

**REVIEW AND AUDIT OF THE LEGAL PROVISIONS AND
INSTITUTIONAL ARRANGEMENTS THAT IMPACT ON
THE ARTISANAL FISHERIES SECTOR IN THE BCLME
REGION**

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FINAL REPORT (ANGOLA)

OCTOBER 2004

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EXECUTIVE SUMMARY

This report provides a review and analysis of the legal and institutional arrangements relevant to the artisanal fishing sector in Angola. It begins by providing an overview of the main international and regional legal instruments relevant to this sector. This is followed by a review of the relevant national legislation and policies. The institutional structures governing the artisanal fishing sector are further analysed, and problems and constraints experienced in implementing the relevant protocols, national policies and laws are highlighted.

In summary, the key findings of the study are as follows:

In **Angola** the fisheries legislation expressly defines, and makes special provision for artisanal fisheries and subsistence fisheries. In addition, the Artisanal Fisheries Development Institute (IPA) has been established and support structures have been created by the government in order to optimise this sector. Furthermore, the new law defines a marine zone of 4 nautical miles reserved for artisanal and subsistence fisheries. Provision has also been made for the identification of community observers who are required to record catch data, gather evidence on industrial fishing activities and report on infractions to the relevant authority. IPA is supporting the creation of co-operatives and the fisheries authorities receive input from fishing communities via various organisations and associations.

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ACRONYMS AND ABBREVIATIONS

ACP	African, Caribbean and Pacific
Art	Article
BCLME	Benguela Current Large Marine Ecosystem
DNF	National Surveillance Directorate
DNP	National Fisheries Directorate
EC	European Community
EEZ	Exclusive Economic Zone
FPA	Fisheries Partnership Agreement
GEF	Global Environment Facility
GEPE	Office of Studies, Planning and Statistics
ICCAT	International Commission for the Conservation of Atlantic Tuna
IFAD	International Fund for Agricultural Development
IIM	Marine Research Institute
INAIP	National Institute for the Support of Fisheries Industries
IPA	Institute for Development of Artisanal Fisheries
LP	Fisheries Law of 1992
MCS	Monitoring, Control and Surveillance
MLR	Marine Living Resources
MoU	Memorandum of Understanding
OGE	General State Budget
SADC	Southern African Development Community
SEAFO	South East Atlantic Fisheries Organisation
TAC	Total Allowable Catch
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Programme
UNOPS	United Nations Office for Programme Services
VMS	Vessel Monitoring System

1. INTRODUCTION

The Benguela Current Large Marine Ecosystem (BCLME) Programme aims at the integrated management, sustainable development and protection of the ecosystem. The programme is implemented in Angola, Namibia and South Africa, from Cabinda Province (Angola) in the north to the Eastern Cape Province (South Africa) in the south.

The programme is funded by the Global Environment Facility (GEF) under its International Waters portfolio and is implemented by the United Nations Development Programme (UNDP) with the United Nations Office for Programme Services (UNOPS) as an executing agency. The three countries in which the programme operates provide further financial assistance and in-kind contributions.

The present report is part of a legal and institutional audit being undertaken in the countries covered by the project. This report aims at presenting an assessment of the laws and institutional arrangements that govern and impact on the artisanal fisheries sector in Angola, as well as identifying areas where reforms or interventions are required.

Angola has seven coastal provinces and its coastline extends for about 1 650 km. Its southern limit is the mouth of the Kunene River. In the north, the Angolan coastline is interrupted at the mouth of the Zaire River by the coastal area of the Democratic Republic of Congo (DRC), and resumes further north at the Cabinda enclave, which extends up to the mouth of the Congo River. The coastal provinces from south to north are: Namibe, Benguela, Cuanza Sul, Luanda, Bengo, Zaire and Cabinda.

Artisanal fisheries in Angola are an increasingly important sector. Institutionally, this sector is regulated by the Ministry of Fisheries¹ (see Annex II) through the Institute for the Development of Artisanal Fisheries (IPA). According to IPA, the sector has increased from 20% of national catch in 2001 to 40% in 2003. The number of fishers in the artisanal fisheries represents 60 to 65% of the total Angolan crew; if inland waters are included the number increases to 75%. IPA's 2003 census estimates a total of 4 700 artisanal fishing vessels.

¹ <http://www.angola-minpescas.com/Home.aspx>.

The present report identifies the main international and regional legal instruments relevant to the sector and provides an overview of the main national legislation and policy. It further assesses the relevant institutional arrangements governing the artisanal fishing sector and identifies problems and constraints experienced in implementing the relevant policies and legislation, as well as institutional shortcomings.

It must be noted that the new general law on fisheries had just been approved by Parliament at the time that this report was being concluded. The new law shall enter into force very soon. Throughout this report, reference is made to the solutions provided by this new legal instrument. The report also contains the provisions of the existent legal regime which still governs fisheries in Angola.

This report is a desktop study, as field visits could not be accommodated within the budget. Many operational inputs were provided by IPA. Various stakeholders from the NGO sector as well as international institutions were also contacted. Besides the analysis of the existing legislation, the research has involved the analysis of different project reports and the collection of information from different international sources.

2. LEGAL BACKGROUND

2.1 INTERNATIONAL LEGAL INSTRUMENTS

2.1.1 *United Nations Convention on the Law of the Seas (UNCLOS)*

Angola has been a party to the United Nations Convention on the Law of the Seas since 5 December 1990. However, Angola has not ratified the Agreements of the Convention relating to the implementation of Part XI and pertaining to Implementation of the Provisions relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

The provisions of UNCLOS regarding conservation and optimum utilisation of the living resources in the EEZ are reflected under the aims and objectives of the new fisheries law.

2.1.2 *FAO Code of Conduct*

The FAO Code of Conduct for Responsible Fisheries is a non-mandatory agreement which sets up principles and standards for the conservation and management of fisheries, and contains specific provisions regarding artisanal fisheries. Art. 6.18 provides for a secure and just livelihood for subsistence, small-scale and artisanal fishers. Included here is the right of “preferential access.” On the other hand, Art. 7.6.6 vests local fishing communities with the right to be involved in the decision-making regarding “use, conservation and management of fisheries resources.” Both these guiding principles have been reflected in the new fisheries law (see section 4.1 below).

2.1.3 *Convention on the Conservation of Migratory Species of Wild Animals*

Angola is not a Party to the Convention on the Conservation of Migratory Species of Wild Animals. Nevertheless, Angola has signed the multilateral Memorandum of Understanding (of 1 July 1999) concerning Conservation Measures for Marine Turtles of the Atlantic Coast of Africa.

Under the Memorandum of Understanding (MoU), signatories have agreed to adopt measures for the conservation and strict protection of marine turtles at all stages of their life, review and adapt legislation, and exchange scientific and legal information. A comprehensive Conservation Plan was concluded in 2002, which draws attention to marine turtle by-catch in industrial fishing operations and establishes a monitoring and protection network for nesting and feeding sites. It also involves local communities in the implementation of conservation measures.

2.1.4 *International Commission for the Conservation of Atlantic Tuna (ICCAT)*

Since 1976, Angola has also been a contracting party of the International Commission for the Conservation of Atlantic Tuna (ICCAT). Based on co-operation among Parties, the Convention aims at maintaining the populations of tuna and tuna-like species found in the Atlantic Ocean and the adjacent seas at levels that allow a sustainable catch for food and other purposes. Approximately 30 species are covered by ICCAT through regulatory measures and scientific research.

2.1.5 *Other*

Angola has ratified the Cotonou Agreement (of 23 February 2003) which entered into force in April 2003. The agreement aims at poverty reduction and eradication, and at promoting sustainable development.

Furthermore, Angola participates at the Conference of Ministers of Fisheries from Portuguese Speaking countries. Established in Luanda in September 1995, it has its Permanent Secretariat based in Lisbon and comprises a representative from each of the member countries.²

2.2 REGIONAL AND BILATERAL AGREEMENTS

2.2.1 *SADC Protocol on Fisheries*

² <http://www.dg-pecas.pt/>.

Angola is still in the process of ratifying of the SADC Protocol. Adopted in 29 June 2001, the Protocol aims at promoting the responsible and sustainable use of the living aquatic resources and aquatic ecosystems within the jurisdiction of its Member States in order to enhance food security and human health, safeguard the livelihood systems of fishing communities, alleviate poverty, generate economic opportunities for nationals in the region, and ensure that future generations benefit from these renewable resources through co-ordination and co-operation.

