



ISSUE BRIEF

PRINCIPLES OF GOOD GOVERNANCE FOR SECURING EQUITABLE AND SUSTAINABLE FISHERIES

Introduction

Ghana's fisheries are in steep decline, threatening the livelihoods and way of life of millions living in coastal communities, and the food security of the entire nation. Urgent action is required by all stakeholders to avert the imminent collapse of the country's fisheries and a socio-economic crisis.

The Government of Ghana has committed to rebuilding the nation's fisheries through key measures set out in the 2015-2019 Fisheries Management Plan. The national fisheries law framework is also undergoing a revision to ensure emerging challenges are addressed and to bring Ghana's laws into line with international standards. This process offers a crucial opportunity to ensure principles of sustainable management and good governance are enshrined within Ghana's fisheries laws and future policies.

As the Government moves forward with these reforms, guidance may be sought from internationally agreed best practices on the responsible governance of tenure

of fisheries resources, and on securing small-scale fisheries in the context of national food security. These best practices are set out in the following international soft law instruments, which represent the current global consensus on these issues, following extensive consultation and engagement around the final texts:

- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), and
- Voluntary Guidelines on Securing Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines).

This briefing provides an overview of these guidelines and how they can address key challenges facing Ghana's fisheries sector, for the benefit of a more equitable and sustainable fishing industry.



The State of Ghana's Small-Scale Fisheries

Small-scale fisheries are a vital source of income and food for millions of people across West Africa, employing 20 times more people than industrial fleets¹. Ghana has one of the largest and most important small-scale fleets in the region, accounting for 11% of total artisanal canoes in West Africa² and employing over 80% of fishers in the country³. Over two million people, or 10% of the country's total population, depend on fisheries for their livelihoods⁴, with more than 200 coastal villages reliant on fisheries as their primary source of income⁵.

Ghana's small-scale fisheries sector is estimated to generate revenues of US\$341 million annually⁶. However, the sector is in steep decline as a result of years of over-exploitation and open access. The past 10-15 years have seen the average annual income per canoe drop by as much as 40%⁷, compromising the socio-economic development of Ghana's coastal regions. Landings of small pelagic species –the key target of the canoe fishery– have declined to their lowest recorded level since 1980 (Figure 1), despite increased fishing effort (Figure 2). In 2012, annual landings of sardinella by the canoe fishery dropped to just over 17,000 metric tons, from a high of 120,000 metric tons 12 years earlier⁸.

Competing uses of marine and estuarine resources have compounded these issues (see Box 1). Industrial and artisanal fishing vessels compete for space in Ghana's waters, resulting in collisions and the destruction of fishing gear, in some cases within the Inshore Exclusion Zone (IEZ) reserved for artisanal fishers⁹. Industrial trawlers further infringe on the rights of small-scale fishers, adapting fishing gear to illegally target juvenile fish and small pelagics, before transshipping the catches at sea under the radar of the authorities, undermining sustainable fisheries management¹⁰.

Small-scale fishers also face loss of access to landing sites as a result of coastal development, and encroachment by offshore oil development into traditional fishing grounds¹¹ (Figure 3).

The issues facing Ghana's small-scale fisheries are not only critical to sustainable development, but have implications for national food security. Fish accounts for around 60% of animal protein consumed in Ghana¹², with an average per capita consumption of around 25 kg per year¹³. Whereas historically Ghana's fisheries were able to sustain the nutritional needs of the population¹⁴, the country today imports more than half of the fish it consumes, a fact magnified by demography¹⁵. In 2016, at least 370,000 tonnes of small pelagics were imported to feed Ghana's population (Figure 4), with a value of US\$248.3 million (Figure 5). A further 369,400 tonnes of fish were imported in 2016 under general (i.e. non-species specific) commodity categories (Figure 4).



Sections of a canoe destroyed upon collision with an industrial vessel at Senya Beraku © Hen Mpoano

1 Belhabib, D., Greer, K. and Pauly, D. (2017). Trends in industrial and artisanal catch per effort in West African fisheries. *Conservation Letters*. January/February 2018, 11(1), 1–10.

