in regard to duties as flag States and port States. The support of FAO and relevant international financial institutions and mechanisms, may be sought as appropriate.

9 REVIEW AND REPORTING

Namibia will review the implementation of this Plan on a regular basis, taking full account of cost-effective strategies to increase its effectiveness.

Namibia will report to FAO on progress with the further elaboration and implementation of this NPOA-IUU as part of its regular reporting obligations to FAO under Part IV of the IPOA.

ANNEX 1: DEFINITIONS OF THE IUU TERMINOLOGY

ILLEGAL, UNREPORTED AND UNREGULATED FISHING

(Paragraph 3, IPOA-IUU)

Illegal fishing refers to fishing activities:

- (1) conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
- (2) conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or
- (3) in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

Unreported fishing refers to fishing activities:

- (1) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- (2) undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

Unregulated fishing refers to fishing activities:

- (1) in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or
- (2) in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.⁴

⁴ The IPOA-IUU notes that "certain unregulated fishing may take place in a manner which is not in violation of applicable international law, and may not require the application of measures envisaged under" the IPOA-IUU.