Among the issues addressed by the SADC Protocol are: management of shared resources, law enforcement, access agreements, high seas fishing, artisanal fisheries, aquaculture, protection of the environment, human resources development, trade and investment, science and technology, information exchange, etc.

In implementing the SADC Protocol, four committees will be established, one of which will deal exclusively with Artisanal, Subsistence and Small-Scale Commercial Fisheries. This committee, in conjunction with the others, will assist in monitoring the implementation of the Policy Objectives and Strategy.

Art. 12 of the SADC Protocol expressly addresses the artisanal, subsistence and small-scale commercial fisheries, committing State Parties to the obligation of seeking a rational and equitable balance between social and economic objectives regarding the exploitation of living resources by artisanal and subsistence fisheries.

2.2.2 South East Atlantic Fisheries Organisation (SEAFO)

Angola is one of the nine countries that signed the Convention on the Conservation and Management of Fisheries Resources (on 20 April 2001), which established the South East Atlantic Fisheries Organisation (SEAFO). This Convention aims at ensuring the long-term conservation and sustainable use of all fishery resources within its area. The Convention came into effect for Norway, Namibia and the European Community on 13 April 2003, 60 days after its ratification..

2.2.3 Fisheries Partnership Agreements (FPAs)

Angola and the European Community have been negotiating fisheries agreements since 1987. The current agreement represents the second most important in terms of fishing opportunities for EU vessels (the first one being the EC – Mauritania FPA). Since the entry into force of the first agreement, nine FPAs have been concluded. The current one covers the period 3 August 2002 until 2 August 2004 setting up fishing opportunities and financial contributions.³

Angola also maintains several bilateral FPAs with other countries.

2.2.4 Other

Angola participates at the Ministerial Conference on Fisheries Co-operation between African States bordering on the Atlantic (This includes 22 countries, from Morocco to Namibia).

The table below lists the main international legal instruments relevant to the scope of the present study. “(R)” refers to ratification, “Ac” to accession and “S” to signature.

Main Environmental Treaties and Conventions

Environmental Treaties and Conventions	Status
UN Framework Convention on Climate Change (not a party to the Kyoto Protocol)	(R) 17.05.2000
UN Convention on Biological Diversity (not a party to the Cartagena Protocol)	(R) 01.04.1998
UN Convention to Combat Desertification	(R) 30.06.1997
Vienna Convention and Montreal Protocol	(Ac) 15.05.2000
Rotterdam Convention on Prior Informed Consent	(S) 11.07.1998
International Convention for the Prevention of Pollution from Ships (MARPOL Protocol 79)	Signed/Ratified

³ OJ L 351/92 from 28.12.2002.

International Convention on Oil Pollution Preparedness, Response and Co-operation	Signed/Ratified
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	Not a Party
Convention Conservation of Migratory Species of Wild Animals	Not a Party
Convention on Persistent Organic Pollutants	Not a Party
Basel Convention on the Control of Hazardous Waste	Not a Party

2.3 NATIONAL DIMENSION

2.3.1 *Fundamental Law of Angola*

The Fundamental Law of Angola⁴ does not contain specific rules on fisheries resources or community rights. Under Title II, however, it establishes a set of fundamental rights and duties from which the following should be highlighted:

- The right to environmental protection and preservation of the ecological balance. This is a fundamental obligation of the State, who is required to adopt all measures needed to ensure full protection throughout the national territory. This right is linked to an environmental liability clause stating that those who directly or indirectly cause damage to the environment shall be punished by law (Art. 24).
- The right to dignity according to which the law protects the life, freedom, personal integrity and reputation of every citizen (Art. 21).
- The right to freedom of expression and association and all forms of professional association and union activities (Art. 32), as well as the right to strike (Art. 34) and the right to freedom of press (Art. 35).
- The right to health care and social security (Art. 47).

⁴ From 16.09.1992, it was amended in 14.11.1996.

Moreover, the Fundamental Law grants the State with sovereign rights over the Angolan territory, interior waters, territorial sea, as well the aerial space, soil and subsoil (Art. 6), and establishes that all natural resources existent in the soil, subsoil, interior waters, territorial sea, contiguous zone and EEZ belong to the State, who is responsible for determining their use and exploitation and for promoting their protection and conservation for the benefit of the community as a whole (Art. 12).

With regard to foreign natural or legal persons, the Angolan Constitution adopts the reciprocity principle regarding foreign citizens (Art. 15) and does not contain discriminatory clauses.

2.3.2 Framework Law on Environment

The Framework Law on Environment, promulgated in 1998,⁵ constitutes a very important piece of legislation setting up the general principle of every citizen being entitled to a healthy environment and to the sustainable use of the natural resources requiring the implementation of the National Programme of Environmental Management by the State (Art. 3).

It further defines specific principles on training and environmental education, prevention, integrated management, participation and international co-operation, as well as protection of the genetic resources (Art. 4), and establishes *inter alia* the following objectives:

- ensure the right balance between the needs of the population and the capacity of nature;
- require a minimum environmental impact of the activities needed to develop the country;
- constitute and strengthen a network of Areas of Environmental Protection in order to preserve the biological diversity and use those areas for environmental education and recreational activities;

⁵ Law 5/98, from 19.06.1998.

- promote public participation in decisions that may have environmental and social impacts; and
- encourage co-operation with neighbour states in the preservation of the environment and strengthening of the quality of life of populations living on the border.

The Framework Law specifically provides for the protection of biological diversity (Art. 13), the setting up of special protection areas (Art. 14), the institutionalisation of environmental impact assessment (to be further regulated -- Art. 16), and the prevention of environmental pollution, including air, waste and noise (Art. 19).

It contains, under Chapter IV, a set of rights and duties which include the right to information, education and access to justice, and is based in a strict liability regime (Art. 28). A separate chapter deals with surveillance issues according to which the Government may constitute a body of community inspectors with the aim of ensuring effective participation of local communities and adequate use of their knowledge and capacities (Art. 32).

In order to facilitate its implementation and dissemination, the Framework Law contains a set of definitions in an Annexure which include Environmental Protection Areas, Biodiversity, Sustainable Development, and quality of life and environment.

2.3.3 Water Law

The Water Law of 2002⁶ establishes the legal regime for the management of the water resources, and is based on the main following principles (Art. 9):

- the right of individual citizens and collective entities to water;
- institutional co-ordination and participation of the communities;
- compatibility of the water management police with the environmental and territorial planning policies; and

⁶ Law 6/02, from 21.06. 2002.

- integrated management.

The water management policy aims at granting access to water to all citizens, providing the populations with continuous and sufficient drinking water, regulating the different water uses (agricultural, cattle industry, industrial and hydro electric) and ensuring adequate waste water treatment (Art. 10).

Chapter III defines the conditions for water use, which are classified as: common uses (those that satisfy domestic needs, including subsistence agriculture and cattle farming, and which are free of charge) and private uses (which are subject to authorisation and periodic updated licensing). The penalty scheme for infringement is defined under Chapter V.

2.3.4 Investment Laws

Recently in Angola there has been a major incentive to attract foreign investment in all areas, including fisheries, through the promotion of international investment forums and updating of the existing legislation.

Foreign investment and property are protected by the State according to Art. 11 of the Constitution. The framework law for private investment sets up the principle of equal treatment for national and foreign investors as well as the rights of economic citizenship of nationals (Art. 4), prohibiting any discrimination between investors (Art. 12). This has been completed by Law 17/03 (of 25 June 2003), which establishes fiscal and customs incentives for private investment, exempting from customs duties all investment operations (Art. 9). According to this law, fisheries activities and their sub-products are considered a priority sector (Art. 4 c).

2.3.5 Co-operatives Law

The Fundamental Law expressly provides for the need to encourage the development of private, mixed, co-operative and family-based economic initiatives, and seeks to specially support small- and medium-scale economic activity (Art. 11).

In this context, a draft of the co-operatives framework law has been submitted to the Council of Ministers and is pending approval. The law defines co-operatives as autonomous legal entities, established to satisfy the economic, social and cultural needs and aspirations of their members (Art. 2), and can be constituted in a different sector, including the fisheries sector (Art. 4). It contains, under Chapter II, detailed legal and procedural rules for the constitution of co-operatives and defines, under Chapter IV, the admission, nature and rights and responsibilities of their members. In addition, Chapter VI deals with the responsibility of the co-operative bodies. The law operates with retroactive effect, being applicable to all co-operatives, even those constituted prior to its adoption.

