

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

**UNCTAD**



# OCEAN GOVERNANCE IN COSTA RICA

An Overview on the Legal  
and Institutional Framework  
in Ocean Affairs



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**UNCTAD/DITC/TED/INF/2018/4**

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## Acknowledgements

This publication was produced by Mariamalia Rodríguez Chaves, UNCTAD and DOALOS Consultant. The author wishes to acknowledge the contributions of UNCTAD, DOALOS and the Government of Costa Rica in the preparation of the present report. This document has not been formally edited.

Desktop formatting was done by Mr Rafe Dent of UNCTAD.

12 February 2019

## Acronyms and abbreviations

AACUE	Association Agreement between Central America and the European Union
AJDIP	Agreements adopted by its Board of Directors.
ALADI	Latin American Integration Association.
AMPR	Marine Areas for Responsible Fishing.
AMUM	Multiple Use Marine Areas.
AyA	Water and Sewage Institute of Costa Rica.
CAFTA	Central America – United States and Dominican Republic.
CARICOM	Caribbean Community.
CBD	Convention on Biological Diversity.
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora.
CLC	International Convention on Civil Liability for Oil Pollution Damage.
CLCS	Commission on the Limits of the Continental Shelf.
CMS	Convention on Migratory Species.
COMEX	Ministry of Foreign Trade.
CONAMAR	National Council for Ocean Development.
CST	Certificate for Tourism Sustainability.
DIPOA	Food Safety Directorate of Animal Products.
EEZ	Exclusive Economic Zone.
EFTA	European Free Trade Association.
EIA	Environmental Impact Assessment.
FTA	Free Trade Agreements.
IATTC	Inter-American Tropical Tuna Commission.
ICJ	International Court of Justice.
ICRW	International Convention for the Regulation of Whaling.
ICT	Costa Rica Tourism Board.
INA	National Apprenticeship Institute.
INCOP	Costa Rican Institute of Ports of the Pacific.
INCOPESCA	Institute of Fisheries and Aquaculture.
INVU	National Institute of Housing and Urban Development.
JAPDEVA	Board of Port Administration and Economic Development of the Atlantic Coast
MAG	Ministry of Agriculture and Livestock.
MEIC	Ministry of Economy, Industry and Commerce.
MINAE	Ministry of Environment and Energy.
MINSA	Ministry of Health.
MOPT	Ministry of Public Works and Transportation.
PSMA	FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.
RFMO	Regional Fisheries Management Organization.
SENASA	National Service of Animal Health.
SEPLASA	Sectoral Planning Secretariat of Environment, Energy, Ocean and Territorial Planning.
SETENA	National Environmental Technical Secretariat.
SINAC	National System of Conservation Areas.
SNG	National Coastguard Service.
TED	Turtle Excluder Device.
UNCLOS	United Nations Convention on the Law of the Sea.
UNCTAD	United Nations Conference on Trade and Development
UNFSA	Fish Stocks Agreement.
WTO	World Trade Organization.
ZMT	Maritime Terrestrial Zone.

## INTRODUCTION

The present Report<sup>1</sup> is prepared within the framework of the project “*Evidence-based and policy coherent oceans economy and trade strategies*” (Project).<sup>2</sup> The Report provides an overview of international and national legal instruments for ocean governance within the Costa Rican context, as well as the competent national institutions, relevant to oceans economy and trade strategies that will be developed in subsequent phases of the Project.

Ocean governance is generally understood to encompass the legal and institutional frameworks for the management of ocean space, activities and marine resources, with the view to maintaining the ocean health, productivity, and resilience.

Section 1 of the Report provides an overview of relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS)<sup>3</sup> and how these have been implemented within Costa Rica.

Section 2 addresses a general overview of the institutional framework in Costa Rica, and the main international and national provisions on the conservation and sustainable use of marine living resources. In this regard, it should be pointed out that international instruments are incorporated in the Costa Rican national legal system once the respective instrument is ratified or approved by the Parliament through a specific law or adhered by the Executive Power through an Executive Decree.

Thereafter, section 3 addresses the four subsectors identified as national priorities in the Project, namely:

1. Sustainable marine fisheries (all fish but tuna);
2. Sustainable wild tuna harvesting/fishing sector (only tuna species);
3. Sustainable crustacean aquaculture; and
4. Seafood manufacturing sector.

In the final part of the Report (section 4), an overview of specific cross-cutting legal frameworks is provided, namely: regulations on trade, maritime terrestrial zone, navigation, water pollution, and marine tourism, as well as additional institutions, such as the judicial branch and the national apprenticeship institute.

In addition, trade linkages are flagged throughout the different sections in the Report.

# 1. BRIEF BACKGROUND: UNCLOS AND OCEAN GOVERNANCE IN COSTA RICA

UNCLOS establishes the legal order for the seas and oceans. It is the principal legal instrument with rules governing all aspects of oceans, including provisions on the delimitation of maritime zones; the conservation and sustainable use of the oceans and their resources; the protection of the marine environment; and the settlement of disputes relating to ocean matters.

Costa Rica ratified UNCLOS through Law No. 7291 on the 3 August 1992, and some of its provisions have been assimilated and developed through the national legal framework, as will be seen throughout this Report.

## 1.1. Sovereignty and sovereign rights of Costa Rica in its maritime zones

Within the UNCLOS framework, coastal States may determine the **baselines** from which the breadth of the territorial sea<sup>4</sup> is established. In the case of the breadth of the territorial sea of Costa Rica in the Pacific Ocean, the country’s baselines were established through Executive Decree No. 18.581-RE. However, the width of the territorial sea is currently under revision by Parliament in an effort to ensure that they comply with UNCLOS, in particular, its provisions on the use of normal and straight baselines.<sup>5</sup>

UNCLOS also sets the legal regime applicable in the different **maritime zones**, namely: the territorial sea, the contiguous zone, the exclusive economic zone, the continental shelf, which are areas within national jurisdiction; and the high seas and the Area, which are areas beyond national jurisdiction, and therefore, the

**Map 1. Costa Rica maritime area**



Source: National Geographic Institute - National Registry. Edition 1 IGNCR. 2018

rules that Costa Rica shall follow and implement as a party to the Convention.

Furthermore, in harmony with UNCLOS, Article 6 of Costa Rica's Political Constitution establishes that the country exercises sovereignty over its territorial sea within a distance of twelve nautical miles from its baselines.<sup>6</sup> In addition, the country exercises a special jurisdiction in its Exclusive Economic Zone, in a similar sense as the sovereign rights referred in UNCLOS, for the purpose of exploring, exploiting, conserving and managing the natural resources of waters superjacent to the seabed and of the seabed and its subsoil in accordance with International Law.<sup>7</sup> In line with UNCLOS provisions on maritime zones, the Fisheries and Aquaculture Law No. 8436 reinforces that Costa Rica exercises sovereignty over the marine areas existing in the internal waters, the territorial sea, and sovereign rights in the EEZ.<sup>8</sup>

Furthermore, Costa Rica has made a preliminary submission to the Commission on the Limits of the Continental Shelf (CLCS) in relation to the outer limits of its continental shelf beyond 200 miles on the Pacific coast.<sup>9</sup>

Regarding **maritime boundaries**, Costa Rica has established boundaries with neighbouring countries such as Panama,<sup>10</sup> Colombia,<sup>11</sup> and Ecuador.<sup>12</sup> Most recently, maritime boundaries with Nicaragua<sup>13</sup> were established by a judgment delivered by the International Court of Justice (ICJ) on February 2018. The judgment established clarity to both countries in relation to their EEZ and continental shelf, and therefore, on their respective rights and obligations.

## **1.2. Protection and preservation of the marine environment**

UNCLOS sets the general obligation to protect and

preserve the marine environment.<sup>14</sup> It also includes more specific provisions on the prevention, reduction and control of pollution of the marine environment, including rare or fragile ecosystems and the habitat of depleted, threatened or endangered species;<sup>15</sup> the duty not to transfer damage or hazards<sup>16</sup> or to use technologies or introduce alien species that may cause significant and harmful changes into the marine environment.<sup>17</sup>

UNCLOS also contains provisions related to the adoption of laws and regulations to prevent, reduce and control pollution from land-based sources;<sup>18</sup> the obligation of States to ensure compliance with international rules and standards, and their national laws, to vessels flying their flags;<sup>19</sup> and enforcement measures applied by port and coastal States (articles 218 and 220, respectively). It is important to note that UNCLOS provisions are without prejudice to the obligations under other conventions on the protection and preservation of the marine environment while such obligations assumed by States under other conventions should be carried out in a manner consistent with the general principles and objectives of UNCLOS.<sup>20</sup>

Costa Rica has incorporated these UNCLOS provisions into its national legal framework through the Organic Law of the Environment No. 7554, in its Chapter VIII,<sup>21</sup> which contains regulations on the protection of the marine environment; as well as the Regulation to the Biodiversity Law,<sup>22</sup> which provides for norms on protected areas, including marine management categories.

Other relevant topics addressed by UNCLOS such as navigation, pollution and security have been implemented through domestic regulations and will be addressed under the relevant section of the Report.



## 2. APPLICABLE LEGAL FRAMEWORKS ON THE CONSERVATION AND SUSTAINABLE USE OF MARINE LIVING RESOURCES IN COSTA RICA

Many instruments shape the legal framework for the conservation and sustainable use of marine living resources in Costa Rica. With the view to contextualize the four specific sectors under review in this Report in section 3, the following paragraphs set out the international and national legal framework, with a particular focus on environmental and fishing provisions, and describe Costa Rica's competent national institutions.

### 2.1. International legal framework

#### 2.1.1. UNCLOS

UNCLOS addresses the conservation and management of living resources, and grants the coastal States the right to determine the allowable catch of such resources in their EEZ.<sup>23</sup> Within this maritime zone, Costa Rica has sovereign rights to explore and exploit, conserve and manage these natural resources, with due regard to the rights and duties of other States.<sup>24</sup>

States are required to consider the best scientific evidence to ensure proper measures for the conservation, management and restoration of marine living resources. For example, the capacity to harvest living resources in EEZs should be determined by each State; and in the case that a country does not have the capacity to harvest the entire allowable catch, it shall give other States access to the surplus of such catch through agreements or other arrangements.<sup>25</sup> This specific situation is exemplified in the Costa Rican tuna fisheries, as the country does not have a purse-seine tuna fleet. Consequently, foreign vessels are authorized through licenses to fish tuna stocks in the Costa Rican EEZ (see section 3.2 below). In this regard, it should be noted that nationals of other States fishing in the EEZ of a coastal State have to comply with the conservation measures, laws and regulations of the coastal State.<sup>26</sup>

These laws and regulations must be consistent with UNCLOS and may relate to: licensing of fishers, fishing

vessels and equipment; establishment of targeted species; catch quotas; seasons and areas of fishing; fishing gears; age and size of fish and other species; information required of fishing vessels; observers on board; landing of catch in ports of the coastal State; and enforcement procedures, among others<sup>27</sup> (see Section 3).

Other relevant national legal instruments which have incorporated additional provisions on the conservation and management of living resources include, *inter alia*: the Biodiversity Law No. 7788,<sup>28</sup> which has the objective to conserve the biodiversity and the sustainable use of natural resources; the Wildlife Conservation Law No. 7317,<sup>29</sup> which includes provisions on conservation and management of wildlife; and the Fisheries and Aquaculture Law No. 8436 that develops regulations on the sustainable use of hydrobiological resources.<sup>30</sup>

#### 2.1.2. The 1995 Fish Stocks Agreement

The United Nations Agreement for the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (Fish Stocks Agreement or UNFSA)<sup>31</sup> aims to ensure the long-term conservation and sustainable use of straddling or highly migratory fish stocks.<sup>32</sup> The geographical scope of this instrument encompasses areas within national jurisdiction of States Parties and the high seas.<sup>33</sup> The UNFSA was ratified by Costa Rica through Law No. 8059 on December 12, 2000. Within this instrument, Costa Rica, as a coastal and a flag State, has several duties,<sup>34</sup> and is required to fully cooperate with subregional and regional conservation and management measures to guarantee long-term sustainability of straddling and highly migratory fish stocks.<sup>35</sup> This Agreement is of particular relevance to ocean-based economic sectors 1 and 2 considered in section 3 below. The UNFSA also has trade linkages, as it covers fisheries management of species considered fishery commodities in the international markets.<sup>36</sup>

#### 2.1.3. The Food And Agriculture Organization (FAO) Port State Measures Agreement

The objective of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA)<sup>37</sup> is to ensure the long-term conservation and sustainable use of living marine resources through the implementation

of effective port State measures.<sup>38</sup> Costa Rica ratified this instrument through the Executive Decree No. 39299-REE on October 26, 2015, and is obliged to implement procedures such as the inspection of foreign vessels in its ports. Another relevant instrument is the FAO International Plan of Action to Deter, Prevent and Eliminate Illegal, Unreported and Unregulated Fishing (IUU) Fishing, which is intended to further develop some of the provisions of the PSMA. These instruments apply to the EEZ of States parties and to vessels flying their flag. They are relevant to the ocean-based economic sectors considered in section 3 below, namely the sustainable marine fisheries sector and the sustainable wild tuna harvesting/fishing sector, due to the controls and procedures applicable to fish landings and fishing vessels. This instrument has trade linkages as port inspectors shall review trade documents and also documents related to marine species included in CITES Annexes.<sup>39</sup>

#### **2.1.4. The FAO Code of Conduct for Responsible Fisheries**

This Code of Conduct stipulates principles<sup>40</sup> and standards<sup>41</sup> for the conservation, management and development of living aquatic resources, including the capture, processing and trading activities, as well as aquaculture, research and the integration of fisheries into coastal area management.<sup>42</sup> Costa Rica adopted this Code through Executive Decree No. 27919-MAG on June 14, 1999. Even though this instrument is not legally binding, it provides guidance for domestic fisheries management. Due to its wide scope, “directed toward members and non- members of FAO, fishing entities, sub regional, regional and global organizations, whether governmental or non-governmental, and all persons concerned with the conservation of fishery resources and management and development of fisheries;”<sup>43</sup> the Code should be taken into account in discussions on the four ocean-based economic sectors. This Code of Conduct has a trade linkage, as it refers to the different phases of fishing, including post harvesting and commercialization<sup>44</sup> of marine products.