2 *Ibid.*

3 Republic of Ghana (2014). *National plan of action to prevent, deter, and eliminate illegal, unreported, and unregulated fishing*. Available from: ftp://ftp.fao.org/fi/DOCUMENT/IPOAS/national/Ghana/NPOA_IUU.pdf.

4 *Ibid.*

5 Nunoo, F., et al. (2014). Marine fisheries catches in Ghana: historic reconstruction for 1950 to 2010 and current economic impacts. *Reviews in Fisheries Science & Aquaculture*, 22(4), 274-283.

6 Figure for 2010, cited in: Belhabib, D., Sumaila, U. and Pauly, D. (2015). Feeding the poor: Contribution of West African fisheries to employment and food security. *Ocean and Coastal Management*, 111: 72-81.

7 Republic of Ghana Fisheries and Aquaculture Sector Development Plan 2011-2016.

8 USAID/Ghana Sustainable Fisheries Management Project (SFMP). *Issue Brief. Small Pelagic Fishery in Crisis. National and Regional Food Security at Risk*.

9 A study carried out by the Far Dwuma Nkodo project in 2017 counted thousands of cases of industrial vessels destroying nets and canoes of artisanal fishermen at sea. Around 5% of these cases were reported to the Fisheries Commission, and around 1% of the total resulted in compensation for the losses incurred. According to the fishers surveyed, they are often unable to bring claims in such cases due to difficulties identifying the offending vessel.

10 Known as "saiko" fishing, these activities are prohibited under Ghanaian law, yet have increased at major landing sites in recent years. See: http://henmpoano.org/wp-content/uploads/2017/02/Hen-Mpoano_IUU-ISSUE-BRIEF.pdf

11 According to Ghana's Shipping (Protection of Offshore Operations and Assets) Regulations 2012 (LI 2010), fishing is not permitted within a 500-metre radius of oil installations (Section 1(3)).

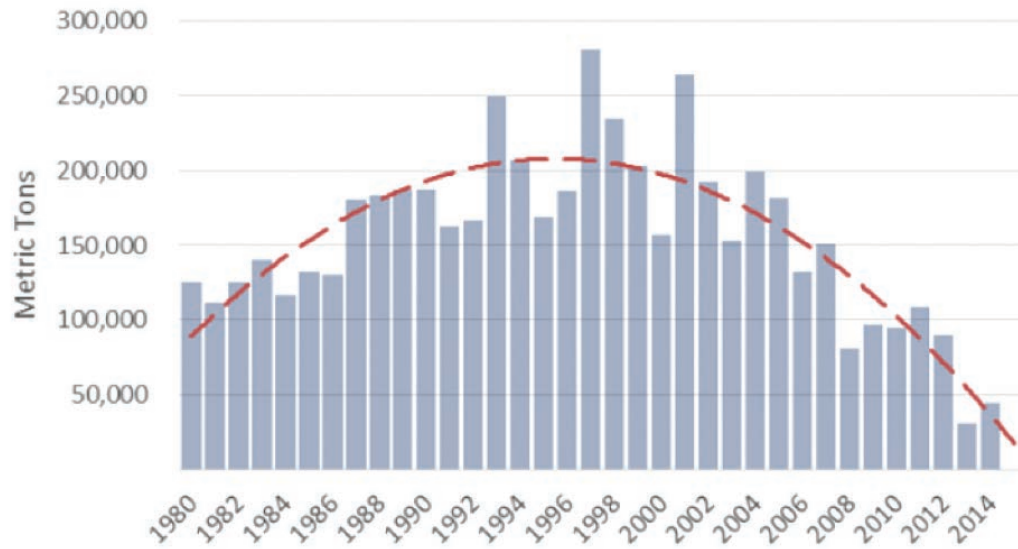
12 Republic of Ghana (2014). *National plan of action to prevent, deter, and eliminate illegal, unreported, and unregulated fishing*. Available from: ftp://ftp.fao.org/fi/DOCUMENT/IPOAS/national/Ghana/NPOA_IUU.pdf.