2.3.6 National policy

At the policy level, the priority identified by the Programme of Government (2003-2004)⁷ is the implementation of the Poverty Reduction Strategy in a country where the human development index has substantially decreased after the long period of civil war. Angola is a country in which different studies point to about 70% of the population living below the poverty line, and in which unemployment and underemployment affect nearly half of the population. According to UNICEF, 45% of children suffer from chronic malnutrition, 50% are out of school and nearly half of the population has no access to clean and safe water.

The Programme of Government prescribes the adoption of sectoral programmes. Access to food is a cornerstone of the programme for the agriculture and fisheries sector since subsistence agriculture provides the main livelihood for the majority of the population.⁸ The following programmes are prescribed: development of the fisheries sector, support for artisanal fisheries, strength of surveillance activities and TAC increase.

In the case of the artisanal fisheries sector, strategic actions are defined by government as improvement of appropriate processing technologies and the replacement of harmful and outdated gears with motorised vessels using handline or gillnet.

⁷ Approved in October 2002.

⁸ According to UNICEF.

3. FISHERIES LEGISLATION

3.1 INTRODUCTION

The present legal framework is mainly composed of the 1992 Fisheries Law (LP) and several other decrees dealing with fisheries planning and management, fishing vessels and fishing companies, and fisheries surveillance and quality control.

In recent years national authorities have not only acknowledged that existing legislation is outdated, but also that it does not reflect international and regional developments in the sector, and is sometimes incoherent and contradictory (mainly due to the existence of several autonomous and unrelated laws).

The strong political will of the new Fisheries Minister,⁹ together with the international support garnered, has allowed the full revision of the fisheries legislation. In 2003 a new law was drafted “*Lei dos Recursos Biológicos Aquáticos*” (Law of Aquatic Biological Resources), setting up new principles and provisions regarding the sustainable management of national aquatic resources and reflecting the international and regional developments in the sector, including the need to integrate the management of the marine resources with other national policies.

As mentioned in the introduction, the new law has just recently been approved by Parliament and shall be enacted very soon¹⁰ (within a maximum period of 90 days), and will be referred to as the “new law” in this report.

In order to make the new legal regime enforceable, some issues require further regulations, namely with regard to surveillance, investigation, recreational fisheries and licensing. New regulations covering these areas, as well as a general fisheries regulation, have been drafted. After the entry into force of the new law, the full gamut of regulations will also be submitted for approval within this new legal framework.

⁹ <http://www.angolapress-angop.ao/governo.asp>.

¹⁰ Approved by Parliament on 23.06.2004.
<http://www.angola-minpescas.com/Home.aspx?tab=1&tab2=1&news=32>

Of these regulations, the most significant for artisanal fisheries is the Fisheries Surveillance Draft Regulation which aims at ensuring enforcement of the law and efficient management of aquatic biologic resources. It defines, under Art. 1 *inter alia* fisheries infringements (called “administrative infractions”), fisheries observers and inspectors, as well as community observers. It is applicable to all fishing activities undertaken in the maritime waters of Angola and to those employed by fishing vessels flying the Angolan flag on the high seas, as well as to aquaculture and establishments for the processing of fish products. In particular, Chapter II deals with monitoring issues, under which the roles of the community observers are defined without adding much to what is already prescribed under the new law. Chapter III deals with operating rules for the surveillance activities, and finally fisheries infringements as well as procedures to redress infringements are set under Chapter IV.

3.2 TYPES OF FISHERIES

There is a long and theoretical debate regarding the definition of artisanal fisheries. The Angolan legislation differentiates artisanal fisheries from subsistence fisheries based on the objective of the fishing activity: for direct consumption of the fisher’s family or for commercial purposes.

The LP distinguishes commercial from non-commercial fisheries, and establishes the following types of non-commercial fisheries in accordance with their purpose: subsistence, research and recreational (Art. 4).

Regarding commercial fisheries, it establishes that the distinguishing criteria between artisanal and industrial fisheries will be fixed by regulation taking into account the characteristics of the fishing vessel, catch capacity and autonomy as well as other social, economic and technical criteria (Art. 5) and defines the following main types of fisheries:

- subsistence fishery;
- artisanal fishery using vessels of up to 10 meters in length (which are extended to 14 m in the new law);

- semi-industrial fishery using vessels of between 11 and 25 meters in length;
and
- industrial fishery using vessels of over 25 meters in length.

The new law defines artisanal fisheries, subsistence fisheries, industrial fisheries and semi-industrial fisheries. The characteristics of these different fisheries are described in the table below.

The new law defines sustainable fisheries as “all fishing activities that may be undertaken in the long term at an acceptable fishing effort level regarding biological and economic productivity, without having ecological impacts that may impair the needs of the needs of future generations” (Art. 1/61).

It further specifies, under Art. 1, recreational fisheries as a not for profit sector (fishing for leisure or as a sport competition), and defines scientific research fisheries as the activities undertaken for research purposes.

**Types of Fisheries and Characteristics
Specified in the New Law**

Type of fishery	Size of vessel	Propulsion System	Fishing Gear	On-board refrigeration	Purpose
Subsistence (Art. 1/57)					Non-Commercial Family consumption (occasionally selling the surplus)
Artisanal (Art. 1/55)	≤ 14 m	Sail, paddles, onboard and outboard engine	Hand lines, gillnets and entangling nets	Rarely ice on board	Commercial
Semi- industrial (Art. 1/60)	≤ 20 m	Inboard engine	Hand lines, drifting longlines, entagling nets, mechanical trawling, seine nets and others	Ice on board	Commercial
Industrial (Art. 1/58)	> 20 m	Engine	Mechanical gear	Ice and other processing methods on board	Capture specific species with high commercial value or large quantities of fish with lower commercial value

Under Section III, the new law defines the co-ordinates of the North, Centre and South Fishing Zones, as well as the types of protected ecosystems and the fisheries conditions in aquatic natural reserves.

3.3 SUSTAINABILITY OF RESOURCES

The LP mainly regulates the economic aspects of the fishing activity in waters under the jurisdiction of Angola¹¹ and, except for the obligation for semi and industrial fleets to have infrastructure on land and the requirement that competent authorities prepare and periodically update management plans for the main fisheries (including target species, fishing effort and licence programmes), it does not contain specific conservation provisions.

In 1998, autonomous decrees were adopted requiring fisheries planning and management to be based on information provided by the Institute of Marine Research (IIM) and by a consulting body of the Ministry of Fisheries.

In spite of this, no management plans have been adopted (despite, also, the adoption of some management measures based on recommendations from IIM regarding, for instance, reduction in shrimp fishing). Instead, annually the Ministry of Fisheries publishes Executive Decrees requiring fishing vessels of more than 18 meters in length to install a VMS (Vessel Monitoring System), and regulates the closed season and fishing zones, by catch, fishing limits, etc. These decrees further ban beach seining in ports or bays and establish that the reporting of statistical data for artisanal and seine fishing shall be performed in accordance with the existing rules.

The new law is based on a holistic approach to regulating fishing activity. This holistic approach is premised on rules and principles aiming at ensuring the conservation and sustainable use of the aquatic biologic resources existent in the maritime and inland waters of Angola, and to all the fishing vessels flying the Angolan flag.

¹¹ Which, includes the territorial sea and the EEZ (Art. 1/3 of the new law).

It fully integrates the provisions of UNCLOS regarding conservation and optimum utilisation of the living resources in the EEZ (Art. 61 and Art. 62, UNCLOS) under its aims and objectives (Art. 3).

Moreover, the new law establishes objectives, based on the SADC Fisheries Protocol and the FAO Code of Conduct, and which impact on the artisanal fishing sector such as: responsible access to resources, their conservation and management, protecting the aquatic environment of coastal and riparian areas (including investigation of the biological resources and their ecosystems), as well as promoting the contribution of fishing activities for food security and livelihoods, especially for local communities.

The new law contains a chapter dealing exclusively with fisheries planning based on the principles of integrated management, responsible fisheries, participation, etc. It further specifies the contents of the fisheries plans, which shall include *inter alia* identification of the fisheries objectives, specification of management measures regarding the main fisheries, definition of fishing zones, and guidance for the rehabilitation of endangered species and the damaged environment.

4. LEGAL PROVISIONS ON SMALL-SCALE FISHERIES

4.1 ACCESS TO FISHERIES RESOURCES

Currently, artisanal fishing rights are registered by the Ministry of Fisheries in co-ordination with IPA. IPA and its provincial representatives have, since 1996,¹² carried out a census of the number of boats and fishers involved in artisanal fisheries along the entire coast of Angola. Information collected includes numbers and types of vessels, fishers (crews), fishing gear, processing facilities, and other socio-economic data. Data is updated every two years; in 2003 the total number of artisanal fishing vessels recorded in the census amounted to 6 171.¹³

¹² This action is carried out through the programme ArtFish that was established by IPA in 1996, with financing from the French Cooperation with assistance from FAO, and since 1997 has been running with funds from the Ministry of Fisheries.