#### **2.1.5. The Inter-American Tropical Tuna Commission - Antigua Convention (IATTC)**

The Convention for the Strengthening of the Inter-American Tropical Tuna Commission (IATTC) established by the 1949 Convention<sup>45</sup> between the United States of America and the Republic of Costa

Rica, also known as the Antigua Convention,<sup>46</sup> was ratified by Costa Rica<sup>47</sup> in 2003. The scope of the Antigua Convention covers fishing activities related to tuna and tuna-like species, and other marine species, such as mahi mahi and sharks, caught by vessels fishing in the Convention’s area.<sup>48</sup> This instrument seeks to ensure the long-term conservation and sustainable use of such fish stocks,<sup>49</sup> and therefore the IATTC has developed conservation measures for different migratory species.<sup>50</sup>

In the context of the Project, it is important to note that the IATTC is the competent Regional Fisheries Management Organization (RFMO) in the Eastern Tropical Pacific, and even though it was created before the UNFSA entered into force, it follows its legal framework and generally includes key provisions set out therein. Similarly, and in accomplishing article 13 of UNFSA, Costa Rica is called to cooperate to strengthen existing regional fisheries management organizations with the goal to improve the implementation of measures for straddling and highly migratory fish stocks. In this regard, legally binding management measures established by the IATTC must be complied with by the Costa Rican national long-liners fishing fleet involved in the sustainable wild tuna harvesting/fishing sector; and enforced by the relevant Costa Rican competent authorities, namely INCOPECSA and the National Coastguard Service.<sup>51</sup> This instrument has a trade linkage, as it recognizes the importance of fishing highly migratory fish stocks as a source of food, employment and economic benefits.<sup>52</sup>

#### **2.1.6. Other fisheries and aquaculture organizations**

Costa Rica is a member of other regional fisheries and aquaculture organizations such as the **Western Central Atlantic Fishery Commission**, which promotes the conservation, management and development of the living marine resources of the area of competence of the Commission.<sup>53</sup> Additionally, Costa Rica is member of the **Latin American Organization for Fisheries Development**,<sup>54</sup> and the **Commission on Inland Fisheries and Aquaculture for Latin America and the Caribbean**,<sup>55</sup> both having the goal to promote regional cooperation, the responsible use of inland fishery resources, and to support the development of aquaculture.

#### **2.1.7. Convention On Biological Diversity**

The Convention on Biological Diversity (CBD)<sup>56</sup> provides an over-arching conservation framework, and applies

both to terrestrial and marine biological biodiversity within national jurisdiction, and in case of processes and activities carried out under its jurisdiction or control, within or beyond national jurisdiction.<sup>57</sup> The CBD is a normative basis for the principle of sovereignty of States to exploit their natural resources.<sup>58</sup> Costa Rica is party to this Convention,<sup>59</sup> and therefore, has rights and obligations, such as the adoption of measures for conservation and sustainable use of biodiversity;<sup>60</sup> the establishment of *in situ* conservation measures such as protected areas;<sup>61</sup> the undertaking of environmental impact assessments;<sup>62</sup> the development of national biodiversity strategies; among others. Within the Costa Rican national legal framework, the Biodiversity Law No. 7788 brings the provisions of the CBD into the domestic legal framework.

#### **2.1.8. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)**

CITES<sup>63</sup> aims to control the import and export of species and related products. Costa Rica is party to this Convention,<sup>64</sup> and as a binding instrument, the country must not allow trade (including export, re-export, import and introduction from the sea)<sup>65</sup> of species included in the Appendices, except in accordance with the provisions of this Convention.<sup>66</sup> It is important to note that the implementation of CITES depends on good State practice to ensure an effective regime, and therefore, depends on national regulatory authorities to give effect to its provisions. Accordingly, Costa Rica has developed additional national provisions to comply with CITES, such as the Wildlife Conservation Law and its Regulation, Executive Decree No. 40548-MINAE. Additionally, the AJDIP/235-2017, as well as the Executive Decrees No. 40379-MINAE-MAG and No. 40636-MAG designated INCOPESCA as the CITES scientific authority in Costa Rica, and the National Service of Animal Health as CITES administrative authority.<sup>67</sup> Trade linkages could be identified in correlation to specific shark species listed under Annex II that are captured and landed by the Costa Rican long liner fishing fleet, such as the hammerhead sharks<sup>68</sup> (*Sphyrna lewini*) and mobulid rays (*Manta* spp), among others.<sup>69</sup>

#### **2.1.9. Convention on Migratory Species (CMS)**

CMS<sup>70</sup> aims to protect migratory species, and addresses management and conservation measures through an Appendix approach. The geographical

scope on this instrument includes areas within and beyond national jurisdiction, and the utilization of Range States as a figure to support a comprehensive approach on the conservation of migratory species. Costa Rica is a party to this Convention,<sup>71</sup> and therefore it has to comply with the mandatory obligations listed in Appendix I (endangered migratory species) and the Agreements established under Appendix II (migratory species subject of Agreements). Costa Rica, as well as the other Parties, is also required to report on their flag vessels when they interact with species covered by CMS.<sup>72</sup> Moreover, within the framework of CMS, Costa Rica has signed a non-legally binding memorandum of understanding on the conservation of migratory sharks in 2010.<sup>73</sup> This Memorandum of Understanding (MoU) seeks to protect critical habitats, migration corridors for sharks and rays; as well as to enhance national, regional and international cooperation.<sup>74</sup> Parties to this MoU, such as Costa Rica, are called to ensure that directed and non-directed fisheries for sharks are sustainable, and address shark finning, among other actions.<sup>75</sup> On the latter, Costa Rica has advanced in developing regulations to prevent and sanction shark finning (see section 3.1 below). Within the context of this Project, it may be important to note that some of the species included in this MoU (e.g. thresher sharks, scalloped hammerhead, great hammerhead, silky shark) have socio-economic value and are targeted by the long-line fishing fleet. Likewise, some of these species are also listed in CITES Appendices.

#### **2.1.10. International Convention for the Regulation of Whaling**

The International Convention for the Regulation of Whaling<sup>76</sup> (ICRW) was adopted to protect whales and avoid over-fishing,<sup>77</sup> and was ratified by Costa Rica through Law No. 6591 on July 24, 1981. It is important to note that in the case of Costa Rica, whale watching is a significant coastal tourism activity, and notably the country has established a national whale sanctuary in its EEZ.<sup>78</sup>

#### **2.1.11. Convention on Wetlands of International Importance Especially as Waterfowl Habitat (RAMSAR Convention)**

The Ramsar Convention<sup>79</sup> was ratified by Costa Rica through Law No. 7224 on May 8, 1991. Its main objective is to promote the conservation of wetlands, and State parties are called-upon to create natural reserves in wetlands and adequately address

their management and conservation. Wetlands and mangroves are key ecosystems that support a diversity of coastal and marine species, being of relevance for some of the species identified in sector 1 of the Project, as they use these ecosystems during some stages of their live cycles, such as nurseries, feeding and breeding grounds. Therefore the implementation of the Ramsar Convention provisions is key to ensuring the long term conservation of wetlands and the species they support.<sup>80</sup> In Costa Rica, different legal instruments at the national level cover the conservation of these ecosystems, with the main legislation being the Wildlife Conservation Law No. 7317, the Forestry Law No. 7575, the Biodiversity Law No. 7788 and the Organic Environment Law No. 7554.

#### **2.1.12. Convention Concerning the Protection of the World Cultural and Natural Heritage**

The 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage<sup>81</sup> establishes a framework for the international community to cooperate in the protection of the cultural and natural heritage of outstanding universal value.<sup>82</sup> Costa Rica ratified this Convention by Law No. 5980 on November 16, 1976, and as a binding instrument, the country has the obligation to adopt general policies to integrate the protection of that heritage into comprehensive planning programs,<sup>83</sup> develop scientific and technical studies,<sup>84</sup> and take appropriate legal, scientific, technical, administrative and financial measures for the identification and conservation of this heritage.<sup>85</sup> In Costa Rica, two sites are listed in the UNESCO World Heritage List: a) Área de Conservación Guanacaste,<sup>86</sup> where fishing restrictions are applied according to the management plans of the respective protected areas established within this Conservation Area; and b) Cocos Island National Park, where fishing activities are completely prohibited.

#### **2.1.13. Inter-American Convention for the Protection and Conservation of Sea Turtles**

The main objective of this Convention<sup>87</sup> is to promote the protection, conservation and recovery of sea turtle populations and of the habitats on which they depend.<sup>88</sup> Conservation measures within the Convention include the prohibition of intentional capture, killing, and domestic trade of sea turtles, their eggs, parts or products;<sup>89</sup> the use of turtle excluder

devices;<sup>90</sup> and compliance with CITES obligations;<sup>91</sup> among others. In Costa Rica, the Fisheries and Aquaculture Law,<sup>92</sup> the Wildlife Conservation Law,<sup>93</sup> and further legal provisions developed by INCOPESCA and MINAE have promulgated these prohibitions and their respective sanctions into the domestic legal framework.

#### **2.1.14. Convention for Cooperation in the Protection and Sustainable Development of Marine and Coastal Environment of the North-East Pacific (The North-East Pacific Regional Seas Program)**

The Convention for Cooperation in the Protection and Sustainable Development of the Marine and Coastal Environment of the North-East Pacific<sup>94</sup> is the legal backbone of the Regional Seas Program of the North-East Pacific, however it has not yet entered into force. Nevertheless, the Convention aims to “establish a regional cooperation framework to encourage and facilitate the sustainable development of marine and coastal resources of the countries of the Northeast Pacific,”<sup>95</sup> and seeking for collaboration on the adoption and implementation of rules, norms, practices and procedures for the sound planning and development of such environment.<sup>96</sup>

## **2.2. National institutional framework**

The following subsection will provide an overview of the main competent national institutions and their mandates and functions as they may relate to the national ocean governance framework of Costa Rica.

### **2.2.1. Ministry of Agriculture and Livestock (MAG).**

The Ministry of Agriculture and Livestock (MAG) is the main competent authority with respect to the fishing and aquaculture productive sector of Costa Rica. The Council of Experts on Fisheries and Aquaculture Competitiveness, within MAG, is a technical and consultative body that guides the Government in the development of policies and plans to promote the competitiveness of the fishing and aquaculture sector.<sup>97</sup> Furthermore, two subsidiary agencies, namely, INCOPESCA and SENASA, implement key objectives and functions of MAG with respect to fisheries and aquaculture.

### **Institute of Fisheries and Aquaculture (INCOPESCA)**

INCOPESCA is the competent institution that

manages, regulates and promotes the development of fisheries, mariculture and aquaculture in Costa Rica. It has the competence to establish management measures through specific Agreements adopted by its Board of Directors<sup>98</sup> (AJDIP, for its acronym in Spanish). Therefore, the AJDIP are the legal instruments by which INCOPECA has developed fisheries and aquaculture legal provisions. Such measures shall consider the development and sustainability of the fishing sector, based on scientific, technical, economic or social studies,<sup>99</sup> and be developed in accordance with article 62 of UNCLOS<sup>100</sup> on the utilization of living resources, as well as with UNFSA articles 7, 18 and 19.<sup>101</sup>

In relation to the enforcement of conservation and management measures, INCOPECA inspectors do not have policing authority, and therefore, they depend on the National Coastguard Service (SNG) to carry out enforcement actions in the Costa Rican internal waters, territorial sea and EEZ,<sup>102</sup> including boarding and inspections of both foreign and national vessels-, arrests and confiscation.<sup>103</sup> However, INCOPECA is competent to implement inspection procedures for the application of article 152 of the Fisheries and Aquaculture Law, which encompasses a variety of administrative infractions sanctioned by fines, such as not carrying the fishing license,<sup>104</sup> and INCOPECA is competent to apply such sanctions.<sup>105</sup>

### **The National Service of Animal Health (SENASA)**

The National Service of Animal Health (SENASA) regulates and controls the sanitary safety of foods of animal origin.<sup>106</sup> In conjunction with the Ministry of Health, it establishes the necessary sanitary measures to ensure the safety of products of animal origin destined for human consumption.

Among its competences, SENASA sets measures regarding the sanitary safety of products and byproducts of animal origin; measures for trade of domestic, aquatic, wild and other animals; and grants or withdraws Certificates of Veterinary Operation, a requirement for establishments that industrialize, package, process or sell, animal products for human or animal consumption. In relation to UNCLOS, the coastal State may exercise controls in its territorial sea and the contiguous zone to prevent infringement of its sanitary laws,<sup>107</sup> and SENASA would be the competent authority, with the Ministry of Health (MINSAL), in such particular case.

Finally, SENASA is responsible for the National Traceability Program<sup>108</sup> for animal products and

byproducts, and issues traceability certificates.<sup>109</sup> This mandate is of particular relevance to the Project as the exports of fishery products require a certificate of fish origin granted by SENASA.<sup>110</sup> Furthermore, within SENASA, the Food Safety Directorate of Animal Products (DIPOA) has established additional requirements on marine products.<sup>111</sup>

### **2.2.2. National Coastguard Service (SNG)**

The National Coastguard Service is a police force within the Ministry of Security, with the mandate to protect the internal waters, territorial sea, the continental shelf, and the EEZ of Costa Rica,<sup>112</sup> and ensure effective compliance with the national legal system. In this context, the SNG has competences to monitor and safeguard the maritime borders; ensure the legitimate exploitation and protection of the natural resources; and ensure the safety of port and maritime traffic, among others.<sup>113</sup> Moreover, it has an Environmental Department in charge of surveillance and protection of marine and coastal resources.<sup>114</sup>

In addition, the SNG coordinates with other Government agencies and the judicial branch to protect natural resources, for example, SNG participates with INCOPECA on inspections to ensure the correct use of Turtle Excluder Devices,<sup>115</sup> and the landing of sharks.<sup>116</sup> Finally, and as indicated in previous paragraphs, INCOPECA relies on the police authority of the SNG to carry out enforcement actions.

### **2.2.3. Ministry of Environment and Energy (MINAE)**

MINAE is the competent body regarding the environment and the conservation and sustainable use of natural resources,<sup>117</sup> including coastal and marine resources. MINAE has functions such as the formulation of policies on natural resources and environmental protection; the implementation of conservation and sustainable use of natural resources legislation; and the establishment of protected areas, among others.<sup>118</sup> This Ministry is composed of various entities and decentralized bodies,<sup>119</sup> which will be briefly addressed in the following paragraphs.

Firstly, the National System of Conservation Areas<sup>120</sup> (SINAC) is a decentralized body with the mandate to manage the conservation and sustainable use of wildlife, forests, protected areas, watersheds and water systems.<sup>121</sup> Within SINAC, a Marine and Coastal Program implements specific actions related to these ecosystems and their species.

