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SUSTAINABLE FISHERIES MANAGEMENT PROJECT (SFMP)

Workshop Report on the Draft Instructions for the Development of Ghana's Fisheries and Aquaculture Bill



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Cover photo: Group picture of participants after the workshop at NAFAG Conference Hall, Tema (Credit: Jerome Deamesi, GITA)

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ACRONYMS

CEO	Chief Executive Officer
FC	Fisheries Commission
GITA	Ghana Industrial Trawlers Association
LI	Legislative Instrument
MoFAD	Ministry of Fisheries and Aquaculture Development
NAFAG	National Fisheries Association of Ghana
NAFPTA	National Fish Processors Traders Association
SFMP	Sustainable Fisheries Management Project
SNV	Netherlands Development Organization

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ACKNOWLEDGEMENTS

SNV would like to acknowledge the support of the GITA members, especially the Acting President Mr. Sammy Quaye for his immense support for the review workshop and also rallying members of GITA for the workshop. SNV would also thank SFMP for the vision of supporting these local NGOs to be self-sustaining and also relevant as regards Ghana's Fisheries issues.

1. BACKGROUND

USAID has committed approximately \$24 million US Dollars to the implementation of the 5 year Ghana Sustainable Fisheries Management Project (SFMP) running from October 2014 to October 2019. The project is tasked with rebuilding marine fisheries stocks and catches through adoption of responsible fishing practices. This important project contributes to the Government of Ghana's fisheries development objectives and USAID's Feed the Future Initiative

As part of its capacity development components, SFMP seeks to support and develop the capacity of various stakeholders in the fishing Sector. This is to ensure that the various stakeholders are actively involved in the sustainable management of the fishery resources by influencing policy making and decision taking.

The SNV Capacity Development Team has been working with local NGOs and other stakeholders in the fisheries sector, assisting in capacity development activities for these stakeholders in the Fisheries sector. The team from SNV, as part of supporting GITA to make input into the draft instructions for the development of Fisheries and Aquaculture Bill supported GITA to organize a review workshop

In 2017, The Ministry of Fisheries and Aquaculture Development (MoFAD) and the Fisheries Commission (FC) initiated the process of reviewing both the Fisheries Act, 2002 (625) and the Fisheries Regulations (L.I. 1968). In 2014, some sections of the Act 625 were amended giving birth to the Fisheries (Amendment) Act, 2014 (Act 880). Again in 2015, some regulations of the Fisheries Regulations, 2010 (L.I. 1968) were also amended resulting in the promulgation of L.I 2217 of 2015.

A crucial issue that was not addressed was that both amendments of the Act and L.I did not cover the entire Fisheries Act 2002 (625) and the Fisheries Regulations (L.I 1968). With the current emerging issues facing the fisheries sector, particularly, the call to reduce excessive pressure on fish stock, and exploit the fisheries resources within biologically acceptable levels, The Ghana Fisheries Management Plan (2014 – 2019) has compelled both the Regulators and industry players to review the existing laws. To this end, MoFAD and the Fisheries Commission in 2017 saw the need to revise the current Fisheries Act, 2002 to among others protect the country's fisheries resources for the purpose of sustainable management of the resources.

As espoused by Honourable Afoley Quaye, Minister of MOFAD (2017), the Fishing law under review comes on the back of high-rise illegal fishing activities coupled with unacceptable fishing methods. She further noted that overuse of unlawful fishing methods and poaching have caused Ghana's fish stock to decline rapidly resulting in the country losing millions of dollars each year. She acknowledged that proposed amendments when approved by Parliament would help sanitize the fishing industry.

The quest for amendments of the Act and L.I also led to the formation of a Drafting Committee which was commissioned to draft instructions for the Fisheries and Aquaculture Bill. The drafting committee has since submitted its Draft instructions for the Fisheries and Aquaculture Bill to the Ministry which copies have been shared with key industry players.

Initial scope of work for the Committee was to review some specific sections of the Fisheries Act. However, MoFAD and the Fisheries Commission have decided to review the current Fisheries Act and L.I entirely and would therefore welcome comments and suggestions on all sections.

1.1 Objectives of the workshop

The main objective of the workshop was to solicit inputs from GITA members and submit same to MoFAD for incorporation into the Draft instructions for the development of a Fisheries and Aquaculture Bill.

1.2 Expected outcome

The expected outcome of this workshop is to ensure that GITA's relevance is recognized by the draft instructions and its issues are incorporated into the Fisheries and Aquaculture Bill yet to be developed.