¹³ IPA Report, 2003.

Chapter III of the new law deals exclusively with fishing rights to be granted to any individual or legal person, national or foreign, who fulfils the requirements established by law. It specifically provides that artisanal fishing rights can only be granted to “Angolan persons” (Art. 32/3), which are defined under Art. 1, as:

- an Angolan citizen;
- an Angolan company; and/or
- any other legal person composed by a majority of natural or legal Angolan persons.

Article 33 sets priorities regarding fishing rights that promote the economic citizenship of nationals. This provision establishes that without prejudice to international law, namely the UNCLOS and the SADC Fisheries Protocol, Angolan citizens have preferential treatment in granting of fisheries rights, and have exclusive rights regarding continental fisheries. The fisheries rights comprise the right to undertake fishing activities, the right to be granted a fishing quota (if and when TAC are defined), and the right of property and commercialisation of catches.

As stated above, the competence for issuing licences for artisanal fisheries lies with the provincial delegations of the Ministry of Fisheries. The licences are based on a fee, which according to IPA discourages fishers from applying for a licence, and therefore not all of the artisanal fishing vessels recorded in the census have licences. The fiscal authorities are the ones vested with the power of enforcing the law and applying the respective sanctions.

According to the new law, commercial fisheries require licences, whereas subsistence fisheries are not subject to previous authorisation (Art. 43), which is based on the understanding that it constitutes an activity mainly to provide sustenance for the family that is exercised with low technology and with limited fishing ranges. The law allows that a surplus is sporadically sold.

The new law also distinguishes between obligations of owners of commercial fishing rights from owners of subsistence fishing rights. The former are required *inter alia* to

comply with the existing legislation, pay the licence fee, provide information required by law, and co-operate in monitoring the fishing activity and resources (Art. 38).

On the other hand, for the reasons mentioned above, the owners of subsistence fishing rights are nevertheless subject to the obligation of complying with the fisheries legislation especially with regard to the fisheries zones, fishing gear, type and dimensions of catches and protected species. The subsistence fishers are also required to provide all information requested by the authorities for the elaboration of the fisheries management plans (Art. 39/1). When vessels are used, the owners of subsistence fishing rights are further required to comply with the existing legislation that establishes the conditions for operation of fishing vessels, namely to be in possession of a navigation certificate and a property certificate (Art. 39/2 and Art. 158).

For commercial fisheries, fishing licence fees will be established by regulation. The new law also foresees that the issuing, validation, renewal and payment of the licences will be defined by a joint order of the Ministry of Fisheries and Finances.

With regard to the payment of fishing licences, the new law establishes the principle that artisanal fishers, undertaking investments in land, can require exemption from payment for a period of up to 5 years (Art. 53) but does not specifically specify the type of investment required for artisanal fisheries. However, under Art. 35, it establishes that in granting commercial fishing rights, preference shall be given to candidates who can demonstrate the existence, on land, of processing, transformation and distribution installations.

4.2 FISHING RESERVED ZONES

The new law defines the reserved zone for small-scale fisheries and prescribes that the four (4) nautical miles are exclusively reserved for artisanal, subsistence, investigation and recreational fisheries.¹⁴ This has ended the controversy between two previous legal

¹⁴ Art. 34 (zona reservada à pesca de pequena escala): Sem prejuízo do que vier estabelecido em regulamentos sobre a extensão de zonas de pesca, toda a extensão do Mar Territorial até às 4 milhas náuticas, contadas a partir das linhas de base, bem como as águas continentais, são reservadas exclusivamente à pesca artesanal, de subsistência, de investigação científica e recreativa.

documents relevant to this sector. According to Decree 42/89,¹⁵ this zone was limited to three (3) nautical miles, whereas Decree 08/02¹⁶ extended the reserved zone to four (4) nautical miles.

The approach of the new law reflects the trend in other African, Caribbean and Pacific (ACP) countries, such as Chile, where the 5-mile coastal zone is exclusively reserved for artisanal fisheries, and the Philippines, where the zone reserved for artisanal fisheries was extended from 4 to 8 nautical miles.

Within the Integral Aquatic Natural Reserves, the new law only allows subsistence fisheries to harvest up to 20 kg per person per day (Art. 83/3). In the Partial Aquatic Natural Reserves, artisanal and subsistence fisheries are allowed to harvest according to the regulation that will be established by the competent ministry (Art. 83/4).

4.3 MONITORING CONTROL AND SURVEILLANCE

The Fisheries Law (20/92) contains a very weak Monitoring, Control and Surveillance (MCS) system. The obligation to provide information is generally prescribed under Art. 27, according to which industrial fishing vessels are required to provide statistical information on their catches and artisanal fishing vessels are subject to a statistical control of their catches (to be defined by the Ministry of Fisheries).

Law 20/92 grants powers to officers who are neither police nor fisheries officers (such as the masters of naval vessels) and who lack the means to verify the effective installation of VMS on vessels more than 24 meters in length¹⁷. The regulation for fisheries observers was never adopted and surveillance officers are effectively unable to control the activities undertaken by industrial fishing vessels. Furthermore, the confidentiality of the raw data obtained is not ensured and the statistical treatment of the data is inadequate.

¹⁵ This Decree prohibits foreign vessels from fishing within Angola's territorial waters (i.e. within 12 nautical miles of the Angolan coast).

¹⁶ This decree creates and regulates the Fisheries Information and Monitoring System.

¹⁷ As required by Decree 8/02.

The new law has substantially improved the MCS system, including the review of the fisheries procedures as well as sanctions.

For artisanal fisheries, the monitoring and collection of data is performed through the programme known as ARTFISH. Information on catches and fishing effort is collected from landing places in the communities and subject to statistical analyses. Currently, only 55 of a total of 102 fishing communities along the coast are covered. According to IPA, the next step of the programme is its extension to 15 additional communities in order to cover three-quarters of the total number of fishing communities.

A sampling agent from the community collects the data on specific forms. Each sampler (agent) works 5 days a week and produces 20 forms per month. Currently, a total of 55 local people along the coast are involved.

The data is then gathered by IPA technical teams every 6 months in the Provinces of Luanda and Bengo. For the remaining coastal provinces (Cabinda, Zaire, Cuanza-Sul, Benguela and Namibe) the forms are collected by the Provincial Delegations of IPA, and are then sent to Luanda in order to be processed and included in the ARTFISH statistics system. Since 2002, the provinces of Benguela and Zaire have performed the processing of the forms autonomously. All data are analysed and centralised at IPA's database in Luanda.

The total catch for artisanal fisheries tripled from 2001 to 2002 and diminished in 2003. IPA attributes this to ongoing projects that restrict the use of certain artisanal fishing gear (such as "*banda-banda*" beach seine nets) and to the reduction of fishing vessels in certain provinces, but also recognises that the delay in the payments of the samplers may affect the regular provision of the completed forms and hence skew the results. The oil waste spills in the bays of Namibe and Cabinda may, according to IPA, also contribute to the oscillation of the results.

One very important innovation of the new law is the introduction of "community observers," thereby accommodating the concerns of the coastal communities and reflecting the involvement of IPA as a stakeholder in drafting the new law.

“Community observers” are members of the coastal or riparian communities who are appointed to monitor fishing activities in the maritime zones reserved for subsistence and artisanal fisheries.¹⁸ They undertake the following activities:

- collection of biological samples and data, including catches in the reserved zone;
- gathering evidence of industrial and semi-industrial fishing in the reserved zones; and
- communication with the competent authorities about any fisheries infringement contained in the law and respective, relevant, regulations.

The new law further requires the identification of the community observer through an “identification card” to be issued by the competent authority of the Ministry of Fisheries, and allows them to use any means needed for the control and surveillance of the fishing activity, namely binocular, camera, video, manual GPS, radio, mobile phone, etc. The Ministry of Fisheries shall, in accordance with the new law, provide the community observer with the required tools and respective training.¹⁹

The draft surveillance regulation partially specifies the role of the community observers. The observers shall communicate to the surveillance officers the infringements that they observe, in particular in the zone reserved for artisanal fishing. In their communications, the community observers shall, as best they can with the tools at their disposal, identify the violators and their vessels or other means used to violate the law, and describe the infringements, location, day and hour and provide whatever evidence they are able to collect.