A second entity under the structure of MINAE is the Viceministry of Oceans and Water,<sup>122</sup> which has a mandate that includes, *inter alia*, to improve the environmental management of coastal and marine areas; promote the development of coastal areas; and coordinate the protection and management of wetlands and water sources in the country, among others.

Two other institutional branches within the MINAE structure have mandates on ocean affairs. The Marine and Coastal Directorate<sup>123</sup> has advisory functions on the promotion, planning and sustainable use of marine and coastal resources; the elaboration of the national strategy on marine and coastal resources; and the follow-up on the implementation of international treaties related to marine and coastal resources, among others. There is also the Environmental Administrative Tribunal,<sup>124</sup> which has the competence to resolve, in the administrative jurisdiction, complaints against all persons, public or private, for violations of the environmental legislation.<sup>125</sup> The Tribunal's resolutions are binding and deplete the administrative. The Tribunal also has the competence to carry out site-visits; impose fines and administrative sanctions; and apply interim measures of protection according to the *in dubio pro natura* or precautionary principle.<sup>126</sup>

Finally, the interplay of enforcement actions between MINAE, INCOPECSA and the SNG should be noted, which is mostly defined by a geographical scope.

Therefore, in protected areas MINAE is the competent police authority, and it also has broader faculties regarding the protection of marine species in the national territory.<sup>127</sup> Beyond marine protected areas, the SNG is the competent police authority,<sup>128</sup> and INCOPECSA is competent to enforce administrative actions.<sup>129</sup>

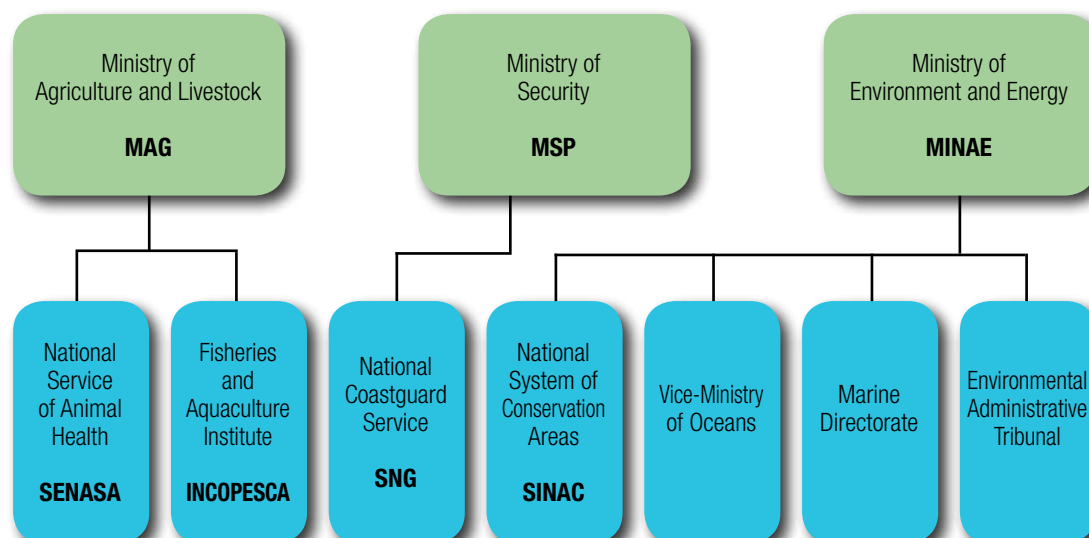
#### 2.2.4. Cross-sectoral coordination

**The Sectoral Planning Secretariat of Environment, Energy, Ocean and Territorial Planning (SEPLASA)** was established through Executive Decree No. 40710 MP-MINAE-PLAN, as a technical advisory body to MINAE and other sectoral authorities<sup>130</sup> with a view to facilitating efficient coordination and cooperation among the different Government institutions. Another coordination body is the **National Council for Ocean Development (CONAMAR)**, which was created as a permanent collegiate body, serving as the highest authority for articulation of policies and planning instruments on ocean matters and integrated management of ocean affairs among the different instances of the public sector.<sup>131</sup> In fulfilling these functions, CONAMAR is responsible for elaborating the National Marine Policy, among others.

### 2.3. National legal framework

The present subsection provides an overview of the main national regulatory instruments that may be of

**Figure 1. Institutional framework organigram**



relevance in the consideration of the ocean-based economic sectors under consideration within the Project.

Firstly, the **Organic Law of the Environment** regulates marine, coastal and wetland ecosystems and associated natural resources in its Chapter VIII.<sup>132</sup> It also contains provisions on the conservation of biodiversity; the protection of the environment; the prevention of pollution; research; civil society participation; compulsory nature of environmental impact assessments; and management categories of protected areas, among other topics.

Another key instrument within the environmental legal framework of Costa Rica is the **Biodiversity Law**. Its main objective is the conservation of biodiversity and the sustainable use of natural resources, as well as the fair distribution of benefits derived there from.<sup>133</sup> It includes regulations on the conservation and sustainable use of ecosystems and species; access to genetic and biochemical elements of biodiversity; and environmental impact assessments, among others. The Regulation to this Law, Executive Decree No. 34433-MINAE, contains more detailed provisions on protected areas and mechanisms for civil society participation, among other elements.<sup>134</sup>

The **Wildlife Conservation Law**<sup>135</sup> establishes the wildlife of Costa Rica as public domain. Consequentially, the production, management, extraction, commercialization, industrialization and use of the genetic material of wild flora and fauna are considered national heritage and of public interest. Likewise, it includes provisions on conservation and management of wildlife; research, import, export and transit of wild species included in CITES Appendices. Furthermore, the Regulation to this Law, Executive Decree No. 40548-MINAE, details the requirements for permits related to production, management, extraction and industrialization of wild flora and fauna and the restoration of wetlands; among other provisions. Trade linkages that could be envisioned within this instrument are associated with access, utilization (R&D) and commercialization of genetic resources and biochemical elements; exports and imports of CITES listed species, and the manufacture of products based on wild flora and fauna.

In relation to management of marine resources, INCOPECSA has the competence to establish **Marine Areas for Responsible Fishing (AMPR)**,<sup>136</sup> a voluntary area based management tool, where

fishing organizations comply with requirements to ensure the sustainable use of fishing resources and to develop a zoning in a specific area. Each AMPR establishes its own Fisheries Management Plan, a Code of Ethics/Conduct for Responsible Fishing and a Vigilance Committee; the latter with the participation of fishers from the fishing organization that proposed the establishment of the AMPR, in coordination with the National Coastguard Service, and with the technical support of INCOPECSA. The creation of an AMPR does not create exclusive rights for the participating fishing organization(s), as any fisher, with a valid license and who respects the management measures of the AMPR, is allowed to fish in the area.<sup>137</sup> Relevant to trade linkages, INCOPECSA in coordination with academic institutions, has elaborated a model of certification of origin and a standard of use of environmentally friendly fishing gears to benefit fishers of the AMPRs.<sup>138</sup>

Another example of management schemes includes the **Multiple Use Marine Areas (AMUM)**, defined as areas where diverse human activities converge with natural resources in an organized way, combining marine protected areas with diverse degrees of sustainable extraction and other activities of exploitation of marine and coastal resources.<sup>139</sup>

More specifically on **fisheries and aquaculture**, provisions have been promulgated through Executive Decrees and AJDIP, which are relevant to the four sectors to be analyzed in the following section of this Report.

The Executive Decree No. 37587-MAG, **Officialization of the National Development Plan for Fisheries and Aquaculture**, applies within internal waters, territorial sea and the EEZ of Costa Rica and seeks to promote productivity, competitiveness and distribution of benefits from sustainable fishing and aquaculture activities. Relevant to note is that crew members of a vessel, either nationals or from other countries, which engage in commercial fishing activities, must obtain a Costa Rican fishing permit.<sup>140</sup> Additionally, this Decree sets a general prohibition for the operation of ship factories in Costa Rica's EEZ and territorial sea.<sup>141</sup>

With respect to trade linkages, this Decree promotes differentiated products with certifications of quality and sustainability, in compliance with national and international regulations. Likewise, it prescribes the creation of the Market Intelligence Service for the strategic design of projects that allow the insertion of fish and aquaculture products in local and international

markets. Furthermore, the scope of the Decree also includes labeling rules for fishery and aquaculture products; market transparency; inter-institutional coordination (INCOPECA, MEIC, PROCOMER); enhanced coordination between fish and aquaculture producers associations; development of continental and marine aquaculture; the establishment of the National Program of Aquaculture Research to develop transferable technological packages for the cultivation of marine species in cages (snappers, tuna, sea bass, shrimp, among others), aquaculture of mollusks; and the promotion of commercial alliances between the private sector and artisanal fishers to create new productive opportunities and chains that integrate artisanal fishers who wish to change to aquaculture activities.

INCOPECA has recently developed an **authorized list of species of fishery and aquaculture interest (AJDIP/289-2017)**, which formally identifies species of commercial interest in both the fishing and aquaculture sectors. Some of the commercial species included in this instrument are the following: sardines, anchovies,

mackerels, snapper, sailfish, corvina (*Cynoscion*), yellowfin tuna, bigeye tuna, skipjack tuna, sharks, rays, shrimp, lobster, clams, tilapia, among others. Additionally, INCOPECA has also established the legal catch sizes, through **AJDIP/026-2018**, based on the sizes of first sexual maturity of 28 species, including sharks, mahi mahi, lobsters, shrimp, tuna, snappers, corvina, among others. This AJDIP applies simultaneously to catches and landings. Specifically, on the gray or silky sharks, a tolerance of 20 per cent measurement range below the size of the first catch has been established; which is determined based on the total capture of individuals of this shark species per fishing trip.<sup>142</sup>

This instrument has a trade link and a direct impact on the four selected sectors analyzed in the next section, as it effects the commercialization, transportation, manufacture or processing of fishery products. If such products do not comply with the allowed sizes, they would not be able to be commercialized.<sup>143</sup> Finally, the AJDIP also authorizes specific characteristics of fishing gears, among other measures.



### 3. OCEANS ECONOMY AND TRADE STRATEGIES: SELECTED SECTORS IN COSTA RICA

The previous sections of this Report provided an overview of the relevant legal and institutional frameworks for the four selected ocean-based economic sectors, which will be developed in the present section, with the view to identifying the pertaining provisions and competent institutions so as to inform the subsequent phase of the Project: the development of Oceans Economy and Trade Strategies.

#### 3.1. Sector 1: Sustainable marine fisheries (all fish but tuna)

"In 2017, Costa Rica exported US\$89,1 million of fish products which represented only 0.80 per cent of the total country exports."<sup>144</sup> Nevertheless, while fishing is an important economic and social activity, if management measures are not effective, it could lead to overexploitation of fish stocks. In this context, the development of sustainable marine fisheries is viewed as a way forward in seeking equilibrium between the use and the conservation of fishing resources.

##### 3.1.1. Institutional level: Competent authorities

As outlined in the previous section, the competent authority in fisheries management is INCOPECSA, and supplementary competences of monitoring, control, surveillance and protection measures are executed by SNG and MINAE. Additionally, SENASA and the Ministry of Health (MINSa) have competences related to this sector, directly with respect to sanitary provisions applied to fishery products for human consumption.

##### 3.1.2. National legal provisions

The current sector encompasses a spectrum of instruments related to different marine species, which will be briefly considered below. It is important to note that the overarching principle of this framework is that fishing and aquaculture must be practiced without causing irreparable damage to ecosystems.<sup>145</sup>

National and foreign vessels need to be granted with a fishing license<sup>146</sup> by INCOPECSA to be allowed

to carry out fishing activities in the Costa Rican territorial sea (only national fishing fleet is allowed in this maritime zone) and the EEZ. Moreover, article 136 establishes the payment of fines for a national or foreign fishing vessel carrying out fishing activities in internal waters, the territorial sea or the EEZ without having the respective license.

In addition, and relevant to recall, is the need for crew members of a fishing vessel, either nationals or foreigners, to have a Costa Rican fishing permit,<sup>147</sup> as well as to comply with the legal catch sizes established in AJDIP/026-2018.

On **landing of fishery products**, it is allowed either in public and private docks. The latter must comply with specific requirements to be authorized by INCOPECSA.<sup>148</sup> INCOPECSA also specifies procedures on the landing of hydrobiological products in authorized docks or ports, where INCOPECSA inspectors must carry out specific actions before, during and after such landings, in coordination with other competent Governmental entities, such as the SNG.<sup>149</sup> INCOPECSA also establishes provisions on the landings of species of commercial interest such as sharks (which could be under CITES Appendices), sailfish by the national commercial fishing fleet vessels, and tuna landings from the foreign commercial fishing fleet. A trade linkage relates to the landings and commercialization of these fishery products.

##### Shrimp fisheries

In addressing specific fisheries of commercial interest regulated in Costa Rica, the Fisheries and Aquaculture Law No. 8436 authorizes the capture and commercialization of different **shrimp species** through licenses extended by INCOPECSA,<sup>150</sup> and which can only be granted to Costa Rican natural and legal persons and vessels registered in Costa Rica.<sup>151</sup> Therefore, these provisions are applicable to national fleet and within the territorial sea and EEZ of Costa Rica. In addition, the only authorized method for harvesting shrimp in Costa Rica is the category C-gillnet.<sup>152</sup> Fishing vessels under this category are prohibited from fishing in the mouths of rivers or estuaries;<sup>153</sup> in areas less than 6 metres of depth;<sup>154</sup> in protected areas;<sup>155</sup> or in the Golfo Dulce.<sup>156</sup> There are also prohibitions on fishing specific shrimp species;<sup>157</sup> and, within a Marine Responsible Fishing Areas, the respective Management Plan will determine any additional specific prohibitions. Most recently, the AJDIP/336-2018 approved research permits for the

project “Evaluation of bycatch exclusion percentages in the bottom trawl fishery of Pinky (*Farfantepenaeus Brevirostris*) and Fidel deep-sea shrimp (*Solenocera Agassizii*) using different sizes of fishing gears in the Costa Rican Pacific Ocean.” The project results are aimed to determine if a reduction of bycatch is possible in the shrimp fishery.