1.3 Methodology of the meeting

The methodology adopted for the two-day workshop was the use of plenary discussions to peruse the draft instructions for the development of the Fisheries and Aquaculture Bill. To help guide discussions, the draft instructions were reviewed in conjunction with the current Fisheries Act to help guide discussions. PowerPoint presentation was employed to ensure easy perusal of the draft instructions with a rapporteur taking notes of suggested amendments to the draft instructions.

1.4 Venue

The workshop took place at NAFAG Conference Hall, Tema.

1.5 Participants

A total of Thirty-two (32) members of GITA were present for the workshop. This is 53% of the total expected participants of 60. Out of the 32 participants, 27 (84%) were males and 5 (16%) females.

2. WELCOME REMARKS

2.1 Welcome Remarks by Acting GITA President

Mr. Sammy Nii Okai Quaye, the Acting President for GITA welcomed members to the workshop and said they should take this opportunity to improve the draft instructions for the development of the Fisheries and Aquaculture Bill. The Acting President also used the opportunity to thank SNV and SFMP for the support given to GITA in their quest to strengthen the association. He also admonished all participants to participate fully to ensure the outcome of the workshop is positive



Figure 1. Mr. Sammy Nii Okai Quaye addressing members at the Workshop

2.2 Welcome Remarks by SNV

Mrs. Sarah Naa Dedei Agbey, who is responsible for the Capacity building component of the SFMP project, welcomed participants to the two day workshop. She reiterated the fact that Knowledge, wisdom and money were the key drivers of development and no institution, country or individual could develop with money only. She stated that she was happy to see members of GITA here to review the draft instructions. She also added that broad consultations as regards development of Policy documents and Acts was the way to sustainable development and urged members of GITA to do their best to diligently peruse the draft instructions since this was the document to regulate the fishing industry in Ghana if passed by Parliament. She also advised members of GITA to juxtapose the current Act with the draft instructions to see areas of improvement. She ended her submission by wishing

GITA well in their quest to ensuring that issues of GITA are captured in the draft instructions so as to enrich the document.



Figure 2. Mrs. Sarah N.D Agbey addressing members of GITA

3. REVIEW OF THE DRAFT INSTRUCTIONS - DISCUSSIONS

After the opening remarks, discussions on the issues relating to the draft instructions were discussed by GITA members led Mr. Gilbert Sam. The issues raised by members in the draft instructions for consideration have been highlighted in Table 1.



Figure 3. Mr. Gilbert Sam facilitating the Plenary Session

3.1 Proposals tabled by members of GITA for consideration in the draft instructions

Table 1. Proposals tabled by members of GITA for consideration in the draft instructions

PROPOSAL TABLE	DISCUSSIONS	AS IN THE DRAFT INSTRUCTIONS	GITA PROPOSAL
Part One (Under objectives)	The discussion was on 2 (E). There is the need to define the issue of IUU in the appendix of the draft instructions since it could be subjected to varied meanings and interpretations	Not in the draft Instructions	Define what IUU is for common understanding in the draft instructions.
Part One (Guiding and Management Principles)	The discussions were on 3 (1) which talks about the Act being consistent with the Republic's laws, international and Regional obligations relating to conservation and management of fisheries resources in the fishery waters and beyond	3 (1) This Act shall be interpreted and all persons exercising or performing functions, duties or powers conferred or imposed by or under this Act shall act in a manner consistent with the Republic's international and regional obligations relating to conservation and management of fisheries resources in the fishery waters and beyond	The draft instructions as part of the appendix should list relevant international laws relevant to the fisheries sector that have been ratified by Ghana
Part One (Governing Body)	The discussions focused on the composition of the board and it came out evidently clear that NAFAG is not mentioned directly in the draft instructions as it is in the current Act. There were also discussions as to the reasoning behind adding Water research Institute and Ghana Irrigation Development Authority.	a. Chairperson b. One representative each from Ministry of transport, ministry of defence, environment, Water research Institute, Ghana Irrigation Development Authority, The Regional Maritime University, One representative of Fisheries Association, one representative from Aquaculture Associations, One representative from NAFPTA, CEO of the Commission	How the current Fisheries Act has constituted the Governing Body is fine with GITA but we propose that five members that is one representative from each of the Associations under NAFAG, the umbrella body
Part One (Appointment of members of	The discussions focused on the need for the President through the Fisheries Minister to consult with industry	Not in the current Act On 3 – A member nominated by a body as	The President in Consultation with the Fisheries Associations