13 See: <http://www.fao.org/fishery/facp/GHA/en> and http://www.st.nmfs.noaa.gov/st1/fus/fus11/08_percapita2011.pdf.

14 <http://www.fao.org/fishery/facp/GHA/en>

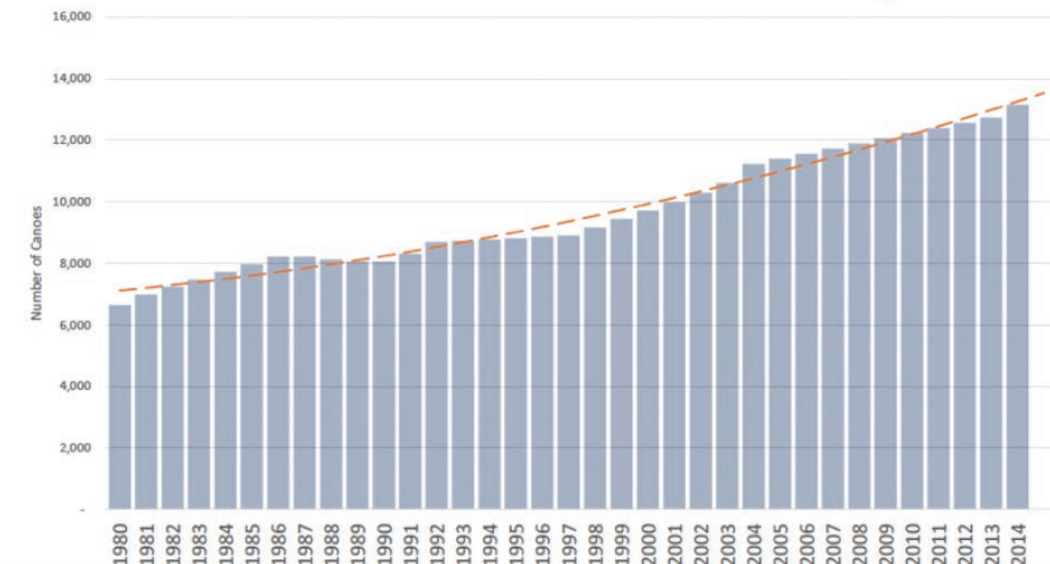
15 In 1980, Ghana's population was 10.8 million, increasing to 21.5 million in 2005, and 28.2 million in 2016 (FAOSTAT).

Figure 1: Small pelagic landings in Ghana



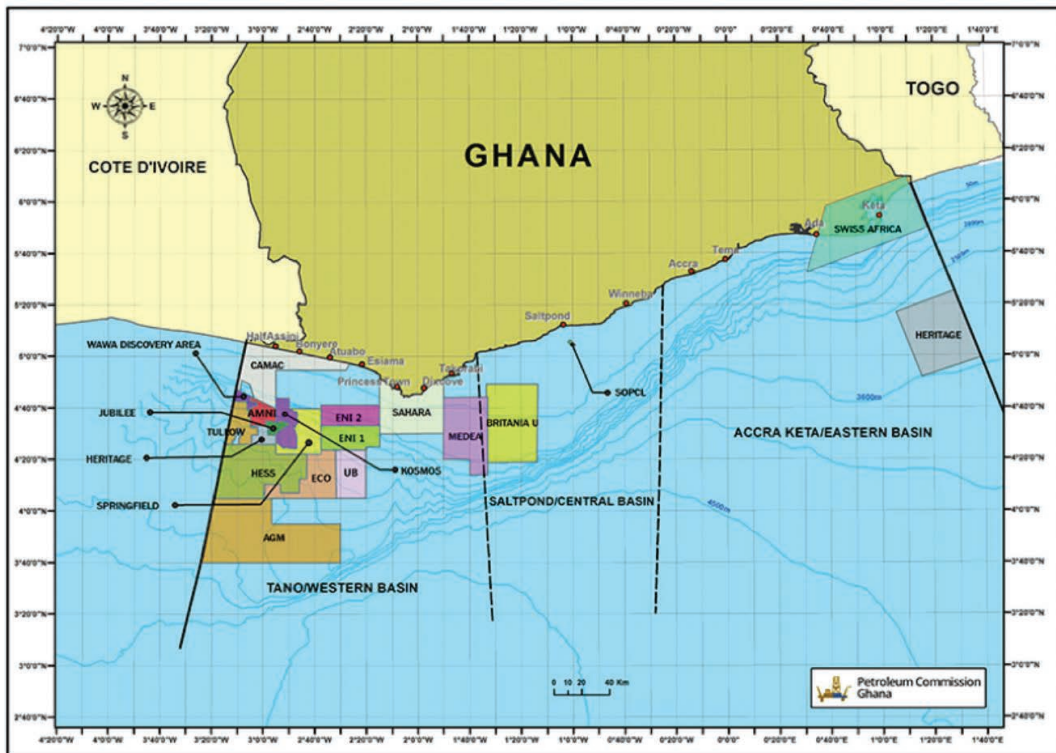
Source: Scientific and Technical Working Group (2015)