Moreover, the Regulation to the Fisheries and Aquaculture Law<sup>158</sup> establishes in Chapter XIII (articles 45-50) additional regulations for shrimp fisheries. These regulations contain provisions on the mandatory use of the turtle excluder device (TED) and other fish-excluding devices. They also set out the duties of INCOPECSA, MINAE and SNG in verifying the correct use of such devices in bottom trawling vessels. The Technical regulations for the correct use of the TED by the shrimp trawling shore fleet (AJDIP/151-2009) require the shore shrimp fishing fleet to use this device and reinforces the duties of INCOPECSA and SNG to ensure the correct use of such devices. The Executive Decrees No. 17658-MAG and No. 21533-MAG establish the permitted characteristics of vessels and trawlers used for semi-industrial shrimp fishing.<sup>159</sup> Trade linkages are identified in the commercialization of shrimp products within the national market and exports to international markets in the United States, Japan, Germany, Belgium, among other countries.<sup>160</sup> In some markets, the use and approval of TEDs in vessels is required for shrimp imports.

### Queen conch

The capture, extraction or commercialization of **cambute** (queen conch), in the Costa Rican territorial sea and its EEZ is prohibited.<sup>161</sup> In case of incidental capture of cambute in coastal fisheries, it can only be used for consumption by the crew and it can't be commercialized.<sup>162</sup> In the multilateral environmental legal framework, this species has been listed in Annex II of CITES, which correlates with trade restrictions.

### Lobster

Lobster fishing is only permitted when diving by lung or with compressor; or fishing with pound nets.<sup>163</sup> In addition, the national fishing fleet fishing in the country's territorial sea and EEZ in the Pacific must comply with regulations on minimum catch size,<sup>164</sup> seasonal fishing restrictions,<sup>165</sup> and species-specific restrictions.<sup>166</sup> This regulation establishes a minimum size catch, as well as packing and marketing sizes, which has a direct link with trade of this marine product. In a similar way as the national provisions, OSPESCA

Regulation OSP\_02\_09 “Regional Management for the Caribbean Lobster Fishery (*Panulirus argus*)” prohibits the capture, possession and commercialization of lobsters in their reproductive phase.<sup>167</sup>

### Piangüa, clams and mussels

The primary commercialization of **piangüa** (*Anadara tuberculosa*), clams and mussels, harvested directly from their natural environment can only be done by methods and with gear duly authorized by INCOPECSA and the Ministry of Health (MINSAL).<sup>168</sup> An example in this regard is the authorization of size and quantity for the extraction of piangüa (*Anadara similis* and *Anadara tuberculosa*) in specific estuaries by the members of Cooperativa de Moluscos de Chomes (Coopechomes R.L.).<sup>169</sup> A length of 47 mm is the established minimum size of capture and subsequent commercialization of piangüa.<sup>170</sup>

### Sharks

As indicated in previous paragraphs, **sharks** have been categorized as a commercial species in Costa Rica.<sup>171</sup> However, shark finning is prohibited by the Fisheries and Aquaculture Law.<sup>172</sup> Moreover, shark landings must be supervised by officials from INCOPECSA, SNG and MINAE,<sup>173</sup> and article 139 of this Law establishes sanctions for shark finning.<sup>174</sup> In addition, the Regulation under the Fisheries and Aquaculture Law<sup>175</sup> in its Chapter X (articles 36-40) regulates shark fisheries, including provisions on the procedure for the landing of sharks by national or foreign fishing vessels. Once the shark landing process has been completed, such inspectors must file a report that will constitute an official document of legal traceability of the product. This reporting system is central to the eventual export of sharks within the Central American region and beyond; being a trade related element, as well as the prohibition to import shark fins, unless the country of origin issues a certification stating that the fins were landed naturally attached to a shark body.<sup>176</sup>

Finally, and on a broader regional scope, the catch, retention on board, transshipment, landing, storage, and sale of white tip sharks are prohibited in the Antigua Convention area. Therefore, when incidental catches of white tip sharks occur, they should be released promptly unharmed, and INCOPECSA must be informed so that they may notify the IATTC.<sup>177</sup> All of the above-mentioned instruments have trade linkages, as sharks are a commercial stock in Costa Rica, and are commercialized within national and international

**Table 1. Legal provisions per specie**

Specie	Law	Executive decree	AJDIP	
Shrimp	Fisheries and Aquaculture Law No. 8436	Regulation to the Fisheries and Aquaculture Law No. 8436, Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS. Executive Decree No. 17658-MAG. Executive Decree No. 21533-MAG.	AJDIP/151-1995. AJDIP/221-2009. AJDIP/151-2009. AJDIP/336-2018.	
Queen conch			AJDIP/153-2000.	
Lobster			Executive Decree No. 19647-MAG OSPESCA RegulationOSP_02_09.	
Piangüa, clams and mussels			Executive Decree No. 30742-S-MAG-MSP Executive Decree No. 13371-A	AJDIP/119-2017.
Sharks			Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS. Executive Decree No. 37354 -MINAET-MAG- SP-MOPT-H.	AJDIP/042-2009. AJDIP/191-2014. AJDIP 378/2015. AJDIP/020-2016.
Sardines			Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS.	AJDIP/270-2009. AJDIP/043-2016. AJDIP/465-2016. AJDIP 093/2018.
Sailfish and other pelagic species			Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS	AJDIP/476-2008. AJDIP/090-2009. AJDIP/280-2014.
Lionfish				AJDIP/280-2013. AJDIP/051-2014. AJDIP/286-2014. AJDIP/407-2015.

markets such as Mexico, Hong Kong (China), and Taiwan Province of China, among others.<sup>178</sup>

### Sardines

**Sardines** are another relevant commercial species in Costa Rica. The Regulation to the Fisheries and Aquaculture Law<sup>179</sup> contains rules applicable to sardine fisheries in its Chapter XVI (articles 59-61), including provisions on capture of sardines, which have to be primarily destined for human consumption, and with a maximum of 10 per cent from each landing per vessel may be used as bait for the artisanal and the long-

liners fleet. These regulations apply to the Costa Rican national fleet and fishing in the country's territorial sea and EEZ. In addition, the AJDIP 270/2009 sets complementary regulations for sardine fisheries,<sup>180</sup> and further specifies that 90 per cent of the sardine landings must be destined for human consumption, and a 10 per cent should be destined as bait for the national fishing fleet.<sup>181</sup> In addition, there is an obligation for the owners or legal representatives of sardine fishing vessels to present monthly reports to INCOPECA on landings.<sup>182</sup>

It should be noted that the INCOPECA has established

specific closed areas for the semi-industrial sardine fishing fleet. However, this fleet may be allowed to enter such closed area to fish one day a week to supply sardines for bait to the national fishing fleet.<sup>183</sup> On trade linkages, processed and frozen sardines are exported to neighbour countries like Guatemala, Nicaragua, El Salvador, Honduras, among others.<sup>184</sup>

### Sailfish and other pelagic species

Fisheries of **sailfish and other pelagic species** are regulated under the Fisheries and Aquaculture Law (articles 2.32 and Chapter V). Long-line and gillnet fishing licenses are authorized by INCOPECA only to national flagged vessels. Such provisions are applicable to Costa Rica's territorial sea and EEZ. Additionally, the long-line fishing fleet is authorized to fish squid using bait pots, and there is a prohibition of fishing pelagic species with drift gillnets.

Furthermore, article 57 of the Regulation to the Fisheries and Aquaculture Law<sup>185</sup> prohibits the use of live bait directed to fish large pelagic species (sailfish, swordfish, tarpon and marlin), as these species have been declared of touristic interest.<sup>186</sup> In a similar sense, the Management measures for regulating activities of commercial fishing and tourist-sport fishing (AJDIP/476-2008, AJDIP/090-2009, AJDIP/280-2014) prohibits targeted fishing to sailfish using surface long-lines with live bait in the Costa Rican Pacific. On trade connections, in the case of incidental fishing of sailfish during commercial fishing activities, the commercialization will be allowed exclusively in the national market. During the landing of incidental catches of sailfish, an INCOPECA inspector must be present, and such landings cannot exceed 15 per cent of the total catch of the vessel per trip. If a vessel exceeds such percentage, INCOPECA will not authorize the commercialization of the surplus, and article 147 of the Fisheries and Aquaculture Law could be applied, due to violation of specific fishing restrictions.

### Lionfish

Finally, the export, import, transport and possession of **lionfish** species *Pterois volitans* and *Pterois thousands* are prohibited in the national territory, except for research activities by accredited Universities or research institutes with the corresponding permit from INCOPECA.<sup>187</sup> In relation to trade linkages, the capture and commercialization is allowed for consumption purposes or in the realization of sports tourism fishing activities for the eradication of this

predatory species.<sup>188</sup> More recently, the Protocol for the capture, extraction and final disposal of the lionfish in the Costa Rican Caribbean coast was developed as an instrument for the control, mitigation and eradication of this invasive species off the Costa Rican South Caribbean coast.<sup>189</sup>

## 3.2. Sector 2: Sustainable wild tuna harvesting/fishing sector (only tuna species)

### 3.2.1. Institutional level: Competent authorities

INCOPECA is the main competent institution regulating the tuna fisheries. Its functions include the authorization of species for commercial tuna fishing; the distribution of carrying fees (volume) for foreign purse-seine tuna vessels in the Eastern Tropical Pacific; the approval of licenses for tuna fishing in the Costa Rican EEZ; the inspection of tuna landings; the establishment of management measures for tuna and tuna-like species within the EEZ; and to create new categories of fishing licenses, such as the recently authorized Green Stick.<sup>190</sup>

Another key institution is the SNG, as the competent authority to carry out control and surveillance actions in the Costa Rican internal waters, territorial sea and EEZ. With respect to tuna fisheries, key functions of the SNG are to ensure compliance with the national legal framework; and to ensure the sustainable exploitation and protection of natural resources in the Costa Rican jurisdictional waters.<sup>191</sup>

Within the regional framework, the IATTC<sup>192</sup> has developed several resolutions to specifically address relevant matters applicable to this sector, such as the establishment of a vessel monitoring system (VMS),<sup>193</sup> as well as on-board observer program. Also, a Regional Management Plan<sup>194</sup> on fishing capacity addresses more specific matters such as a regional vessel register;<sup>195</sup> capacity limits for purse-seine and long-line fleets; and compliance, among other issues that could improve the sustainable use of such fish stocks in the region. Important to highlight is that the IATTC coordinates with INCOPECA on fishing management of tuna and tuna-like species regulated under the Antigua Convention.

### 3.2.2. National legal provisions

Tuna fisheries are an important commodity that Costa Rica exports to international markets such as the

United States, Japan, Mexico, Chile,<sup>196</sup> among other countries. It is also significant for the national market.

The Fisheries and Aquaculture Law regulates tuna purse-seine fishing by foreign vessels, and in conformity with its article 7, it is the only allowed fishing activity in the Costa Rican EEZ carried out by foreign vessels. This fishery is subject to international treaties and special laws established for the purpose,<sup>197</sup> in accordance to article 62 UNCLOS.

Tuna purse-seine fishing by foreign or national vessels within the territorial sea of Costa Rica is prohibited,<sup>198</sup> hence underlining the importance of UNCLOS provisions on the establishment of the baselines, as seen in the first section of this Report.

The Fisheries and Aquaculture Law sets registration requirements for national and foreign vessels.<sup>199</sup> In addition, foreign vessels must obtain a 60-calendar day license per trip, valid from the date of obtaining the license until landing<sup>200</sup> of the product or the expiration of that period.<sup>201</sup> Furthermore, vessels that land 300 tons for the national canning industry will be granted with a free license for the subsequent 60-days period.<sup>202</sup> It must be highlighted that the landing of other species apart from tuna by these vessels is not allowed.<sup>203</sup> The fees received from tuna fishing licenses are distributed among public Universities, SNG and INCOPECA.<sup>204</sup> All tuna captures, from authorized national or foreign vessels, in the Costa Rican EEZ are considered of national origin.<sup>205</sup>

Moreover, the Regulation under the Fisheries and Aquaculture Law,<sup>206</sup> contains in its Chapter XVI (articles 51-55) provisions on tuna fisheries, including authorized species for commercial tuna fishing, the distribution of carrying fees for foreign vessels, licenses for tuna fishing, among other elements. However, the Administrative Contentious Tribunal through its Resolution No. 84-2018-I of 3 August 2018, annulled articles 53, 54 and the first paragraph of article 55, in relation to foreign-flagged vessels carrying fees, costs of fishing licenses and the authorization of consecutive extensions of a fishing license. Consequently, the Tribunal ordered INCOPECA to carry out scientific studies on the availability and conservation of tuna in Costa Rica prior to the granting of rights to exploit this resource, and urged INCOPECA to set the fees for the purse-seine tuna fishing licenses.<sup>207</sup> This Resolution has been appealed.

Within the IATTC framework, the allocation of the tuna-carrying quota for Costa Rica is established

once a year, taking into account the condition of tuna populations in the Eastern Tropical Pacific and the historical catches of the country. In this context, MAG and INCOPECA allocate foreign purse-seine tuna fishing vessels specific volumes of carrying capacity.<sup>208</sup> Such allocation is assigned by temporary authorizations in favour of the requesting ship-owner who has to comply with specific requirements,<sup>209</sup> including the payment to INCOPECA of a US\$150 annual fee for each cubic metre of gross carrying capacity.<sup>210</sup> When the total catch of tuna during the year of authorization is landed in Costa Rica, it automatically generates a right of credit to the foreign tuna vessel, which won't have to pay the fee in the subsequent year.<sup>211</sup>

Most recently, the AJDIP 108/2017 established that licenses for the foreign purse-seine fishing fleet shall only be granted by INCOPECA if the respective vessel makes available all of its catches to the national processing industry.<sup>212</sup> In this regard, and to guarantee such landings of tuna, this AJDIP requires the submission of an agreement or contract between the ship-owner of the foreign vessel and the industry, with the commitment of making available the total tuna catch carried out with the granted fishing license.