¹⁸ Art. 152 (observadores comunitários): Os observadores comunitários são membros das comunidades costeiras e ribeirinhas designados, nos termos a definir em regulamento, para a monitorização da pesca, e actividades com ela relacionadas, nas zonas reservadas à pesca artesanal e de subsistência a que se referem o artigo 34.

¹⁹ Art. 154 (Direitos do observador comunitário): (1) O observador comunitário é identificado mediante a apresentação do respectivo cartão de identificação emitido pelo Ministério competente; (2) O observador comunitário pode utilizar os meios necessários ao exercício das suas funções, nomeadamente binóculos, máquinas fotográficas e de gravação vídeo, GPS manual, rádio e telefones móveis; (3) O Ministério competente deve fornecer ao observador comunitário os meios necessários ao exercício das suas funções, bem como a formação adequada.

The community observers do not have a surveillance role, being exclusively vested with a monitoring capacity. Hence, they have no right to a salary from the government nor any kind of special government security protection.

4.4 FISHERIES INFRINGEMENTS

It appears that the most common types of fisheries infringements are fishing by industrial vessels in the reserved zone and fishing with unauthorised fishing gear. Both these infringements have a direct impact on the small-scale fisheries and therefore a description of the legal scheme is provided.

The LP classifies these illegal practices as serious offences, and Decree 2/93 (of 26 March 1993) establishes the amount of fines and additional sanctions. If the serious offence is undertaken by a foreign fishing vessel, the following sanctions can be prescribed: payment of a fine of two to three times the annual cost of the licence (to be added to the payment of 2 000 ECUS/TAB²⁰, seizure of fishing gear or other unauthorised instruments, seizure of the catches or product of selling the illegal fish, and suspension of the licence for the period of one year. If the infringement is by a national industrial fishing vessel, the fine varies between the annual costs of the licence and double that value together with the seizure of the catches.

If another fisheries offence is caused within 12 months after the first violation, it is considered a repeated non-compliance and the amount of the fines will be four times greater.

Decree 08/02 defines the VMS, known locally as MONICAP, and prescribes that fishing vessels of more than 24 meters in length are required to install a "Blue Box" that continuously transmits data on their position and speed. International fishing fleets are not formally exempted, even if they carry similar systems as the EU fleet, which carries the EU VMS system.

For infringements regarding the MONICAP system, the law does not distinguish between national and foreign vessels, prescribing fines from US\$1 000 to US\$10 000 (which can

²⁰ ECUS is the monetary unit prescribed in Decree 2/93.

increase up to four times the amount in cases of repeat offence and include suspension of the licence for 60 days).

The new law reviews the type of infringements, the amount of the fines as well as the additional sanctions, and contains an innovative rule prescribing the annual publication of a national list of violators. This list is expected to constitute an efficient tool in deterring non-compliance.

The new law foresees the application of fines, to be fixed by the Minister of Fisheries (Art. 238), to subsistence fisheries. The law further defines that the limits of these fines will be half of those applicable to the research and recreational fisheries.

5. INSTITUTIONAL ARRANGEMENTS

5.1 RELEVANT LAWS

5.1.1 *Fundamental Law*

The Angolan Constitution grants the State sovereign power over the territorial waters and the territorial sea, as well as over the corresponding aerial space, soil, and subsoil (Art. 6). The Fundamental Law delegates to specific laws the definition of the competencies, powers and functioning of the regulatory bodies.

5.1.2 *Framework Law on Environment*

According to the Framework Law on Environment, the competence to define and implement the Environmental Management Programme (EMP) belongs to the Government (Art. 6). The EMP shall allocate responsibilities to all public bodies whose activities impact on the environment, including the socio-economic conditions, of the communities.

The EMP shall also define responsibilities of all non-state agents who use natural resources and whose activities impact on the conditions of communities, and make any

citizen liable for the incorrect use of natural resources or for any damage to the quality of life of nationals and communities.

According to Art. 7, the EMP shall be co-ordinated by a central government body which may have representatives at regional, provincial, municipal and local levels. The main function of this structure is to promote sustainable development among the remaining government bodies and non-government entities.

This law further grants the right of participation in the Environmental Management forums to all associations and non-governmental organisations charged with environment protection, promotion of sustainable use of natural resources, as well as protection of the right to quality of life (Art. 9).

5.1.3 *New Fisheries Law*

The implementation of the Aquatic Biological Resources Policy is the responsibility of the Minister of Fisheries (Art. 215). Provincial governors are responsible, at the local level, for the co-ordination and implementation of policies relevant to the continental aquatic biological resources that are not shared with other countries.

All MCS activities, as well as hygiene and sanitary inspection of the sites of processing and commercialisation of fisheries products, may be undertaken by autonomous organisations subordinated to the Ministry (Art. 218).

The new law ensures the participation of fishers, coastal and waterside communities, professional fisheries organisations, and non-governmental environmental protection organisations in the preservation of the aquatic biological resources.

5.1.4 *Local and State Administration System*

The current State Administration system in Angola comprises provincial, municipal and communal governments. A province consists of several municipalities and each municipality is divided into communes.

The Fundamental Law (by way of the 1991 Constitutional Revision) contains specific rules on institutional arrangements at the local level (which comprises municipalities and local administrative bodies). The municipalities promote the interests of the local population and are representative and elected bodies (Art. 146), whereas the administrative bodies represent the central government with the aim of promoting, at the local level, the government policy guiding the economic and social development of each geographical area (Art. 147).

The institutional arrangement framework is completed by Decree 17/99, which contains the organic rules of the provincial governments and municipal administrations. However, the anticipated law on local government, which would define the constitution of local municipalities (established by public elections), has not been enacted and municipalities have not yet been established. As a result, the provincial, municipal and communal governments are headed by officials nominated from above.

The provincial Governor is named by the Head of State, and represents the government at the provincial level and ensures the normal functioning of the provincial administrative bodies (Art. 148). The Municipal Administrator (and when existent, the Vice-administrator) of a municipality is named by the Governor of the Province. The Municipal Administrator is responsible for the correct functioning of the Local Administration Bodies and answers directly to the Governor. The commune administrator is also named by the Governor.

5.2 CURRENT INSTITUTIONAL STRUCTURE: THE MINISTRY OF FISHERIES

5.2.1 Overview

The Ministry of Fisheries regulates the whole fisheries sector in the country. It is the government body responsible for the development, execution, supervision and control of fisheries policy in Angola. The Ministry is a relatively new institution established in 2002, following the disintegration of the Ministry of Fisheries and the Ministry of Urbanism and Environment.

The Ministry of Fisheries (MF) is divided into Consultative boards, Policy and administration Services, Technical Services, Executive Central Directorates and Subordinate Institutions (see Organogram of Ministry of Fisheries in Annex I).

The *Consultative Council* is the senior council, directly answerable to the Minister. It is composed of the two Vice-ministers, national directors, directors of subordinate institutions and representatives of provincial government. Once a year, the Fisheries Associations are invited to participate in a meeting to discuss global fisheries issues and policy decisions, and to provide recommendations.

The *Technical Council* is responsible for advising the Minister on matters relating to planning, organisation and management of fishing resources, especially with respect to fishing effort in the context of resource potential and analysis of actions for species conservation and sectoral development. It is composed of directors of national directorates and subordinate institutions.

Members of the fisheries associations are invited to a yearly meeting of the Technical Council, where they can present and discuss technical measures pertaining to resource management with the Government's institutions and central services.

The new law foresees the creation of a Council of Integrated Management of Aquatic Biological Resources to work with the Technical Council of the Ministry. The former council provides the opportunity for the participation of different stakeholders, as the IPA and/or Artisanal Fisheries Associations. This council will recommend the harmonisation of the fishing effort and capacity in order to define the TAC and propose measures for the conservation of species as well as the protection of the artisanal and subsistence fisheries sub-sectors.

The *Management Council* has a composition similar to that of the Consultative Council. It is responsible for the planning, organisation and control of activities of the MF.

The *Policy and Administration* bodies of the Ministry include the cabinets of the Minister and Vice-ministers. Lower-level bodies within this body are the Documentation and

Information Centre and the International Relations Office in charge of the international and regional relations of the MF.