Figure 2: Number of canoes operating in Ghana



Source: Scientific and Technical Working Group (2015)

Figure 3: Oil concessions in Ghana's Exclusive Economic Zone (EEZ)¹⁶

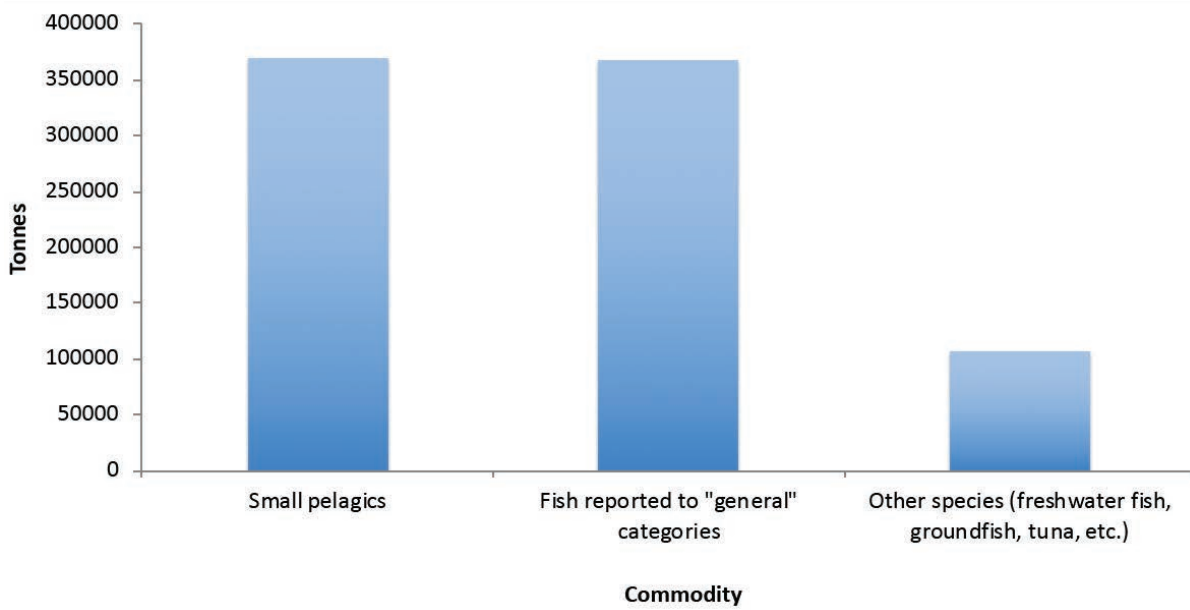


Source: Petroleum Commission website



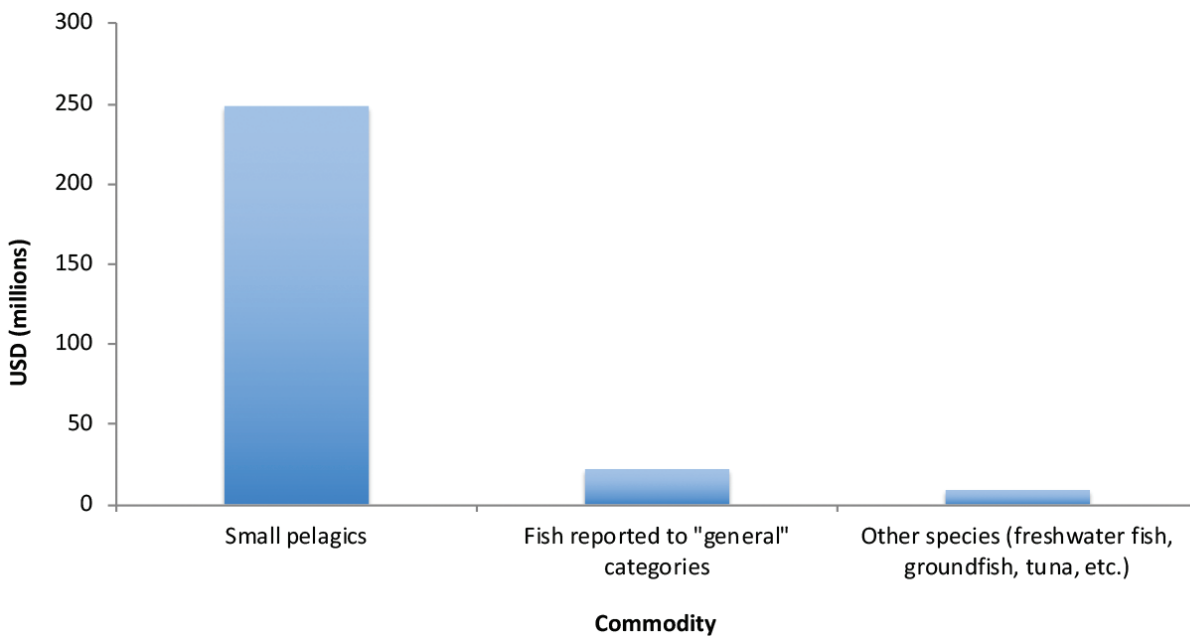
¹⁶ According to the website of the Petroleum Commission, the Offshore Activity Map is a constantly updated record of offshore activities including awarded and relinquished acreages, contractors etc. As at March 2018, the website noted seventeen (17) active Petroleum Agreements, all of which are for offshore concessions mostly in the Western Basin.

Figure 4: Volume of imports of frozen fish reported by Ghana in 2016 by commodity type



Source: UN Comtrade, commodities reported under heading 0303 (Harmonised System of the World Customs Organisation)

Figure 5: Value of imports of frozen fish reported by Ghana in 2016 by commodity type



Source: UN Comtrade, commodities reported under heading 0303 (Harmonised System of the World Customs Organisation)

The clam fishery of the Volta Estuary

As part of the Far Dwuma Nkodo project, EJF and Hen Mpoano are working with clam collectors in the Volta Estuary to document the traditional management arrangements in place to regulate the fishery, and ensure these rights are secured in the context of increasing competition from other users of the estuary.