Another permitted fishing gear for medium-scale and advanced commercial fishing licenses in Costa Rica's EEZ is the green stick.<sup>213</sup> In cases of tuna catches using the Green Stick on a vessel that also has traditional fishing gears,<sup>214</sup> INCOPECA requires an observer on board or a technological device that guarantees the traceability of the product. The AJDIP/165-2018 includes the species that could be fished with Green Sticks, and the possibility of this fishing gear to be used in sports or tourist fishing.<sup>215</sup>

Additional management measures have been developed by INCOPECA, for example, it is prohibited to fish tuna using artificial structures within the Costa Rican EEZ,<sup>216</sup> and a tracking and verification system of tuna captured with and without mortality of dolphins has been established.<sup>217</sup>

Additionally, INCOPECA inspectors are responsible to execute particular actions before, during and after a landing of hydrobiological products from purse-seine tuna foreign vessels.<sup>218</sup> Moreover, in the particular case that a foreign purse-seine tuna vessel without a Costa Rican license intends to land fishery products in a national port, such vessel will be required prior to unloading, to register in INCOPECA and have a

**Table 2. Legal provisions related to tuna**

Specie	Law	Executive decree	AJDIP
Tuna	Fisheries and Aquaculture Law No. 8436	Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS. Executive Decree No. 36081-MAG. Executive Decree No. 37386-MAG y su reforma No. 39503-MAG. Executive Decree No. 38681-MAG-MINAE.	AJDIP/241-1999 AJDIP/107-2000 AJDIP 108/2017 AJDIP/199-2017 AJDIP/165-2018 AJDIP/166-2018

satellite tracking system, as an essential requirement for INCOPECSA to grant the authorization to land such fishery products.<sup>219</sup>

More recently, Costa Rica established measures for a responsible management of fishing interests of tuna and tuna-like species, compatible with those of the IATTC, and approved a spatial planning for the exploitation of tuna and related species through Executive Decree No. 38681-MAG-MINAE. Consequently, different areas were established with particular restrictions on fishing gears and fleets, as well as specific requirements by medium-scale and advanced commercial fishing fleets. An explicit prohibition on fishing in Cocos Island National Park and the Marine Mounts Management Area, as well as in any other established marine protected areas, is a key provision in the Executive Decree. In addition, references to observers on board program, as well as satellite monitoring and tracking beacons are control and surveillance elements included in the Decree,<sup>220</sup> which complements with the tasks covered by the Satellite Monitoring Center of INCOPECSA.<sup>221</sup> This regulation is compatible with some key provisions under UNCLOS, such as articles 62, 63, 64, 73, 119.<sup>222</sup> Likewise, there is compatibility with UNFSA norms under articles 5, specifically on measures to ensure long-term sustainability of straddling and highly migratory fish stocks, protect biodiversity and avoid overfishing; as well as article 6, 18, 19 and 23, on a broader scope on compliance and enforcement of measures by Costa Rica as a flag and port State.

### **3.3. Sector 3: Sustainable crustacean aquaculture<sup>223</sup>**

#### **3.3.1. Institutional level: Competent authorities**

INCOPECSA is the competent authority with diverse functions related to coastal and marine aquaculture activities, such as the promotion of aquaculture sectors;<sup>224</sup> the provision of technical assistance for aquaculture activities in marine waters;<sup>225</sup> the coordination of training for the aquaculture sector;<sup>226</sup> and granting authorizations for aquaculture projects, among other functions. INCOPECSA's Department of Aquaculture reports directly to the General Technical Direction of INCOPECSA.

A second authority with competences in aquaculture activities is SENASA, whose overall objective is to establish measures regarding the sanitary safety of products and byproducts of animal origin. Furthermore, the National Aquaculture Health Program of SENASA aims to establish sanitary strategies for aquaculture and fisheries at the national level. It also has monitoring functions in relation to aquaculture activities. For example, it monitors substances for veterinary use;<sup>227</sup> updates the list of active ingredients of medicines for aquaculture species; applies sanitary measures if aquaculture products exceed the established limits of contaminants, among others.<sup>228</sup>

A third competent authority in relation to aquaculture activities is MINAE, which grants the concessions for the use of water for aquaculture activities. It is important to note that the criteria issued by MINAE is binding for the interested parties and for INCOPECSA.<sup>229</sup> Moreover, within the institutional structure of MINAE, the National Environmental Technical Secretariat (SETENA) approves and supervises the environmental impact assessments that must be provided by the interested party seeking to develop an aquaculture project. Likewise, in the case of authorizations of aquaculture activities in mangroves (discussed below), the technical criteria provided by SINAC is binding in such cases.

**Table 3. Legal provisions related to sustainable crustacean aquaculture**

Specie	Law	Executive decree	AJDIP
Sustainable crustacean aquaculture	Fisheries and Aquaculture Law No. 8436 Law of the Maritime Terrestrial Zone No. 6043 Environment Organic Law No. 7554	Executive Decree No. 34687-MAG. Executive Decree No. 31849-MINAE-MOPT-MAG-MEIC. Executive Decree No. 23247-MIRENEM Executive Decree No. 29342-MINAE Executive Decree No. 39411-MINAE-MAG. Executive Decree No. 22550-MIRENEM Executive Decree No. 7841-P	AJDIP/289-2017

### 3.3.2. National legal provisions

The Fisheries and Aquaculture Law regulates aquaculture activities in its Title III (articles 80-97). These provisions are applicable to internal waters, territorial sea and the EEZ in Costa Rica. Specific requirements to develop aquaculture projects are indicated in article 82, such as an authorization granted by INCOPECA (for up to 10 years) for the cultivation of aquatic organisms in marine waters; as well as the respective concession for the use of an aquatic space of water granted by MINAE. In addition, the proponent of the aquaculture project must provide an EIA.<sup>230</sup> Failure to comply with the EIA legal requirement results in the closure of the activity and places on the operator the liability for the repair of damages caused by the activity.<sup>231</sup>

Once the project is approved, a contract between INCOPECA and the interested party, defines the rights and obligations, annual fees, guarantees and the limitations, in respect to the authorization (by INCOPECA) and the concession (by MINAE) for the development of aquaculture activities. In the case of changes to the aquaculture project, such as the introduction of different species or the modification of the authorized area, the concessionaire must submit an authorization request to INCOPECA and an EIA approved by SETENA.<sup>232</sup>

In relation to mariculture, concessions may be granted by MINAE for the use of ocean areas, in and out of bays or gulfs. Such concessions can't restrict free access to

beaches, nor pollute surrounding areas.<sup>233</sup> In addition, authorization from INCOPECA is required.<sup>234</sup>

Finally, article 88 sets the causes of termination for concessions and authorizations of aquaculture projects, such as the expiration of the term or the contravention of the contract. Additional provisions on the use, health, development and improvement of aquaculture species are included in the Fisheries and Aquaculture Law (articles 92-97).

Also relevant to aquaculture projects is the Law of the Maritime Terrestrial Zone No. 6043. This legislation establishes that it is necessary to comply with particular requirements for the development of economic activities in the maritime terrestrial zone,<sup>235</sup> and therefore, EIAs are compulsory for an aquaculture project to be located in such areas.<sup>236</sup>

Specifically in relation to aquaculture projects in mangrove ecosystems, the construction of canals is allowed only in those projects with a technical justification,<sup>237</sup> and the renewal of existing use permits in mangrove areas for the production of salt or shrimp is only allowed in compliance with specific requirements.<sup>238</sup> Consequently, activities which may disrupt the natural cycles of wetlands and mangroves, such as dams, drainages, drying, filling or any other alteration that causes the deterioration and elimination of such ecosystems are prohibited.<sup>239</sup> Likewise, those aquaculture projects that destroy a mangrove area or pollute the water by illegal dumping of chemical waste, antibiotics and other substances not authorized by

INCOPECSA may be subject to a fee and/or the cancellation of their authorization or concession.<sup>240</sup>

In addition, the Law on Maritime Terrestrial Zone, specifies that in exceptional cases the respective Municipality, the Costa Rica Tourism Board, the National Institute of Housing and Urban Development (INVU), and other authorities - depending on the nature of the specific project - are competent to authorize the operation of projects which are located in the vicinity of ocean space considered indispensable: such as mariculture programs.<sup>241</sup> Moreover, article 8 of the Regulations of the Law of the Maritime Terrestrial Zone, Executive Decree No. 7841-P, specifies that in relation to mariculture programs, MAG is the competent authority; notwithstanding the consultations that may be held with other specialized agencies such as the Ministry of Health (MINSa).

Likewise, the Regulation of the Fisheries and Aquaculture Law<sup>242</sup> includes requirements for mariculture<sup>243</sup> and aquaculture projects<sup>244</sup> in its Chapter XXI (articles 78-91). As outlined above, the technical criteria of SINAC is binding in the case of authorizations of aquaculture activities in mangroves (article 91). This instrument also addresses elements on the use, development and improvement of aquaculture species (articles 92-95).

Finally, the AJDIP/289-2017 sets a list of fish and crustacean species of interest for aquaculture, including shrimp.<sup>245</sup> It also establishes a procedure regarding aquatic animal disease cases that applies to all aquaculture production establishments, specifying a protocol to follow when cases of diseases in aquatic animals occur.<sup>246</sup>

On trade linkages, the Technical Note No. 68 established by INCOPECSA includes different requirements for the import of aquaculture products.<sup>247</sup> Additionally, aquaculture generated exports of cultivated shrimp to the United States, Spain, and Guatemala in 2016.<sup>248</sup> With the strengthening of this specific sector, other crustacean products could be introduced in different markets, expanding the range of trade of such cultivated species.

### **3.4. Sector 4: Seafood manufacturing sector**

In Costa Rica, “exported manufactured sea products during 2015 and 2016 had a total value of more than 30 million dollars.”<sup>249</sup>

#### **3.4.1. Institutional level: Competent authorities**

INCOPECSA and SENASA are the competent authorities for the granting of permits regarding commercialization, safety measures for the handling of fishery products, certification of compliance with international regulations, among others.

The commercialization of fishery and aquaculture products is regulated by INCOPECSA,<sup>250</sup> which is called upon to promote the commercialization of the products of the national fishing industry, in coordination with the Ministry of Foreign Affairs and the Ministry of Foreign Trade,<sup>251</sup> as well as to encourage the creation of marketing channels; and to coordinate training on production and marketing for fishers and aquaculture producers with the National Apprenticeship Institute (INA).<sup>252</sup> Within INCOPECSA's structure, the AJDIP/114-2003 established the National Program for the Certification of compliance with good practices in the management of hydrobiological products for export and the internal market. The aim of this Program is to dictate regulatory and administrative national standards that are consistent with international criterions.<sup>253</sup>

SENASA is responsible to monitor chemical residues and microorganisms in fishing and aquaculture products and to guarantee their innocuousness,<sup>254</sup> as well as to establish the maximum microbiological residue limits of medicines and contaminants in fishery and aquaculture products destined for human consumption. Relevant to trade linkages, in the case of exports to markets with requirements that differ from the national microbiological limits and residues of drugs and contaminants, SENASA must demand compliance with the regulation of the destination market.<sup>255</sup> SENASA is also authorized to update the list of active ingredients of medicines for the use of aquaculture species.<sup>256</sup>

In addition, the Ministry of Foreign Trade (COMEX) is competent with respect to the development of capacities, including the promotion of blue economy, as a key element to increase the competitiveness and productivity of economic activities related to marine ecosystems.<sup>257</sup>

Also, the Ministry of Economy, Industry and Commerce (MEIC) supports and promotes private initiatives and business development for the small and medium enterprises.<sup>258</sup> Moreover, MEIC ensures that the goods and services in the national market meet



**Table 4. Legal provisions related to seafood manufacturing sector**

Specie	Law	Executive decree	AJDIP
Seafood manufacturing sector	Fisheries and Aquaculture Law No. 8436	Executive Decree No. 34687-MAG.	AJDIP/042-2010 AJDIP/114-2003
	Law of Creation of INCOPECA No. 7384 Organic Law Ministry of Economy, Industry and Commerce No. 6340.	Executive Decree N°36980-MEIC-MAG Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS. Executive Decree No. 20554-MAG.	

the established standards of health, safety, meet environmental regulations and quality set by SENASA and other competent bodies. An example of this function is the technical standards to establish basic information requirements in the labeling of fishery products, a joint effort between INCOPECA and MEIC.<sup>259</sup>

### 3.4.2. National legal provisions

The Fisheries and Aquaculture Law regulates in its Title IV (articles 98-100) the manufacture and commercialization of fishery and aquaculture products. "Manufacture" is defined as the processing or transformation of marine and aquaculture resources from their natural state into products with different characteristics, with the purpose of adapting them for human or other forms of consumption.<sup>260</sup> Commercialization is understood as the purchase, sale and transport of marine and aquaculture resources. The objective is to facilitate access of these products to domestic and international markets

Those who process, manufacture and/or commercialize marine fisheries and aquaculture resources, are subject to the rules regarding the commercialization, health, quality and inspection set by the competent authorities.<sup>261</sup> Furthermore, the Regulation to the Fisheries and Aquaculture Law<sup>262</sup> includes provisions on this matter in its Chapter XXIII (articles 96-107).<sup>263</sup> The process of commercialization of fish and aquaculture products includes all the activities from the first sale in the collection center

(landing) or harvest in the aquaculture project until the final consumer (article 96).

With regard to the tuna canning industry, specific provisions are included in article 55 of the Fisheries and Aquaculture Law, as well as article 117 of the Regulation of this Law, in which a free license, for the subsequent 60-days period, is granted to foreign purse seine tuna fleet vessels that land 300 tons for the national canning industry,<sup>264</sup> as previously indicated in section 3.2.2.

Additionally, the labeling of fish products is mandatory, and the names under which the main commercial species of fish and shellfish should be labeled are specifically indicated in the Executive Decree N°36980-MEIC-MAG.<sup>265</sup> Another relevant provision is contained in Executive Decree No. 34687-MAG, which establishes the maximum permitted limits for toxins and microbiological parameters for fish products and by-products that are commercialized for human consumption.<sup>266</sup>

In relation to trade linkages, the exports of fishery products must be accompanied by a catch certificate. This document is necessary for international markets, as it corroborates that the landing of the marine product was inspected by INCOPECA. Catch certificates are also an import requirement for access to markets such as the European Union. In addition, the landing, commercialization or export of marine living resources will not be authorized if the capture comes from vessels registered on the IUU fishing lists.<sup>267</sup>

## 4. CROSS-CUTTING FRAMEWORKS ASSOCIATED TO OCEAN GOVERNANCE IN COSTA RICA

The sustainable management of ocean space, activities and resources is necessarily cross-cutting in nature. Therefore, the present section explores cross-cutting legal instruments and institutions related to ocean governance in Costa Rica.