The *Technical Services* of the MF are constituted by four bodies. The *General Secretary* carries out the administrative tasks, including personnel management, budget, assets, information technologies and public relations. The *Legal Office* is responsible for providing general legal advice to the Minister on fisheries matters, including drafting of legal instruments and participation in negotiations. The *Office of Studies, Planning and Statistics* (GEPE) is responsible for the preparation of overall policy and strategy, analysis, studies and co-ordination of statistical issues. Finally, the *Office of Inspection* is responsible for monitoring all the services and the overall functioning of the MF.

The MF has two national directorates: the National Fisheries Directorate (DNP), responsible for the implementation of fisheries policies, and the National Surveillance Directorate (DNF), in charge of enforcing the fisheries law. These Directorates are described in more detail under section 5.2.2.

The MF has a set of five *Subordinate Institutions*: the Marine Research Institute (IIM), the Artisanal Fisheries Development Institute (IPA), the National Institute for the Support of Fisheries Industries (INAIP), the Fund for Support of the Development of Fisheries Industries (FADEPA), and Fisheries Schools.²¹ The most relevant institutions for artisanal fisheries are IPA, IIM and FADEPA.

5.2.2 National Directorates of the Ministry of Fisheries: Fisheries Policy, Access, MCS, and Fishers Conflict Management

The DNP is responsible for the conception, orientation and supervision of the fisheries policy relating to fleet development. It also administers vessel licensing for the industrial and semi-industrial fisheries and manages the fishing quotas. Checking quotas involves an extended process in which masters of the fishing vessels provide declarations on catches, the GEPE processes all available data, and the DNP monitors the vessel activities on its database and administers the corresponding quotas.

²¹ Most artisanal fishers cannot, however, afford attending school.

The DNF is responsible for the surveillance of fisheries activities in order to ensure compliance with laws and regulations. It is responsible for the MCS programme.

The issue of monitoring and surveillance is not clear with regard to the semi-industrial fleet. The 2004 decree on fisheries management measures subjects all vessels over 18m in length to install a "Blue Box," whereas the MONICAP decree only subjects vessels of more than 24m in length to this obligation. The new law sets the division between semi-industrial and industrial fishing vessels on vessel length of 20m. In addition to the MONICAP, the DNF deploys three speedboats (based in Luanda, Benguela, and Namibe) and seven smaller boats along the entire coast. Occasionally, a patrol and plane surveillance is undertaken within the SADC MCS project.

Although the DNF has no role in administering quotas, during vessel inspections it may check whether the vessel is keeping catch records. The proposed Fisheries Surveillance regulation (Art. 14) states that in the monthly reports, the surveillance agents shall identify the licences and fishing quotas of all visited vessels.

The DNF, along with the Legal Office of the Ministry of Fisheries, has been the intermediary of the conflicts between industrial and artisanal fishers. As mentioned under section 4.4, these conflicts frequently arise due to the entry, into the reserved zone, of the industrial fishing vessels, thereby destroying artisanal fishing gear and threatening the safety of artisanal fishers. Once all the legal evidence is collected, the two bodies confront the two parties under dispute and the compensation for the reparation of damage is negotiated.

The LP prescribes mitigation measures in cases of conflict between artisanal and industrial fisheries (Art. 25). In order to reduce these conflicts, measures can comprise:

- subscription, by the industrial fishers, of an insurance to repair damages eventually caused to artisanal fishers,
- assessment and conciliatory commissions and the implementation of their decisions, and/or
- establishment of appropriate compensation between artisanal and industrial fishers.

The new law does not contain specific provisions on settlement of disputes. It establishes the general principle of strict liability of natural or legal persons causing damage to a third party (Art. 267). The Minister may be called to mediate the conflict whenever needed.

The new law certainly does not deal specifically with settlement of disputes at local level. According to IPA, it is a foregone conclusion that there will be organisation of co-management committees at community level by the artisanal fishing association and co-operatives.

5.2.3 The Marine Research Institute: Research, Technology and Fisheries Management

The Institute of Marine Research (IIM) develops scientific research specifically focused on the planning, execution and publication of research in the EEZ, in order to ensure rational exploitation of resources.

Under the new law, the IIM will be responsible to provide scientific recommendations to support the management of resources, by providing real and objective information on the existing marine resources in general and in particular on the coastal zone where the subsistence and artisanal fisheries operate.

The IIM has its headquarters in Luanda and field stations in Namibe, Tômbwa, Benguela and Lobito, and employs a total of 200 people. Of their annual budget around 18% is paid directly from the General State Budget (OGE), which is basically used for salaries; 35% is Ministry funds; 38% NORAD aid; 3% from inspection and other services; and 6% from other sources.

The IIM has four technical departments: Oceanography; Fisheries Resources – primarily carrying out stock assessments of commercial stocks (small pelagics, demersal stocks and crustaceans, amongst others); Fisheries Technology – primarily executing research on ways of adding value to fish and fish products; and Aquaculture and aquaculture

experiments. The IIM also focuses²² on management of shared resources and capacity building.

The General Director of IIM is the chairperson of the BCLME Programme Steering Committee. The BCLME Activity Centre in Angola is an in kind contribution of the government to the programme and operates at the IIM facilities. The Centre carries out research projects on Biodiversity, Ecosystem, Health and Pollution, and their main current priorities are environmental and marine resource assessments and generation of baseline information.

5.3 MINISTRY OF FISHERIES' SUBORDINATE INSTITUTIONS WITH RELEVANCE TO ARTISANAL FISHERIES

5.3.1 *Institute for Development of Artisanal Fisheries (IPA)*

Created in 1992, IPA promotes and regulates small-scale fishing activities, currently both along the coast and inland waterways. It is responsible for the promotion of artisanal fisheries through the development of co-operatives, training and community development, technical assistance projects, administration of subsidies and credit facilities, and monitoring of artisanal fisheries.

The institute is based in Luanda and has provincial delegations in Luanda, Bengo, Cabinda, Zaire, Cuanza-Sul, Benguela and Namibe. IPA staff comprise about 53 persons in Luanda, and 162 in provincial delegations. The provincial delegations of IPA engage in census activities, collection of statistical data, training, co-operative support and community development.

The insecurity experienced in the last decades, associated with serious economic problems, resulted in the weakening of IPA's provincial delegations. These delegations continue to lack funds and appropriate resources and some of them are reported to be nearly inoperative. These delegations are typically located in the cities or villages, sometimes far from communities which, together with a lack of funds, makes communication very difficult. Currently, since inland fisheries fall under the competence

²² Further information on <http://www.sadcfisheries.com/doc.asp>.

of the Ministry of Fisheries, IPA will need to implement delegations in inland provinces as well.

IPA has economic and administrative autonomy. It is funded directly by the OGE, but also receives funding from its own resources and activities, such as selling publications edited by the institute (alone or in collaboration with other institutes), funding for artisanal fisheries projects from international donors etc.

IPA manages several projects funded by international agencies such as PESNORTE²³ (in Zaire, UN-IFAD funds), ARTFISH (mentioned above), PMEDP²⁴ (DFID and FAO), Projecto Ambriz (PNUD), and PESCART in Namibe (FADEPA fund). These projects include training of fishing communities, creation of co-operatives and capacity building, as well as subsidies for materials or construction of infrastructure. Some of these projects are undertaken in collaboration with local NGOs.

IPA aims at creating co-operatives in the fishing communities. Via the co-operatives IPA, seeks to facilitate access to credit facilities through FADEPA²⁵ to acquire new vessels and fishing gear and to invest in support infrastructure. It is also through co-operatives that IPA provides advice and training on management of fisheries and micro-enterprises.

In 2000, IPA prepared a Programme for Promotion and Development of Artisanal Fisheries (*Programa de Fomento e Desenvolvimento da Pesca Artesanal*), in which it defined its priorities as:

- organisation of fishing communities – promoting the creation of micro-enterprises, the establishment of co-operatives, and training of trainers;
- creation of infrastructure for production and support to artisanal fisheries such as areas for fish processing, landing sites, access roads, health centres and schools; and

²³ PESNORTE project includes community development, market and financing component, and development of fisheries policy and management.

²⁴ The project Sustainable Fisheries Livelihoods Programme (PMEDP) is a Programme being carried out in 25 countries of the west coast of Africa, the co-ordination unit in Angola is IPA.

²⁵ See next section.

- sustainable management of resources – assessment of coastal stocks, promotion of the replacement of beach netting with alternatives, the conservation of fresh fish on selling rags, and the construction of cool boxes.

However, IPA has not been very successful in ensuring support from donors and partners in many of its projects. The main constraints are difficulties in accessing information by outside parties and the lack of English and computer skills of key staff.