In Ada, the Volta River clam fishery centres around two main landing sites at the Agorkpo Panya and Kponkpo Panya communities. These landing sites serve around 10 and 80 canoes, respectively. Harvesting of clams is not restricted to the community members, but is also carried out by individuals from other areas, especially the Volta Region. Based on the number of canoes, the number of collectors living in Ada is estimated to be at least 40 at Agorkpo Panya and 320 at Kponkpo Panya.

The clam fishery at Ada involves both male and female harvesters locally known as “miners”. Once harvested, fishers move juvenile clams from the fishing grounds to locations further upstream where they are tended regularly until they reach acceptable sizes. “Farmed” clams are considered to yield larger sizes and profits than those collected from the wild.

Access to the fishery is regulated by well developed, but as yet undocumented, traditional norms and practices.

- Access to the fishing grounds is open six days a week to anyone with equipment and sufficient training. Tuesdays are set aside by local tradition and are usually used to tender culture zones further upstream near Sogakope.
- A three-month closed season is observed on an annual basis from December to March. During this period, fishers depend on clams within the zones populated during the fishing season.
- Establishing “farms” requires the approval of the traditional authorities under whose jurisdiction the area falls. Usually the traditional authorities are paid a percentage of the income made from the clams farmed within their boundaries. Farms may be as large as 18,000 square metres, depending on the resources of the farmer.