### 4.1. Trade

#### 4.1.1. International and national legal framework

Fish and fish products are classified by the **World Trade Organization (WTO)** as industrial goods, and subsidies to the sector fall under the WTO 1994 Agreement on Subsidies and Countervailing Measures.<sup>268</sup> Nevertheless, the WTO negotiations on fisheries subsidies has been challenged due to the difficulty in generating consensus on new rules applicable to this matter.<sup>269</sup> Yet, in the 2030 Sustainable Development Agenda, Goal 14.6 seeks by 2020 to prohibit certain forms of fisheries subsidies that contribute to overcapacity, overfishing, IUU fishing, but recognizing appropriate differential treatment for developing countries. This new international initiative could support new developments within WTO discussions on fisheries subsidies.<sup>270</sup>

In a regional framework, the **Latin American Integration Association (ALADI)**<sup>271</sup> fosters the creation of an area of economic preferences, promoting a common Latin American market, through different mechanisms such as regional preferential tariffs and agreements of a regional scope, which can cover tariff reduction and trade promotion; agricultural trade; environmental protection; among others. Costa Rica was accredited as an observer country of ALADI through Agreement 64 of 11 November 1986.

Moreover, Costa Rica has consolidated the process of trade liberalization through the negotiation of free trade agreements (FTA), and has ratified multiple bilateral agreements, namely with: Canada,<sup>272</sup> Chile,<sup>273</sup> China,<sup>274</sup> Colombia,<sup>275</sup> Mexico,<sup>276</sup> Panama,<sup>277</sup> Peru,<sup>278</sup> Dominican Republic<sup>279</sup> and Singapore.<sup>280</sup> Additionally, the country has ratified multilateral free trade agreements with the Caribbean Community

(CARICOM),<sup>281</sup> and the Central American region.<sup>282</sup> Some of these have references to fishery and aquaculture products in a more general scope.

In this context, one of the key free trade agreements ratified by Costa Rica<sup>283</sup> is the **Central America – United States and Dominican Republic (CAFTA)**, which regulates commercial and investment relations between these countries. This FTA is critical to the Costa Rican commercial policy, as the United States is its main commercial partner. The scope of the Agreement includes *goods wholly obtained or produced entirely in the territory of one or more of the Parties*, which comprises goods derived from fishing or aquaculture conducted in the territory of the Parties.<sup>284</sup> Likewise, *production* means growing, harvesting, fishing, manufacturing, or processing a good.<sup>285</sup> In relation to Specific Rules of Origin, fish, crustaceans, molluscs, and other aquatic invertebrates are considered originating from the country where they were captured, even if they were cultivated with no-originating larvae.<sup>286</sup>

Sanitary and phytosanitary measures are also established under CAFTA, with the objective to protect human, animal, or plant life and health. Of relevance to institutional arrangements, a Committee on Sanitary and Phytosanitary Matters was created under this FTA, which comprise representatives of SENASA, the Health Ministry and the Ministry of Foreign Trade, and representatives from competent institutions of the other State Parties to the Agreement. Finally, Chapter 17 addresses environmental matters, including priorities for environmental cooperation in conserving and managing shared, migratory, and endangered species in international trade;<sup>287</sup> as well as market-based incentives to encourage conservation, restoration, and protection of natural resources and the environment.<sup>288</sup>

Another relevant trade agreement for Costa Rica is the **Association Agreement between Central America and the European Union (AACUE)**,<sup>289</sup> which “regulates relations between Central America and the European Union in three areas: political dialogue, cooperation and the creation of a free trade zone between the European Union and the countries of Central America.”<sup>290</sup> Within this Agreement, and of relevance to the present Report, article 59 develops rules on cooperation and technical assistance in fisheries and aquaculture. Such cooperation aims to promote the sustainable exploitation and management of fisheries; promote best practices; improve data

collection to improve decision making processes; strengthen monitoring, control and surveillance; and fight illegal, unreported and unregulated fishing.

Such cooperation also foresees the provision of technical expertise, support and capacity building for fisheries management, including the development of alternative fisheries; the responsible development of artisanal and small scale fisheries and aquaculture and the diversification of their products; supporting institutional cooperation and exchange of information on fisheries and aquaculture legal frameworks; among others. Additional provisions of this FTA include cooperation and Technical Assistance on Food Safety, Sanitary and Phytosanitary Matters and Animal Welfare Issues (article 62), and rules of cooperation and Technical Assistance on Trade and Sustainable Development (article 63). These opportunities for cooperation could reinforce efforts on the selected four subsectors identified as national priorities through the “Evidence-based and policy coherent oceans economy and trade strategies” project.

In addition, the **Free Trade Agreement between the States of the European Free Trade Association (EFTA) and the Central American States**,<sup>291</sup> is relevant to the Project as it seeks the promotion of trade and investment favouring sustainable development (article 9.7). Parties are called to facilitate foreign investment, trade and dissemination of goods and services beneficial to sustainable development, including organic production and eco-labelled goods. In addition, Parties are called to implement the multilateral environmental agreements to which they are Party (article 9.6).

Finally, in regard to trade requirements, there are different schemes of certification of origin according to the country of export or import.<sup>292</sup> The Regulation for the Issuance of Certificates of Origin and Verification of Origin of Exports, Executive Decree No. 36651-COMEX, establishes the provisions related to the issuance of such certificates when Costa Rica enters into a free trade agreement or association agreement<sup>293</sup> and stipulates the use of a controlled certification system, as well as the verification of origin of exported goods.<sup>294</sup>

#### 4.1.2. National institutional framework

Within the institutional framework on trade activities in Costa Rica, the **Ministry of Foreign Trade (COMEX)** has the competence to direct bilateral and multilateral trade and investment negotiations, as well

as to coordinate plans, strategies and official programs related to exports and investments.<sup>295</sup> COMEX aims to develop capacities, including with respect to the promotion of the blue economy and increasing the competitiveness and productivity of activities related to marine ecosystems.

Another relevant body is the **Ministry of Economy, Industry and Commerce (MEIC)**, with a mandate to support and promote private initiatives and business development, commerce and service sectors, as well as for small and medium enterprises.<sup>296</sup> Moreover, MEIC ensures that the goods and services in the national market meet established standards of health, safety, environment and quality, therefore having a trade linkage associated with the national market of fishery and aquaculture products.

Finally, within the Ministry of Finance, the **National Customs Service**<sup>297</sup> is the competent body with respect to foreign trade, tax administration and the implementation of customs legislation. The National Customs Service (the Customs) is responsible for the definition of matters related to tariff classification and origin of goods.<sup>298</sup> In this regard, Costa Rica has adopted the Central American Tariff System.<sup>299</sup> More specifically on trade linkages, the Custom’s Technical Note No. 68 regulates the authorization for the import and export of fish, molluscs and crustaceans, sharks and their by-products, tuna, swordfish and sailfish. Additionally, the Customs is a key actor in CITES procedures related to import and export of specific species, for example species of hammerhead sharks included in CITES Annex II.

## 4.2. Maritime terrestrial zone

### 4.2.1. National legal framework

The maritime terrestrial zone (ZMT) constitutes part of the national patrimony, belongs to the State, is inalienable and imprescriptible,<sup>300</sup> and is a two hundred metre wide strip of land along the Atlantic and Pacific coast of Costa Rica.<sup>301</sup> It is divided in two regimes, the public zone (50 metres landward from the high tide line) and the restricted zone (150 metres inland from the public zone).<sup>302</sup> In the public zone, only infrastructure and construction works approved in each case by the competent authorities are allowed.<sup>303</sup> For example, in exceptional cases, the respective Municipality, the Costa Rican Tourism Board (ICT), the National Institute of Housing and Urban Development (INVU), and other authorities -depending on the nature of the

specific project - are competent to authorize projects which are necessarily located in the public zone. For example, MAG would be the competent authority regarding on sports or artisanal fishing facilities and mariculture,<sup>304</sup> notwithstanding the consultations that it may undertake with other specialized agencies such as the Ministry of Health (MINSAs).<sup>305</sup>

The ZMT Law establishes sanctions for those who exploit, without due authorization, the fauna or flora in the maritime terrestrial zone or mangroves.

Furthermore, the Regulations of the ZMT Law, Executive Decree No. 7841-P, contains provisions on the conservation, use and exploitation of the maritime terrestrial zone and its natural resources. It establishes prohibited conducts, such as cutting trees, the modification of the land topography, or the carrying out of actions that impact the ecological balance of the maritime terrestrial zone.

Other legal instruments regulate the concessions for the construction, administration and exploitation of tourist marinas and docks<sup>306</sup> in areas of public domain, such as the maritime terrestrial zone and/or the adjacent areas permanently covered by the ocean. In this context, the respective Municipality is the competent authority to grant a concession, following the procedure established by the Executive Decree No. 38171-TUR-MINAE-S-MOPT. This Decree also establishes the prohibition to dispose polluting materials, including ashes, oils, rubbish and waste, in the marinas and tourist docks, as well as from docked or anchored vessels. It is important to note that mangrove areas, national parks and biological reserves are excluded from these provisions, due to the environmental legal protection that cover such areas, such as the Organic Environmental Law,<sup>307</sup> the Biodiversity Law,<sup>308</sup> the Forestry Law,<sup>309</sup> the Wildlife Conservation Law,<sup>310</sup> and other legal instruments as outlined in the introductory part of this Report.

#### 4.2.2. National institutional framework

In addition to tourism development, the Costa Rica Tourism Board is the main administrator of the Maritime Terrestrial Zone and is called to enforce measures to preserve or prevent damage to the ZMT and the natural resources therein; as well as to coordinate with other competent authorities on authorizations with regard to the coastal areas which are part of the maritime terrestrial zone.<sup>311</sup>

The Municipalities, as the local governments

responsible for the planning of the respective territory, regulate and enforce measures to conserve or prevent damage to the maritime terrestrial zone and its natural resources.<sup>312</sup> However, Municipalities can't approve the construction of any project until key requirements are satisfied, namely: the declaration of the zone of tourist or non-tourist interest by the ICT; a coastal regulation plan; and the respective concession contract duly registered in the National Registry.<sup>313</sup>

### 4.3. Navigation

#### 4.3.1. International legal framework

The **Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, or the London Convention**,<sup>314</sup> aims to control and prevent marine pollution by prohibiting the dumping of waste likely to create hazards to human health or harm marine ecosystems and biodiversity.<sup>315</sup> It applies to vessels and aircrafts registered in a State Party's territory or flying its flag,<sup>316</sup> and has direct links with UNCLOS provisions contained in article 56 (protection and preservation of the marine environment); article 192 (obligation to protect and preserve the marine environment); article 194 (measures to prevent, reduce and control pollution of the marine environment); and article 204 (monitoring of the risks or effects of pollution), among others. The Convention prohibits the dumping of all wastes, except for those listed in Annex 1, which are permitted if they comply with conditions in Annex 2.<sup>317</sup> In 1976, the **London Protocol**<sup>318</sup> was developed to modernize the Convention.<sup>319</sup> Costa Rica ratified the Convention through Law No. 5566, on August 26 1974, but has not yet ratified the London Protocol.

Another relevant instrument regarding navigation is the International Convention on Civil Liability for Oil Pollution Damage (CLC)<sup>320</sup> and its Protocol, which apply to damage from pollution caused in the territorial sea.<sup>321</sup> This Convention requires ships to carry insurance<sup>322</sup> and addresses preventive measures taken after an incident has occurred to prevent or minimize pollution damage.<sup>323</sup> The Convention places liability for damage on the owner of the ship.<sup>324</sup> Costa Rica ratified the Convention through Law No. 7627 on September 26, 1996.

In addition, Costa Rica is Party to the following IMO international instruments: SOLAS Convention 74<sup>325</sup> and its Protocol 78, 88; the Tonnage Convention 69;<sup>326</sup> the International Convention on Standards of Training,

Certification and Watchkeeping for Seafarers;<sup>327</sup> and the Convention on the International Maritime Satellite Organization 76.<sup>328</sup>

#### 4.3.2. Institutional national framework

The **Ministry of Public Works and Transportation (MOPT)** regulates and controls international maritime transport and inland waterways, passenger transportation, and is the competent authority to plan, build and improve ports.<sup>329</sup> Within MOPT, the Maritime Port Division is the competent authority for the management of port facilities dedicated to passenger transportation. Additionally, the Navigation and Safety Directorate ensures that the national and foreign fleet complies with safety and security measures; that the national and foreign fleet complies with legal and technical regulations; the prevention of marine pollution; the establishment of operation of routes, among other functions.<sup>330</sup> Also, tonnage measurements are responsibility of MOPT through the General Directorate of Maritime and Port Security.

In addition, the **Costa Rican Institute of Ports of the Pacific (INCOP)** is the competent Port Authority in the Pacific coast,<sup>331</sup> and is responsible for the ports of Caldera, Puntarenas, Golfito, Quepos and Punta Morales. Additionally, it is responsible for specific planning of works on port facilities necessary for the provision of port services.<sup>332</sup> In a similar sense, the **Board of Port Administration and Economic Development of the Atlantic Coast (JAPDEVA)** is the responsible authority for controlling vessels that enter or depart ports on the Atlantic coast, granting departure permits and other required authorizations.<sup>333</sup>

Finally, the **National Port Council** is mandated to coordinate Governmental institutions and other bodies with competence in port and maritime matters, and the business sector, including exporters, importers, transporters and other users or customers of port services.<sup>334</sup> Linkages regarding trade activities occur between the above-mentioned sectors and the fishing and aquaculture industry.

#### 4.3.3. Legal national framework

According to the **General Regulation for Port Services of the Costa Rican Institute of Ports in the Pacific (INCOP)**, Law No. 3414, vessels must comply with specific requirements to obtain the departure permit by the respective Harbour Master's Office. In addition, and in compliance with the **Regulations for National Flag Vessels**, Executive

Decree No. 28742-MOPT, the ship-owner of a vessel whose certificate of seaworthiness establishes an autonomy<sup>335</sup> greater than three nautical miles must request from the respective Harbour Master's Office a departure permit (also called zarpe). This regulation is applied to the national fishing fleet, and to recreational foreign vessels that use national ports and remain in the territorial sea and EEZ of Costa Rica.

Likewise, all vessels must have a tonnage certificate, where specific information is included, such as the identification and main characteristics of the vessel, as well as, the determining tonnage characteristics.<sup>336</sup>

Even though there are some legal provisions in place, it should be noted that a navigation law project (No. 18.512) is being discussed in Parliament, with a view to improving and strengthening the leading role of the State as the Maritime Administration, as well as to integrate into a single normative body the tasks of management, control and ensuring the safety of navigation, the prevention of pollution of the marine environment, and to establish robust sanctions.<sup>337</sup> This updated legislation would align Costa Rica's current provisions with those of UNCLOS and IMO, particularly with respect to the safety of navigation, the prevention of pollution and those related to maritime traffic.