Nevertheless, through a loan from the African Development Bank (ADB), IPA foresees the creation or rehabilitation of centres of support for artisanal fisheries in 10 coastal communities. The centres will have ice and refrigerator facilities, fuel pumps and small stores of fishing equipment. This project also includes the deployment of extension workers.

Specifically with regard to institutional arrangements, IPA is currently re-orienting and re-defining the structural functionalities of the co-operatives in line with market-oriented policy. In 2004, IPA is expected to hold the first national meeting of all co-operatives with the aim of providing assistance and guidance in respect to the support mechanisms for integration and participation of co-operatives in the decision-making process.

Under the new small-scale fisheries draft regulation, IPA and its provincial delegations will have increased responsibilities. It prescribes that IPA will be responsible for conducting a census of all vessels dedicated to artisanal and subsistence fisheries.

It is expected that the new fisheries regulation will clarify the process of registration of artisanal fisheries vessels. IPA has proposed to the Ministry that owners of subsistence and artisanal fishing vessels will be obliged to register their vessels with its provincial delegation, and receive a registration number that shall always be on board.

The method of gathering information by IPA samplers is expected to be regulated, using official IPA forms. The new law also forces all fishers to provide information to the relevant authorities, within the framework of any projects aimed at the development of the artisanal fisheries sector.

5.3.2 Fund for support for the development of fisheries industries (FADEPA)

This fund is a governmental financial instrument for the development of the fisheries sector through the financing of investment projects considered a priority by the MF. It may support projects on the fishing, transformation, stocking, commercialisation and export of the products of fisheries, as well as be applied in the areas of scientific research, technical training, and surveillance activities. The fund may assist small entrepreneurs in artisanal and industrial sectors.

The fund was created by Decree N.45-D/92, of 4 September, and is currently under the MF (included in its budget). In this way, despite FADEPA legally or technically having financial and administrative autonomy, it is not considered an autonomous fund on the OGE.

The fund may provide funds in the form of a credit or a subsidy. Subsidies are in principle not to be returned. Nevertheless, in the case of subsidies in foreign currency aiming at production facilities, the fund may ask for a counter-value. The financial support of FADEPA should not be superior to the economic life of the equipment or gear, or productive installations, and should last less than 10 years.

Individual fishers or associations, individual economic agents, companies, and other entities involved in the development of the fisheries sector are eligible to benefit from the fund.

The sources of the fund are the OGE, bilateral assistance, 75% of the profit from fisheries agreements, 75% of the amount of fisheries infringement fines, loans, and other sources of income. The fund also benefits from a tax of 2% applicable to all invoices from companies in the fisheries sector.

The Minister of Fisheries chairs the Management Council that manages the fund. The remaining Management Council members are the national director of GEPE, the Director of DNP and Provincial fisheries delegates, a representative of the Ministry of Finance, a representative of the National Bank of Angola, and representatives of Fisheries Associations and *Grémios*.

In spite of fisheries associations being members of the Management Council, the FADEPA Regulation makes their participation dependent on invitation and states that they do not have voting rights. This contradiction in the same law may give rise to serious interpretation problems of the role of these associations and their capacities.

For artisanal fisheries, IPA specifies particular application forms and provides assistance to the candidates on the application process through the whole process. It also has an intermediary role between FADEPA and the artisanal fishers, co-operatives and associations. Every year, a part of FADEPA is oriented towards the import of fisheries inputs (including vessels, motors, and kits with fishing material and gear). The equipment is imported by INATIP (an institute for the import of fishing equipment). This material is distributed to the fishing communities in the form of a credit. The fishing community establishes a contract committing to a gradual payment.

According to IPA, one of the main problems (discussed under section 6) is that many fishing communities have not been honouring the contract. In some cases the communities have already received several shipments without having paid for the first one or earlier shipments. The role of IPA in these cases is to select the fisheries entities that have honoured their commitments and that are therefore eligible for further support.

Artisanal fishers complain²⁶ about the limited distribution of materials and the high prices charged by some small companies that have FADEPA support for the artisanal fisheries sector. Still, according to fishers' complaints, in some cases the material is sold to industries in different areas or to influential people.

5.3.3 National institute for the support of fisheries industries (INAIP)

INAIP is responsible for the execution of ministerial policy and for the promotion of fisheries industries, including: policy development, interfacing between industry and the ministry, collecting statistics on fisheries industries, locating partners, and proposing investment incentives, amongst others.

²⁶ Report on the PESNORTE component of financing and market, SNV, November 2003.

INAIP plays an important role in training, assisting in the creation of enterprises, co-operatives and associations, as well as fund raising. Its main priorities are infrastructure projects for refrigeration facilities and provision of storage capacity, as well as for the development of the salt and fish oil industries.

INAIP is the national counterpart on co-operation projects, such as the project for the development of the fisheries industries in the Republic of Angola (funded by Spanish co-operation), which is providing training at CEFOPESCAS (a Fisheries School, see below) on specific areas to about 300 direction members and middle level staff of 130 fisheries companies selected by the regional delegations of INAIP.

INAIP has currently little contact with the artisanal fisheries sector. However, this support is likely to increase as artisanal fishing co-operatives become stronger. A major constraint to the development of fisheries has been the insufficient support of banks and credit institutions.

5.3.4 Fisheries Schools

Training in Fisheries in Angola continues to be insufficient. The MF currently administers two Fisheries Schools.

CEFOPESCAS is a middle level school in Cacuaco, near Luanda, with basic level training in all sectors of fisheries from naval mechanics, crew management, processing and conservation, accountability and trade, informatics, English, etc. Another school is the middle level Instituto Helder Neto²⁷, in Namibe province, that trains middle level professionals.

The MF plans the construction of three other middle level schools before 2007, in the provinces of Cabinda or Zaire, Cuanza Sul and Benguela, as well as the creation of a university in Namibe province.

²⁷ www.imediohelderneto.hpg.ig.com.br

5.4 INTERNATIONAL AND NATIONAL NON-GOVERNMENTAL ORGANISATIONS

In spite of the large number of international NGOs present in Angola (nearly 100), none of them could be identified as focusing specifically on Artisanal Fisheries. Most NGOs working in this sub-sector are local or national NGOs, which often work in collaboration with IPA.

National NGOs have increased in number since Law Decree 14/91, which accompanied the adoption of the Constitutional Revision Law of 1991 and removed previous restrictions on the establishment of civil society organisations. Currently, their number reaches over 300. These NGOs focus on agriculture and food security, health and nutrition, water and sanitation, resettlement, education, mines, etc. Some national NGOs were initially created by more resourceful international NGOs.

National and local NGOs usually understand the local contexts, and have complementary skills to those of IPA. The contribution of these NGOs is often in the areas of assessment of needs of communities, participatory rapid appraisals and preparation of plans and proposals.

However, lack of funds is a common problem and some projects are not implemented. Collaboration between role players needs to take place in a context of formalised policies and plans that ensure sustainable fishing activities and involvement of communities in coastal developments.

During this study, several NGOs were contacted due to their special characteristics, but no information has been obtained to date.

6. PUBLIC-PRIVATE INTERACTIONS

6.1 LOCAL GOVERNMENTS

In rural areas, traditional authorities typically have an important role. They are much closer to the population than the communal administration. In this way, although traditional authorities are not recognised in the juridical and constitutional framework as local representatives of local power, the population confers on them arbitration and government functions, and demands interaction with local administration officers. The power of traditional authorities is based on religion, social organisation and parenthood.

Specifically regarding artisanal fisheries, IPA, and in some cases NGOs, play an important role in seeking the support of local government or donors for planned community projects. IPA and occasionally NGOs are often the intermediary between the population or their representatives (traditional authorities) and local government bodies. The establishment of co-operatives and associations is also a channel for government intervention and facilitates the relation between the community and government structures.

An example is the programme PESNORTE, which despite having an approach somewhat different from that of IPA, works together with IPA's officials. This programme has a Co-ordination Committee composed of the Provincial Governor, the representatives of MF and Ministry of Finances, and the Municipal Administrators. In this way the programme tries to involve the municipal administrators.

6.2 ASSOCIATIONS AND CO-OPERATIVES

There are various fisheries associations and co-operatives, usually formed according to geographical location and sub-sector. These represent the artisanal, semi-industrial and industrial fleets, according to the main provinces.

Turning to industrial associations, the *Associação dos Armadores Industriais de Pesca*, based in Luanda, comprises of about five of a total of eight existing fishing companies in Angola. Two of these companies are partially owned by the state and a foreign company

(Spanish), and three are private joint-ventures, also with Spanish companies. The companies of this association do not have any type of onshore establishments, having only vessels (pelagic trawlers, demersal long-liners or shrimp trawlers). Members of the association are identified as having good relations with Government officials and institutions, and have had positions in previous Government teams.