The clam fishers of the Volta Estuary face a number of challenges including high start up costs associated with fishing and difficulties accessing loans, as well as the occasional theft of farmed clams and disputes over boundaries. In recent years, the hospitality industry has also begun to encroach on traditional farming areas, fishing grounds and landing sites, necessitating proper zoning of land and estuarine uses to prevent conflict.



Use of the Open Tenure tool to map the boundaries of clam farming areas in the Volta Estuary © Google Earth

One of the activities of the Far Dwuma Nkodo project has been to undertake participatory mapping of the clam farming and fishing grounds using the Open Tenure mapping tool* developed by FAO. For each area mapped, key information about the right holder, including name, gender and use type, has been recorded using the application. This is the first time that the application has been used in a marine fisheries context, providing a promising basis for future work.

* <http://www.flossola.org/index.php/solutions/open-tenure>



Freshly harvested clams in the Volta Estuary © EJF

International Guidelines on Fisheries Tenure Governance and Small-Scale Fisheries

The Voluntary Guidelines on the Responsible Governance of Tenure (VGGT)

The VGGT were unanimously endorsed on 11 May 2012 by the UN Committee on World Food Security. They provide comprehensive guidance to governments, civil society and the private sector on how to promote responsible governance of tenure of fisheries resources, and an authoritative point of reference for states amending or adopting laws on the tenure of land, fisheries and forests.

The concept of “tenure”, in the context of the VGGT, may be defined as the way that land, fisheries and forests are held or owned by individuals, families, companies or groups¹⁷. The rules of tenure define how access is granted to use and control these resources, as well as associated responsibilities and restraints¹⁸. The VGGT are based on the central guiding principle of recognition and respect for all forms of “legitimate tenure rights” whether or not formally recorded, encompassing both:

- Rights that are legitimated or recognised through law, such as ownership rights or licence agreements.
- Informal rights, legitimated through broad social acceptance even without legal recognition, such as customary rights on state land, or traditional fishing grounds not formally recognised by law¹⁹.

The VGGT call on States to:

- Promote laws that provide recognition of informal tenure
- Safeguard legitimate tenure rights against threats and infringements
- Promote and facilitate enjoyment of legitimate tenure rights
- Provide access to justice to deal with infringements of legitimate tenure rights
- Provide prompt, just compensation where tenure rights are taken for public purposes
- Prevent tenure disputes, violent conflicts and corruption.

The VGGT, although non-binding, still hold considerable legal significance, with certain elements reflecting existing international law principles²⁰. For example:

- The provisions on compensation, consultation and free, prior and informed consent (FPIC) are broadly in line with international human rights jurisprudence.
- The provisions on gender equity are consistent with the Convention on the Elimination of all forms of Discrimination Against Women²¹.
- The standards of transparency and government integrity are broadly in line with the United Nations Convention Against Corruption²².

Furthermore, implementation of the VGGT can be a crucial step towards the realisation of the right to adequate food recognised by Article 11 of the International Covenant on Economic, Social and Cultural Rights²³.

The final text of the VGGT is the product of two years of extensive consultations across multiple regions and diverse stakeholder groups, reaching almost 1000 individuals from over 130 countries. Following their endorsement, the VGGT received high-level expressions of support from the United Nations General Assembly, the Rio+20 Conference and the G20, lending the guidelines significant political authority²⁴.

In the five years since the Guidelines were endorsed, they have inspired policy and legal reforms in a number of countries²⁵. See **Box 2** for a case study of VGGT implementation in Sierra Leone.

The Voluntary Guidelines for Securing Small-Scale Fisheries (SSF Guidelines)

The SSF Guidelines were endorsed by the 31st session of the FAO’s Committee on Fisheries (COFI) in 2014 and recognise the key role played by small-scale fisheries in ensuring food security and eradicating poverty. The Guidelines take a human rights-based approach to securing socially, economically and environmentally sustainable small-scale fisheries, building on the Code of Conduct for Responsible Fisheries adopted in 1995²⁶.