PROPOSAL TABLE	DISCUSSIONS	AS IN THE DRAFT INSTRUCTIONS	GITA PROPOSAL
the Board of Commissioners)	players to ensure that representation of the industry is effective	its representative on the Board of Commissioners shall cease to be a member on the recommendation of that body, or if that member ceases to be a member of the body concerned or where the President for stated reasons, revokes the appointment of the member by letter addressed to that member	<p>through the Minister appoint members of the Board of Commissioners</p> <p>On 3,it should read– A member nominated by a body and so appointed by the President as its representative on the Board of Commissioners shall cease to be a member on the recommendation of that body, or if that member ceases to be a member of the body concerned or where the President for stated reasons, revokes the appointment of the member by letter addressed to that member</p> <p>To avoid ambiguity or for better clarification, Point 3 should be broken down into (i), (ii) and (iii) to ensure clarity.</p> <p>There should be a clear provision of revocation of membership</p>
Part One (Fisheries Settlement Committee)	The Discussion focused more on having automatic representation on the settlement committee by industry players. This should inform how the settlement committee is constituted.	(1). Without limiting the scope of section 9, the Board of Commissioners shall appoint from its members a Fisheries Settlement Committee composed of not less than three nor more than five members to hear and	There should be a provision that elaborates the automatic membership of industry players on the Fisheries Settlement Committee

PROPOSAL TABLE	DISCUSSIONS	AS IN THE DRAFT INSTRUCTIONS	GITA PROPOSAL
		settle complaints from persons aggrieved in respect of matters arising from or related to the fishing industry	
Part Two (Fisheries Commission)	The discussion was enhancing the functions of the Commission to include the need for quarterly visits to industry players to understand the happenings on the ground	Not in the draft instructions	The Commission should undertake quarterly field visits to industry players to ensure familiarization of activities happening on the ground
Part Three (Fisheries Management and Development)	The issue of “no commercial fishing” in the fishery waters if a fishery management plan has not been drawn within two years of the Act coming into existence should be scrapped. The issue was the fact that those engaged in commercial fishing were not responsible for developing the fishery management plan and that regard should not suffer in the event the management plan is not drawn within two years.	4 reads “No commercial fishing in the waters of the Republic shall be permitted unless there is a Fishery Management Plan developed in accordance with this section for the fishery within two (2) years of the coming into force of this Act	All these sections should be taken out.
Part three (Fisheries Management and Development)	The discussions were on the revocation of Fisheries Management Plan by the Chief Executive Officer of the Commission which makes him too powerful. Also clause six should be further elaborated to include consultations with industry players before a revocation of Fishery Management plan is done.	6. The Chief Executive Officer may after such consultation as he or she considers appropriate in the circumstances	The Chief Executive Officer may after such consultation as he or she considers appropriate in the circumstances with the Board of Commissioners amend or revoke a Fisheries Management Plan. It has been suggested that the Act should clearly state that before penalties such as revocation or withdrawal of license is done, the affected company should be called for a hearing

PROPOSAL TABLE	DISCUSSIONS	AS IN THE DRAFT INSTRUCTIONS	GITA PROPOSAL
			Also for the sake of transparency, the Act should be clear by setting up established procedures for withdrawal of revocation of licence
Part three (Fisheries Management and Development)	There were discussions on the need to compensate affected companies whose license have been revoked since it is believed the business is a source of livelihood and it is appropriate to compensate affected companies. This should be a clause before 8 (6) under the fisheries management plan. All decisions to be taken by the Chief Executive Officer as stipulated in the draft instructions should be in consultation with the Board of Commissioner	None	There should be a provision under the fisheries management plan which talks about procedures or mechanisms such as being invited and given for a hearing before any decision is taken. There is the need to have a provision to ensure that affected companies are compensated, and an exact percentage of the amount paid for the license should be clear in the Act.
Part three (Fisheries Management and Development)	There were discussions on having an advisory committee by the Chief Executive Officer. The modalities for selection of the advisory committee is not clear in the drafting instructions and this may not augur well for the CEO especially if he is an industry player.	7 reads “Each Fishery Management Plan shall establish an advisory committee to advise the Commission the implementation and review of the Plan. The composition and operation of each advisory committee shall be determined by the Chief Executives”	There is the need for clear modalities on the constitution of advisory committees in the drafting instructions
Part three (Fisheries Treaties and Commercial access agreement and implementation)	This section of the drafting instructions should be revised totally since it gives too much powers to the CEO of the commission which may be very dangerous to the industry. It does not behave	11 (1) The Commission shall promptly implement any international conservation and management measure the	This section of the draft instructions should be revised wholly. It was also suggested that it