## 4.4. Water pollution

#### 4.4.1. National legal framework

In a regional context, the **Protocol Concerning Pollution from Land-Based Sources and Activities to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region**, was ratified by Costa Rica through Executive Decree No. 39421-RREE on December 3, 2015. Consequently, Costa Rica, as well as the other State Parties, is called to take measures to prevent, reduce and control pollution from land-based sources and activities in the Wider Caribbean.<sup>338</sup> It requires for cooperation through competent organizations,<sup>339</sup> and calls Contracting Parties to develop and adopt guidelines concerning environmental impact assessments.<sup>340</sup>

At the national level, and in relation to prevention and management of pollution, the **Regulation of Discharge and Reuse of Wastewater, Executive Decree No. 33601-MINAE-S**, establishes the maximum permissible limits of the physicochemical and microbiological parameters for the dumping and reuse

of wastewater from the different commercial, industrial and service activities in Costa Rica. Furthermore, the **Regulations for the Approval of Wastewater Treatment Systems, Executive Decree No. 39887-S-MINAE**, establishes the conditions that must be met by buildings, establishments and facilities that require a wastewater treatment system to comply with the provisions of the Wastewater Discharge and Reuse Regulation.

Also, the **Regulation of the Environmental Canon by Discharges, Executive Decree No. 34431-MINAE-S**, prescribes an economic instrument based on the polluter pays principle, which establishes the payment of a monetary amount to those who use the environmental service of water bodies for the transport and elimination of liquid waste by occasional discharges. Anyone that discharges into water bodies of the public domain<sup>341</sup> requires a permit issued by MINAE. This regulation applies to aquaculture projects as well.

Such legal instruments give effect to the obligation in UNCLOS with respect to the prevention of pollution from land-based sources.<sup>342</sup>

#### 4.4.2. National institutional framework

The **Ministry of Health (MINSAL)** is the competent authority to regulate, monitor and control residual waters discharges. With the entry into force of the Regulations for Wastewater Discharge and Reuse,<sup>343</sup> this Ministry was entrusted with additional functions related to the preparation of operational reports and the issuance of wastewater quality certifications. Within this Ministry, the Directorate for Protection of the Human Environment oversees wastewater treatment systems.

Another key body is the **Water and Sewage Institute of Costa Rica (AyA)**, created by Law No. 2726, with the objective of establishing and implementing policies, regulations, and developing public services for water and sanitation.

## 4.5. Marine tourism

The scope of the “evidence-based and policy coherent oceans economy and trade strategies” project focuses on four sectors related to fisheries and processing of fisheries products, as seen under section 3 of this Report. Nevertheless, the following sub-section briefly addresses marine tourism elements related to fisheries in Costa Rica.

The **Fisheries and Aquaculture Law**<sup>344</sup> indicates that INCOPECSA is responsible, in coordination with the Costa Rica Tourism Board (ICT),<sup>345</sup> for the regulation of national and international sport fishing tournaments carried out in the Costa Rican internal waters, territorial sea and exclusive economic zone.<sup>346</sup> Furthermore, INCOPECSA must promote the conservation of sport fishing target species,<sup>347</sup> as well as establish fees, and minimum catch sizes.<sup>348</sup> The obligations of the owners or permit holders of sport fishing boats are established under article 71 of this Law. In addition, this instrument regulates touristic fishing, defined as a commercial fishing activity to capture aquatic resources for exclusively touristic purposes. The boats dedicated to this activity must be registered with the ICT and will have a special license granted by INCOPECSA.<sup>349</sup> Moreover, the **Regulation of the Fisheries and Aquaculture Law**<sup>350</sup> prescribes that the sport fishing of large pelagic species shall comply with specific provisions, such as the use of circular hooks, and the capture and release method. This instrument prohibits the commercialization of the catches obtained from this fishing activity.<sup>351</sup>

In relation to other tourism activities related to marine resources, the **Certificate for Tourism Sustainability (CST)**, a program promoted by ICT and granted by the National Accreditation Commission of Costa Rica, is regulated under the **Executive Decree No. 36012-MINAET-MEIC-TUR**.<sup>352</sup> CST is a voluntary accreditation system, which certifies companies, according to the degree to which their operation responds to a sustainability model. Of relevance to the scope of the present Report, there is a: 1) Certification norm for sustainable coastal and marine tour operation activities;<sup>353</sup> and 2) Certification standard for sustainable gastronomic companies in Costa Rica.<sup>354</sup> The latter, specifies a preference to contract with fish and shellfish suppliers who commercialize products obtained through responsible fishing practices<sup>355</sup> and comply with the minimum recommended catch sizes. A trade linkage is evident in this norm. Other requirements within this certification standard include the avoidance of inclusion of prohibited fish and seafood species, or of sport fishing catches, on menus,<sup>356</sup> and the use of marine species according to their seasonal availability should be considered as well.<sup>357</sup>

## 4.6. Other competent institutions

Additional competent authorities in relation to marine

resources and ocean activities in Costa Rica include the following:

#### **4.6.1. Judicial branch**

The Judicial Branch is constituted by the Supreme Court of Justice and by other courts established by law, which are competent in dispute resolution.<sup>358</sup> Within this institutional framework, the General Prosecutor of the Republic issued the administrative **Circular 02-PPP 2010**, a binding instrument for prosecutors throughout the country with the view to maintaining a uniform interpretation of the law. This circular includes crimes related to environmental matters, including illegal conducts related to marine and coastal resources.<sup>359</sup> It also includes specific considerations for the protection of fish resources and their infractions, such as: fishing with an expired license; intentional damage to benthic resources and coral ecosystems; shark finning; acts against chelonians, marine mammals or endangered species; fishing of banned species or in closed areas; mangrove destruction and the contamination of water by aquaculture activities; illegal management, disposal or introduction of species or materials for biological or chemical control; violation of technical provisions of licenses; fishing in national parks, natural monuments and biological reserves; fishing activities without using the turtle excluder device (TED), among others.<sup>360</sup>

#### **4.6.2. National Apprenticeship Institute (INA)**

The National Apprenticeship Institute<sup>361</sup> is the competent entity for training and qualification of human resources. INA offers several courses related to marine subjects, under the nautical and fishing core, which focuses specifically on three sectors:

- fisheries and aquaculture, including activities related to sports fishing, freshwater fishing, marine aquaculture, and freshwater aquaculture (mainly

focused on tilapia).

- transport by water, including navigation skills, naval mechanics, shipbuilding, and
- diving, including tourism activities in diving centers, maintenance of boats and submerged platforms, among others.

Capacity building through INA is relevant for the interested marine sectors.<sup>362</sup> In this regard, INA and INCOPECA are called to coordinate for the development and planning of training actions for the fishing and aquaculture sector.<sup>363</sup>

#### **4.6.3. Public universities**

Public Universities play a substantial role in generating scientific information on ocean resources, ecosystems and marine biodiversity. The University of Costa Rica (UCR) has developed marine scientific research projects through the Center for Research in Marine Sciences and Limnology (CIMAR), with the view to contribute to the conservation, sustainable use and decision-making processes on aquatic resources. Research projects cover the following topics: monitoring coastal marine ecosystems; development of a marine, coastal and limnological geographic information system; marine biodiversity; evaluation and monitoring of fishery resources; ocean acidification and coral reefs; study of the first sexual maturity size of species of interest for artisanal fisheries; seagrasses; monitoring of sharks and rays discharged by the artisanal fishery; among others.

In addition, the National University (UNA) through its School of Biology, specifically the emphasis in marine biology, trains professionals in phenomena related to ocean life and environments, as well as marine flora and fauna, with the view to make a rational use of such resources in productive activities such as aquaculture and fishing.