17 FAO (2016). *Responsible governance of tenure and the law. A guide for lawyers and other legal service providers*. Governance of Tenure Technical Guide No. 5. FAO, Rome.

18 FAO (2015). *Implementation of the Voluntary Guidelines on the Responsible Governance of Tenure and on Sustainable Small-Scale Fisheries in the Fisheries and Aquaculture Legislation of Sierra Leone: Analytical Assessment Report*. FAO, Rome.

19 FAO (2016). *Responsible governance of tenure and the law. A guide for lawyers and other legal service providers*. Governance of Tenure Technical Guide No. 5. FAO, Rome.

20 *Ibid.*

21 New York, 18 December 1979. Ghana ratified the Convention on 2 January 1986.

22 Adopted by the UN General Assembly on 31 October 2003, by Resolution 58/4. Ghana ratified the Convention on 27 June 2007.

23 The Covenant entered into force on 3 January 1976. Ghana ratified the Covenant in 2000.

24 FAO (2016). *Responsible governance of tenure and the law. A guide for lawyers and other legal service providers*. Governance of Tenure Technical Guide No. 5. FAO, Rome.

25 <http://www.fao.org/tenure/activities/fifth-anniversary/en/>

26 FAO (2015). *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication. At a glance*. FAO, Rome.

The Guidelines provide guidance on the development and implementation of laws and policies relating to small-scale fisheries, including on the responsible governance of tenure and sustainable resource management. They take into account the VGGT, providing fisheries-specific provisions on certain tenure issues addressed in the VGGT at cross-sectoral level²⁷.

In this regard, the SSF Guidelines call on States and other actors to:

- Ensure correct processes and procedures for the identification, recognition, protection, allocation and management of tenure issues in fisheries, with particular attention to vulnerable and marginalised groups.
- Responsibly manage aquatic ecosystems and biodiversity, including through participatory approaches such as co-management and improved cooperation.

The SSF Guidelines also provide guidance on inter-sectoral issues, such as social development; employment and decent working conditions; value chain, post-harvest and trade; gender equality; and disaster risks and climate change²⁸.

The first draft of the Guidelines was developed through a participatory and consultative process that directly involved more than 4,000 representatives of small-scale fishing communities, civil society organisations (CSOs), governments, regional organisations, and other stakeholders from more than 120 countries²⁹.

The Way Forward: Relevance of the Guidelines for Ghana's Fisheries Sector

The VGGT and SSF Guidelines together enshrine principles of human rights and dignity; non-discrimination; respect for culture; gender equality and equity; consultation and participation; transparency and accountability; economic, social and environmental sustainability; and holistic and integrated approaches to resource governance.

These principles are in line with the guiding principles set out in Ghana's 2015-2019 Fisheries Management Plan, namely the equitable distribution of benefits; the use of the precautionary approach in management; participation, public accountability and transparency; the limitation of adverse environmental impacts; and the ecosystem approach to fisheries.

The VGGT and SSF Guidelines can thus provide valuable guidance for the implementation of the Management Plan, informed by internationally agreed best practice. They address aspects of governance relevant to the challenges faced by Ghana's artisanal fishing sector, such as:

- How to approach fishing access agreements and large-scale development, so that the impacts on small-scale fisheries are effectively assessed, taken into account and compensated.
- Managing conflicts between users, including providing guidance on dispute resolution and access to justice.
- How to ensure access to fishing grounds and coastal zones for small-scale fishers is sustained in the face of competing priorities, including through the recording and protection of informal tenure rights.
- Provision of guidance on legal and policy reforms, to provide for participatory, transparent, and inclusive decision-making processes, which involve vulnerable and marginalized groups.
- Provision of a legal basis for co-management, including the role of communities in monitoring, control and surveillance.

Both the VGGT and SSF Guidelines have been subject to extensive consultation worldwide, and reflect a global consensus on responsible tenure governance and securing sustainable small-scale fisheries. Ensuring decision-making is in line with the guidelines can therefore help to secure broad-based support from stakeholders, increase the perceived legitimacy of legislation and promote voluntary compliance with fisheries laws.