PROPOSAL TABLE	DISCUSSIONS	AS IN THE DRAFT INSTRUCTIONS	GITA PROPOSAL
of international obligations)	on the CEO to suspend and revoke licenses without recourse to Board of Commissioners and these provisions should be reviewed totally.	<p>Republic is bound by under international law.</p> <p>11 (3) The Chief Executive Officer may modify any license, permit or authorization granted under this Act or any regulations made under this Act, or the terms and conditions attached to such licence , permit or authorization to promptly give effect to the Republic’s international conservation and management obligations</p> <p>11 (4) The Chief Executive Officer may suspend or cancel any licence, permit or authorization granted under this Act or regulations made under this Act, if it is necessary to do so in order to give effect to the Republic’s international conservation and management obligations or other requirements prescribed in regulations made under this Act.</p>	should be mentioned clearly in the Act that “All treaties, agreements, etc. signed by the Minister should be ratified by the Parliament of the Republic of Ghana before enforcement and compliance
Part 4 (Fishing and related activities in the fishery waters)	The discussion focused mainly on the powers of the Minister to grant permits and licenses. The consensus mainly was the need for the commission to grant license rather than the minister and it was agreed that the commission should be strengthened to perform such functions. This should be the function of the commission rather than the minister.	<p>16. (1) The Minister may make regulations as necessary to provide for fishing and related activities in the fishery waters.</p> <p>2) Regulations made under this section may provide for but not limited to the following</p> <p>a) Issuance of authorization, permit or license for fishing and related activities.</p>	16 (1) The CEO in consultation with the Board of Commissioners make regulations as necessary to provide for fishing and related activities in the fishery waters.
Part Five (Fishing and Related	The discussion centered mostly on the powers of the chief Executive Officer as	17 (1) states “ No person shall use a Ghanaian fishing vessel for fishing	

PROPOSAL TABLE	DISCUSSIONS	AS IN THE DRAFT INSTRUCTIONS	GITA PROPOSAL
Activities beyond the fishery waters)	regards the powers conferred by the draft instructions is worrying. The suggestion was to have the Commission impose the fines and sanctions in consultation with the Board of Commissioners. Also discussions were on the need to reduce the fine amounts since they appear rather absurd and unrealistic and it should be quoted in Ghana cedis.	or related activities in areas beyond fishery waters; i. Except in accordance with a valid and applicable authorization issued by the CEO pursuant to regulations made under this Act	
Part Six (Guiding principles for Aquaculture)	The discussions focused more on having a provision in the draft instructions that states foreigners who desire to engage in aquaculture should ensure local partnership. There should also be a provision that states clearly the sharing arrangement. The foreigner gets 60% while the local partner gets 40%.	None	Provision in the draft instructions that states that foreigners who wish to engage in aquaculture should ensure local partnership with clear sharing arrangements of 60% for the foreigner and 40% for the local partner.
Part Seven (Trade in aquaculture products)	The discussion was on the regulations with regard to trade. The issue was on the need for the draft instructions to consider stating clearly in 30 (1) that the Minister should consult the Board of Commissioners before making regulations in support of trade in fish and aquaculture products	30 (1) The Minister on the recommendation of the Chief Executive Officer may make regulations in support of the trade in fish and aquaculture products	30 (1) The Minister on the recommendation of the Board of Commissioners may make regulations in support of the trade in fish and aquaculture products
Part Nine (Prohibitions, penalties and offences)	The discussions focused broadly on the need to reduce the fines since it was not realistic in our opinion. For civil offences, an amount of one million dollars we think is way above the ordinary business man and should be reduced drastically. The fine should be quoted in Ghana cedis and not USD	42 (1) Prohibitions against Part Four and regulations there to a) A fine not less than (one million United States Dollars 44c) Use of abusive or threatening language to an authorised officer or other person exercising a	The fine under civil penalties in United States Dollars is unrealistic and it should be quoted in Ghana cedis. Secondly, abusive or threatening words should not

PROPOSAL TABLE	DISCUSSIONS	AS IN THE DRAFT INSTRUCTIONS	GITA PROPOSAL
	On the issue of criminal penalties, GITA thinks 44 (c) which talks about the use of abusive or threatening language to an authorised officer should not attract criminal penalties.	power or performing a function under this act or regulations made pursuant to this Act	warrant criminal penalties.
Miscellaneous	The discussions focused mainly on the need to expand the key words to cover such words that needs explanation in the drafting instructions to avoid ambiguity		