There are also semi-industrial fisheries associations in Luanda as well as in Namibe, Benguela and Cuanza Sul provinces. The *Associação dos Armadores de Pesca Semi-Industrial de Luanda* represents about 100% of the semi-industrial fleet in Luanda and about 50% of the fleet at national level. Five of its members are established as companies while the rest are individual fishing vessel owners. This association also includes 25 members of the small-scale fisheries, in particular artisanal vessels (*chatas*) with outboard engines, and some line fishing and gillnet vessels (8 to 14m) with an average crew of eight to 10 men. The province associations are called *Associação Provincial de Pesca Industrial e Semi-Industrial* (APPIS), and represent their interests mainly at provincial level near the Provincial Fisheries Directorates of the Ministry of Fisheries.

The associations are sometimes consulted on the drafting of new legislation. This was the case with the drafting of the new fisheries law.

Artisanal Fisheries tend to be organised in co-operatives of small-scale fishing activities, legally established through local government. The artisanal fisheries co-operatives are used to market catches and access government support, namely FADEPA or the project PESCART, administered by IPA.

The co-operatives are legally formalised using a model for the Statutes of Fishing Co-operatives (Order N.58/87, of 14 September 1987). Their statutes are officially approved and published by the Ministry of Justice.

6.2.1 Artisanal Fisheries Co-operatives and Associations

Despite the efforts of IPA, the co-operative leaders are mainly characterised by having less than four years' literacy. Frequently identified constraints are the very limited

understanding of marketing information and lack of infrastructure to conserve and commercialise the catch.

There is currently discussion of a draft of co-operatives general law intended to incentivise the development of and setting up conditions for co-operative initiatives, particularly small and medium size. The draft law expressly foresees the establishment of effective fisheries co-operatives.

6.3 OTHER COMMUNITY-BASED ORGANISATIONS

Even if the insecurity, instability, displacement and depopulation in the rural areas has for many years prevented the development of community-based organisations, such as associations of farmers or fishers, other factors relating to the character and coping strategies of the communities persist and create difficulties in the process, despite a wealth of opportunity.

Most artisanal fishing vessels land on the beach. Fish are either sold fresh or are processed. Fishers either sell the fish at the community level to the women fish buyers and others from local towns, or sell the catch in the main markets of the provinces. There is often no joint effort to sell the catch. Although the relationship between the crew of a boat is co-operative when at sea, fishers tend to be individualistic. This is expressed by the fact that even on the same vessel, the sharing of the fish is done based on individual catch, when possible.

At community level, the processing and commercialisation of fish is predominantly a woman's job. It is common practice for the wife to buy the fish from the husband, and to then process and sell it. In larger towns, women are sometimes part of a sellers' association, such as the Association of Streets Sales Women in Luanda.

Other activities also have potential to be organised into associations. For example, the technique generally used to preserve fish uses salt from local markets, a process that usually takes three to four days. Activities such as commercialising salt, processing and selling salted fish, selling of fishing material and equipment, selling of everyday

commodities and agriculture products could activate local markets, and could eventually be the focus of associations or co-operatives.

7. PROBLEMS AND CONSTRAINTS

The following table summarises the main findings of this study, in the form of Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis. As already mentioned, this is a desk study, with limited inputs from important stakeholders such as the private sector and NGO representatives, and authorities other than IPA (who kindly provided all the information requested and provided extremely useful comments on the present study). As such, it cannot be considered a formal SWOT analysis.

Strengths	Weaknesses	Opportunities	Threats
Adoption of new law (and regulations) oriented towards the conservation of MLR and their sustainable exploitation	Weak relationships and dialogue among different stakeholders	New law strengthens IPA powers	Strong lobby and financial capacity from industrial sector
IPA role in promoting and protecting the artisanal sector, including involvement in legal drafting and policy recommendations	Lack of effective participation of artisanal fisheries association in the decision-making process (no voting rights)	New law establishes “community observers” and protects coastal communities	Weak and inefficient institutional co-ordination
	Lack of knowledge of the fisheries law and inefficient enforcement	International and regional co-operation, including on shared stocks and transboundary issues	Vulnerability to corruption: low salaries, bad working conditions, and high costs of living
	Lack of access to	Adoption of the new	Lack of material and human resources to ensure efficient

Strengths	Weaknesses	Opportunities	Threats
Existence of funds tailored for the artisanal fishing sector	information and reduced computer and English skills	general law on co-operatives, including fisheries co-operatives	enforcement of the law
Progressive implementation of MCS	Reduced infrastructures to preserve and commercialise the catches	IPA's work on the facilitation of fisheries inputs to artisanal fishers	Lack of means to report fisheries infractions and get sufficient evidence
Associations' participation in fisheries management	Weak understanding of the market rules		Lack of funds to regularly pay the salaries of the IPA samplers, affecting the collection of data
Strict liability in case of damage	Co-management committees and conflict mediation committees not established by law		Oil spills in the bays of Namibe and Cabinda affect marine ecosystems

8. CONCLUSIONS

In reviewing the fisheries legal framework in Angola, two cornerstone principles guided the drafting of the sections dealing with the small-scale fisheries sector: the need to simplify the licencing procedures of artisanal fisheries, including the establishment of reserved zones, and the acknowledgement that subsistence fisheries aim at achieving fundamental rights and therefore this group of fishers has an inherent entitlement to fishing rights.

With the publication of the New Law, a more adequate legal regime exists to protect the small-scale fisheries sector. However, as mentioned above, much remains to be done regarding strengthening institutional arrangements, enhancing support of fishing communities with respect to infrastructure and capacity, improving involvement of fishing communities in the decision-making process, especially pertaining to those issues that may have a direct impact on their livelihood and on the sustainable management of the resources.

It is envisaged that the adoption of the co-operatives law will provide an efficient way of promoting the organisation of fisheries communities and, due to its retroactive effects, ensure the harmonisation of the existing ones.

Illiteracy and limited knowledge of markets, as well as ecological issues are the main problems faced by artisanal fishers. Management of conflicts between artisanal fisheries and industrial or semi-industrial or recreational fisheries should be fully regulated. Fishers are also not used to contact with municipal administrators. This could be facilitated by the existence of elected municipal leaders.

Many issues remain unresolved, such as the isolation of the fishing communities and the quality of life of their members far from schools and hospitals. However, to be effectively addressed many of these issues require government action across a number of sectors to ensure alignment with fundamental constitutional rights.

9. RECOMMENDATIONS

For the development of the artisanal fisheries sector, it is essential to find the right balance between the social and economic needs of local fisheries communities and the rational, equitable and sustainable management of coastal and marine resources.

To promote this objective, more protection of the small-scale fisheries communities is required through, for instance, the creation of a financial guarantee scheme against

damages caused by industrial fishing fleets.²⁸ This should be based on a strict liability system with joint liability of the master and owner of the fishing vessels.

It is also recommended that financial resources made available for the sector are properly allocated and managed. An example of this is the Fisheries Partnership Agreement between the Republic of Angola and the European Community (2002-2004), which allocates a total of 1 150 000 EUR for a “programme for the development of non-industrial fishing and support of fishing communities” (Art. 4/5).

Moreover, international legal instruments, such as the Code of Conduct for Responsible Fisheries, can provide important guidance that should be accurately reflected in the national regime.

Co-operation with other countries in the region can assist in further supporting and promoting the sector. An example can be found in the co-management system provided by the Mozambique legal regime, which in spite of needing some reformulation, provides an approach to ensure the involvement of fishing communities in ecological and economic decision-making processes.

It should also be mentioned that there is a need for specific legislation for local co-management committees. The law should also be based on studies of existing local rules and traditional practices that minimise the negative impact of uncontrolled fishing and settle conflicts, for instance over access to and ownership of natural resources, particularly those conflicts between indigenous fishers and migrants.

This should be accompanied by a decentralisation process, empowering the local representations of IPA and DNF, as well as the close collaboration between these two institutions in facilitating and enforcing management plans.

²⁸ A regional example is provided by the Law of São Tomé and Príncipe under the definition of actions to be undertaken by the Government. Also Art. 305 of Venezuela Constitution states: “The State will protect the settlements and communities of artisanal fishermen and fisherwomen, as well as their inland fishing areas and those near to the coastline (as) defined in the law.”

ANNEXURE I
ORGANOGRAM OF MINISTRY OF FISHERIES