The well being and livelihoods of Ghana's coastal communities depend on the secure and equitable access to fisheries resources. Ensuring alignment of fisheries laws and policies with the VGGT and SSF Guidelines would provide a robust basis for achieving this vision, and ensure that Ghana's fisheries continue to provide benefits for generations to come.

27 FAO (2015). *Implementation of the Voluntary Guidelines on the Responsible Governance of Tenure and on Sustainable Small-Scale Fisheries in the Fisheries and Aquaculture Legislation of Sierra Leone: Analytical Assessment Report*. FAO, Rome.

28 FAO (2015). *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication. At a glance*. FAO, Rome.

29 *Ibid.*

Implementation of the VGGT in Sierra Leone

In Sierra Leone, increasing pressure on land, fisheries and forestry resources has led to escalating conflicts over access to natural resources. In response to this challenge, in 2014, the Government of Sierra Leone, with support from FAO and the Government of Germany, launched a project to kick-start national VGGT implementation.

In Sierra Leone, state and non-state actors collaborate across all VGGT relevant sectors (land, fisheries and forests) in an institutional framework to implement the guidelines and improve responsible tenure governance.

At the centre is an inclusive Multi-Stakeholder Platform for dialogue on tenure governance, involving more than 100 stakeholders including traditional leaders, government representatives, civil society, the private sector, academia and international development partners. It convenes annually to present recommendations on tenure governance priorities and to monitor progress, creating a strong accountability mechanism. The framework also consists of a Multi-Stakeholder Technical Working Group, a Steering Committee and an Inter-Ministerial Task Force.

Implementation of the VGGT began with a comprehensive assessment of the land, fisheries and forestry sectors, to identify existing gaps and inconsistencies with VGGT principles. This led to the approval of a new National Land Policy in 2015, which includes the full set of VGGT principles and refers to the VGGT in more than 90 paragraphs. Acts and bills are now screened from a VGGT perspective, including to date: the Fisheries Policy, Fisheries Development Strategy, the Forestry Act, the General Registration Act and the Constitutional Review process.

In 2015, the FAO carried out an assessment of Sierra Leone's fisheries, land and forestry law and policy frameworks for alignment with the VGGT (and, in the case of fisheries, with the SSF Guidelines). The assessment resulted in a number of recommendations to bring the Draft Fisheries Bill into line with the guidelines including:

- Subjecting the right to fish, including of small-scale fishing communities, to the principles applicable to all fisheries, such as sustainable use, the precautionary approach and the ecosystem approach.
- Explicitly including representatives of small-scale fishers, women's groups and indigenous communities in the stakeholder Advisory Body to be consulted on management planning and decision-making regarding resources affecting their livelihoods.
- Facilitating the granting of preferential access to landing sites and onshore facilities for fishers, especially small-scale fishers, who depend on them.
- Ensuring access to traditional fishing grounds is protected and providing for payment of damages if protecting access is not possible.
- Incorporating mandatory hearing and participation of women, small-scale fishers and representative organisations of stakeholder groups who may be affected by fisheries management plans and decisions.
- Establishing co-management where feasible and in the interest of small-scale fisheries, and involving small-scale fishing communities and women in the co-management process.
- Providing mechanisms to facilitate access to justice, including through alternative dispute settlement procedures and compensation schemes, accessible to all resource users.
- Establishing a fund for development and support of small-scale fisheries, including for capacity development and supporting access to justice.
- Establishing a specific obligation to involve potentially affected stakeholders in negotiations of fishing access agreements and other large-scale developments.

Key to the success of VGGT implementation in Sierra Leone has been strong political commitment from the government, strong VGGT champions within CSOs, capacity development and awareness-raising activities to engage all affected stakeholders, and creation of an institutional framework that fosters national ownership and action.

For further information see:

<http://www.fao.org/3/a-i6270e.pdf>

VGGT institutional framework in Sierra Leone







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The **Environmental Justice Foundation (EJF)** and **Hen Mpoano** are working in partnership under the **Far Dwuma Nkodo** project funded by the **European Union**. The project aims to ensure greater environmental sustainability and social equity in Ghana's fishery sector through a reduction of illegal fishing and strengthened capacity to support legal, sustainable and co-managed fisheries.

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