## Notes

- 1 The present Report provides an overview of certain international and national legal frameworks for ocean governance within the Costa Rican context, and certain cross-cutting elements, as well as the relevant competent national institutions. The information here within is intended to provide a general overview of the Costa Rican ocean governance framework to be considered as ocean-based economic sectors for which oceans economy and trade strategies will be developed in subsequent phases of the Project. For more information about the project see: <https://unctad.org/en/Pages/DITC/Trade-and-Environment/Oceans-Economy-Trade-Strategies.aspx>.
  - 2 This project is funded by the United Nations Development Account and implemented by the United Nations Conference on Trade and Development (UNCTAD), in cooperation with the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations (DOALOS).
  - 3 United Nations on the Law of the Sea. 1833 UNTS. 3/21 ILM 1261 (1982). Entered into force on 16 November, 1994.
  - 4 UNCLOS. Article 3.
  - 5 UNCLOS. Article 5, 7. See also: Law Project No. 17951 “Proyecto de Ley de Espacios Marinos”.
  - 6 UNCLOS. Article 2. See also: Political Constitution of Costa Rica. Article 6.
  - 7 UNCLOS. Article 55-58, 76-77.
  - 8 Fisheries and Aquaculture Law. Article 6.
  - 9 UNCLOS. Article 76(4)-(6). See Preliminary information indicative of the outer limits of the continental shelf beyond 200 nautical miles submitted by Costa Rica. Available at: [http://www.un.org/depts/los/clcs\\_new/submissions\\_files/preliminary/cri2009informacion\\_preliminar.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/preliminary/cri2009informacion_preliminar.pdf) and the reservation note made by Nicaragua in relation to the preliminary information by Costa Rica. Available at: [http://www.un.org/depts/los/clcs\\_new/submissions\\_files/preliminary/nic\\_re\\_cri\\_2010\\_en.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/preliminary/nic_re_cri_2010_en.pdf).
  - 10 Treaty Concerning Delimitation of Marine Areas and Maritime Cooperation between the Republic of Costa Rica and the Republic of Panama. Entered into force on 2 February 1980.
  - 11 Treaty on the delimitation of marine and submarine spaces and maritime cooperation between the Republic of Colombia and the Republic of Costa Rica, additional to that signed in San José on 17 March 1977. Entered into force on 20 February 2001.
  - 12 Agreement on maritime delimitation between the Republic of Ecuador and the Republic of Costa Rica. Entered into force on 9 September 2016.
  - 13 Maritime delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica v. Nicaragua) and land boundary in the northern part of Isla Portillos (Costa Rica v. Nicaragua). 2 February 2018. Available at: <http://www.icj-cij.org/files/case-related/165/165-20180202-JUD-01-00-EN.pdf> Pg. 63, 87.
  - 14 UNCLOS. Article 192.
  - 15 UNCLOS. Article 145, 194.
  - 16 UNCLOS. Article 195.
  - 17 UNCLOS. Article 196.
  - 18 UNCLOS. Article 207.
  - 19 UNCLOS. Article 217.
  - 20 UNCLOS. Article 237.
  - 21 Organic Law of the Environment N ° 7554, October 4, 1995.
  - 22 Executive Decree No. 34433-MINAE.
  - 23 UNCLOS. Article 61.
  - 24 UNCLOS. Article 56.
  - 25 UNCLOS. Article 62.
  - 26 UNCLOS. Article 62.
  - 27 UNCLOS. Article 62.
  - 28 Biodiversity Law No. 7788, April 30, 1998.
  - 29 Wildlife Conservation Law No. 7317, October 30, 1992.
  - 30 Fisheries and Aquaculture Law No. 8436, March 1, 2005. Chapter VI.
  - 31 United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks. 2167 UNTS 88. Entered into force on 11 December 2001.
  - 32 UNFSA. Article 2.
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- 33 UNFSA. Article 3.
  - 34 UNFSA. Article 18, 19.
  - 35 UNFSA. Article 20.
  - 36 FAO. 2018. The State of World Fisheries and Aquaculture 2018 - Meeting the sustainable development Goals. Rome. Pg. 41, 42.
  - 37 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Entered into force on 5 June 2016.
  - 38 PSMA. Article 2.
  - 39 PSMA. Port State inspection procedures. Annex B.
  - 40 PSMA. Article 6.
  - 41 PSMA. Article 1(3).
  - 42 Code of Conduct for Responsible Fisheries. Article 10.
  - 43 Code of Conduct for Responsible Fisheries. Article 1(2).
  - 44 Fisheries and Aquaculture Law. Article 98. Commercialization is understood as the purchase, sale and transport of marine and aquaculture resources.
  - 45 Convention for the Establishment of the Inter-American Tropical Tuna Commission. 80 UNTS 3. Entered into force on 3 March 1950. Costa Rica and the United States of America signed the Convention for the Establishment of the Inter-American Tropical Tuna Commission in 1949.
  - 46 IATTC Antigua Convention. Entered into force on 27 August 2010. Recital 12.
  - 47 Costa Rica ratified the Antigua Convention by Executive Decree No. 35181-RREE on April 2, 2009.
  - 48 IATTC Antigua Convention. Article 1(1) and Article 3.
  - 49 IATTC Antigua Convention. Article 2.
  - 50 The IATTC has developed the International Dolphin Conservation Programme (AIDCP), a legally binding Agreement that aims to reduce incidental dolphin mortalities in the tuna purse-seine fishery.
  - 51 IATTC Antigua Convention. Article 13, 14.
  - 52 IATTC Antigua Convention. Recital 6.
  - 53 Western Central Atlantic Fishery Commission. Available at: <http://www.fao.org/fishery/rfb/weca/c/en#OrgsInvolved>.
  - 54 Latin American Organization for Fisheries Development. Available at: <http://www.fao.org/fishery/rfb/oldepesca/en#OrgsInvolved>.
  - 55 Commission on Inland Fisheries and Aquaculture for Latin America and the Caribbean. Available at: <http://www.fao.org/americas/copescaalc/en/>.
  - 56 Convention on Biological Diversity. 1760 UNTS 79. Entered into force December 29, 1993.
  - 57 CBD. Article 4.
  - 58 CBD. Article 3.
  - 59 Approved by Law No. 7416. June 30, 1994.
  - 60 CBD. Article 6.
  - 61 CBD. Article 8 (a).
  - 62 CBD. Article 14.
  - 63 Convention on International Trade in Endangered Species of Wild Fauna and Flora. 993 UNTS 243. Entered into force on 1 July, 1975.
  - 64 Ratified by Law No. 5605. October 30, 1974.
  - 65 CITES. Article 1(c).
  - 66 CITES. Article 2 (4).
  - 67 Executive Decree No. 40379-MINAE-MAG. Reform to the Regulation of the Administrative Authority and Scientific Authorities of the International Convention for the Trade in Endangered Species of Wild Flora and Fauna (CITES).
  - 68 "Costa Rica was one of the co-proponents of the successful proposal to include Hammerhead sharks (*Sphyrna lewini*, *S. mokarran* and *S. zygaena*) in Appendix II at the 16<sup>th</sup> Conference of the Parties in Bangkok 2013." Lehr, Heiner. Catch documentation and traceability of sharks products in Costa Rica. Syntesa Partners & Associates. 2016. Pg. 7.
  - 69 Additional species listed in CITES Appendices are the following: *sphyrna lewini*, *sphyrna mokarran*, *sphyrna zygaena*, *manta spp.*
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- 70 Convention on Migratory Species. 1651 UNTS 333. Entered into force on November 1, 1983.
  - 71 Approved by Law No. 8586 on March 21, 2007.
  - 72 CMS. Factsheet: Migratory Marine Species in areas beyond the limits of national jurisdiction. Available at: <http://www.cms.int/es/node/7413>, 1.
  - 73 CMS. Memorandum of Understanding on the Conservation of Migratory Sharks. Signatories and Range States. Available at: <http://www.cms.int/sharks/en/signatories-range-states>.
  - 74 CMS. Memorandum of Understanding on the Conservation of Migratory Sharks. Signatories and Range States. Available at: <http://www.cms.int/sharks/en/signatories-range-states>.
  - 75 CMS. Memorandum of Understanding on the Conservation of Migratory Sharks. Signatories and Range States. Section 4. Available at: <https://www.cms.int/sharks/en/page/sharks-mou-text>.
  - 76 International Convention for the Regulation of Whaling. 161 UNTS 72. Entered into force on November 10, 1948.
  - 77 ICRW. Recital 3.
  - 78 See Costa Rican Executive Decree N° 34327-MINAE-MAG. Available at: [http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm\\_texto\\_completo.aspx?param1=NRTC&nValor1=1&nValor2=62657&nValor3=71665&strTipM=TC](http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=62657&nValor3=71665&strTipM=TC).
  - 79 Ramsar Convention. Ratified by Law No. 7224 on April 9, 1991.
  - 80 Ramsar Convention. Article 3(1).
  - 81 Convention concerning the Protection of the World Cultural and Natural Heritage. 1037 UNTS 151. Entered into force on December 17, 1975). Another key instrument is the Bahrain Action Plan for Marine World Heritage, developed to ensure that marine areas of outstanding universal value (OUV) were accorded equal attention to the protection of World Heritage on land. D. Laffoley, J. Langley (eds.) (2010) The Bahrain Action Plan for Marine World Heritage. Identifying priorities for marine World Heritage and enhancing the role of the World Heritage Convention in the IUCN WCPA Marine Global Plan of Action for MPAs in our Oceans and Seas. Switzerland: IUCN.
  - 82 World Heritage Convention. Recital 7, article 6.
  - 83 World Heritage Convention. Article 5 (a).
  - 84 World Heritage Convention. Article 5 (c).
  - 85 World Heritage Convention. Article 5 (d).
  - 86 Within the National System of Conservation Areas (SINAC), Costa Rica is divided in 11 Conservation Areas, an administrative division to manage protected areas and execute other functions assigned to SINAC on environmental protection.
  - 87 Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC). 2164 UNTS 31. Entered into force on May 2, 2001.
  - 88 IAC. Article 2.
  - 89 IAC. Article 4(2.a).
  - 90 IAC. Article 4 (2.h)
  - 91 IAC. Article 4(2.b).
  - 92 Fisheries and Aquaculture Law No. 8436, March 1, 2005.
  - 93 Wildlife Conservation Law No. 7317, October 30, 1992.
  - 94 UNEP. Antigua Convention. Adopted on the 18<sup>th</sup> February 2002.
  - 95 UNEP. Antigua Convention. Article 1.
  - 96 UNEP. Antigua Convention. Article 5(4).
  - 97 Executive Decree No. 35188-MAG.
  - 98 The Board of Directors of INCOPESCA, its decision-making body, is to consider the recommendations on specific topics from the Scientific and Technical Coordination Commission. Operative Regulations of INCOPESCA Scientific and Technical Coordination Commission (AJDIP/175-2017).
  - 99 Law of Creation of the Costa Rican Institute of Fisheries and Aquaculture Laws No. 7384; and Fisheries and Aquaculture Law No. 8436.
  - 100 Article 62 UNCLOS includes references on licensing of fishers, fishing vessels and equipment; species and quotas of catch; areas and seasons of fishing; age and size of fish that may be caught; observers onboard; landings; among others.
  - 101 These UNFSA articles are related to compatibility of conservation and management measures, the duties of the flag State, as well as compliance and enforcement by the flag State.
  - 102 Law of Creation of the National Coastguard Service No. 8000. Article 2.
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- 103 Attorney General's Office. Opinion C-420-2005, December 7, 2005.
  - 104 Inspection procedure from article 152 of the Fisheries and Aquaculture Law (AJDIP/194-2017).
  - 105 Fisheries and Aquaculture Law No. 8436, Article 14 (d).
  - 106 General Law on the National Service of Animal Health No. 8495.
  - 107 UNCLOS. Article 33.
  - 108 General Law on the National Service of Animal Health. Articles 65-72.
  - 109 General Law on the National Service of Animal Health. Article 72.
  - 110 SENASA. Certificate on fish origin. Available at: <http://www.senasa.go.cr/informacion/centro-de-informacion/informacion/sgc/dipoa/dipoa-pg-001-exportacion-de-productos-subproductos-y-derivados-de-origen-animal-para-consumo-humano/659-dipoa-pg-001-re-016-v03-certificate-of-origin-fish/file>.
  - 111 Organoleptic criteria in fresh fish; organoleptic criteria in refrigerated crustaceans, and organoleptic criteria and presence of parasites in fishery products. SENASA. DIPOA. Available at: <http://www.senasa.go.cr/informacion/centro-de-informacion/informacion/sgc/dipoa/dipoa-pg-017-procedimiento-de-criterios-organolepticos-en-productos-pesqueros>.
  - 112 Law of Creation of the National Coastguard Service No. 8000. Article 1.
  - 113 Law of Creation of the National Coastguard Service No. 8000. Article 2.
  - 114 Law of Creation of the National Coastguard Service No. 8000. Article 11.
  - 115 Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS; AJDIP/151-2009.
  - 116 Fisheries and Aquaculture Law, Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS.
  - 117 Organic Law of the Ministry of Environment, Energy and Telecommunications, No. 7152 of June 5, 1990. Article 2.
  - 118 Organic Law of the Ministry of Environment, Energy and Telecommunications, No. 7152 of June 5, 1990. Article 2.
  - 119 MINAE. History of MINAE. Available at: <http://www.minae.go.cr/acerca-de/historia-minae>.
  - 120 Biodiversity Law. Article 22.
  - 121 Biodiversity Law. Article 22.
  - 122 Established by Presidential Agreement No. 002-P of May 8, 2014.
  - 123 Created by Executive Decree No. 35669-MINAET. Articles 24, 25.
  - 124 Created by Environment Organic Law. Articles 103-112. See also: Executive Decree No. 34136-MINAE. Rules of Procedure of the Environmental Administrative Tribunal.
  - 125 Environment Organic Law. Article 111.
  - 126 Environment Organic Law. Articles 98, 99, 108.
  - 127 Policy on the Persecution of Environmental Crimes. Available at: [https://ministeriopublico.poder-judicial.go.cr/documentos/Documentos\\_2018/Circulares/PPP/02-PPP-2010.pdf](https://ministeriopublico.poder-judicial.go.cr/documentos/Documentos_2018/Circulares/PPP/02-PPP-2010.pdf). Pg. 49.
  - 128 Fisheries and Aquaculture Law. Article 133.
  - 129 Fisheries and Aquaculture Law. Article 131.
  - 130 Executive Decree No. 40710 MP-MINAE-PLAN (04/08/2017). Regulations of the Secretariat of Sectoral Planning of Environment, Energy, Ocean and Territorial Planning (SEPLASA).
  - 131 Executive Decree No. 37212-MINAET-MAG-SP-MOPT (06/11/2012). Creation of the National Council for Ocean Development (CONAMAR).
  - 132 Organic Law of the Environment N ° 7554, October 4, 1995.
  - 133 Biodiversity Law No. 7788, April 30, 1998.
  - 134 In addition, the National Biodiversity Policy of Costa Ricaseeks to promote the conservation of natural habitats, through inter-sectoral and multicultural participatory processes of territorial planning and marine spatial planning. CONAGEBIO, SINAC. 2015. National Biodiversity Policy 2015-2030, Costa Rica. GEF-UNDP, San Jose, Costa Rica. 72 pp. Adopted on October 27, 2015. Strategic Line 2.1.
  - 135 Wildlife Conservation Law No. 7317, October 30, 1992.
  - 136 Regulation for the establishment of marine areas for responsible fishing (AMPR) and declaratory of national public interest of AMPR. Executive Decree No. 35502-MAG.
  - 137 Currently, the AMPRs created to date in the Gulf of Nicoya are: 1) Nispero (AJDIP/160-2012), 2) Tárcoles (AJDIP/193-2011), 3) Isla Caballo (AJDIP/169-2012), 4) Palito-Montero (AJDIP/315-2009) & Isla de Chira (AJDIP/154-2012), 5) Paquera (AJDIP/099-2014), 6) Isla Venado (AJDIP/456-2013); and 7) Costa de Pájaros (AJDIP/182-2014). An additional AMPR was created in the South Pacific of Costa Rica, the AMPR Golfo Dulce (AJDIP 191-2010).
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- 138 INCOPECA. Management model for the certification of origin and sustainable fishing gears. 2015. Available at: [https://www.incopescas.go.cr/mercado/documentos/modelo\\_gestion/modelo\\_gestion\\_2015.pdf](https://www.incopescas.go.cr/mercado/documentos/modelo_gestion/modelo_gestion_2015.pdf).
- 139 Establishes Marine Areas of Multiple Use category (AMUM.) Executive Decree No. 24.282-MP-MAG-MIRENEM. The Executive Decree No. 24483-MP-MAG –MIRENEM established 6 AMUM in the territory of Costa Rica, namely: North Pacific AMUM, Gulf of Nicoya AMUM, South Pacific AMUM, North Caribbean AMUM, South Caribbean AMUM, AMUM Isla del Coco (this AMUM was subsequently eliminated). In relation to the AMUM category, the BID-Golfos Project was carried out, financed by the Inter-American Development Bank and administered by the MarViva Foundation. In this project MINAE, through SINAC and the Vice Ministry of Water and Oceans, and INCOPECA, requested support to promote processes of marine spatial planning (MSP). Specifically, two pilot projects to apply the “Guide for Marine Spatial Planning in Costa Rica” were carried out in the South Pacific AMUM and the Gulf of Nicoya AMUM in 2014.
- 140 Fisheries and Aquaculture Law. Article 44.
- 141 Fisheries and Aquaculture Law. Article 43 (e).
- 142 AJDIP/026-2018. Article 2.
- 143 AJDIP/026-2018. Article 4.
- 144 Sandi Meza, Jose Vinicio. Fact Sheet on Sustainable marine fisheries (all fish but tuna). DOALOS-UNCTAD project “Evidence-based and policy coherent Oceans Economy and Trade Strategies.” 2018.
- 145 Fisheries and Aquaculture Law. Article 8.
- 146 Fisheries and Aquaculture Law. Article 136.
- 147 Fisheries and Aquaculture Law. Article 44.
- 148 To be granted with such authorization, the private dock has to have a Veterinary Operation Certificate issued by SENASA. Regulation for the authorization of landings of fishery products from national or foreign commercial fishing fleet vessels (AJDIP/042-2009).
- 149 Operational procedure of the landings of hydrobiological products in docks or ports in Costa Rica (AJDIP/020-2016).
- 150 Fisheries and Aquaculture Law. Article 45.
- 151 Fisheries and Aquaculture Law. Article 47.
- 152 The AJDIP/474-2017 “Establishment of a new commercial license for the sustainable use of the shrimp resource” intended to create a new type of shrimp license, seeking for the development of sustainable shrimp fisheries in the Pacific Ocean by the commercial fishing fleet not contemplated in article 47(c) of the Fisheries and Aquaculture Law, and in the Caribbean Sea by the small-scale commercial fishing fleet. This AJDIP was annulled by the Constitutional Chamber of the Supreme Court of Costa Rica, through Resolution No. 2018-004573. Additionally, the Constitutional Chamber declared unconstitutional the Law Project for the Sustainable Exercise of Semi-industrial Shrimp Fisheries in Costa Rica”, legislative file No. 18.968, through its resolution No. 2018-7978 (May 18, 2018), emphasizing that suitable technical and scientific studies are required to determine that the project will comply with a significant reduction of by-catch in bottom trawling.
- 153 Fisheries and Aquaculture Law. Article 36, 46.
- 154 AJDIP/151-95 of 23 March 1995.
- 155 Fisheries and Aquaculture Law. Article 48.
- 156 AJDIP/221-2009. Article 9.
- 157 AJDIP/221-2009 Articles 7, 8.
- 158 Regulation to the Fisheries and Aquaculture Law No. 8436, Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS.
- 159 Executive Decrees No. 17658-MAG and No. 21533-MAG ‘Characteristics of nets and vessels for semi-industrial shrimp trawling’.
- 160 INCOPECA. Exports in 2015. Available at: <https://www.incopescas.go.cr/mercado/exportacion.html>.
- 161 Extraction and commercialization of cambute (AJDIP/153-2000).
- 162 Extraction and commercialization of cambute (AJDIP/153-2000). Article 1.
- 163 Executive Decree No. 19647-MAG.
- 164 Executive Decree No. 19647-MAG. It is prohibited to capture or commercialize *Panulirus gracilis* lobsters whose tail weight is less than 115 grams (4 ounces); or 450 grams (12 ounces) weight of the whole lobster.
- 165 Executive Decree No. 19647-MAG. There is an annual ban of 4 months, from March 1 to June 30, for the Caribbean lobster fishery (*Panulirus argus*).
- 166 Executive Decree No. 19647-MAG. The commercialization of gravid lobsters is prohibited.
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- 167 Regional Management for the Caribbean Lobster Fishery (*Panulirus argus*). OSPESCA Regulation OSP\_02\_09. In addition, OSPESCA has developed other eight regional regulations, namely: 1) Regulation OSP-01-09 of the Integrated System of the Central American Fish and Aquaculture Register (SIRPAC). 2) Addendum of Regulation 03-10 for the creation and implementation of a Regional System of Monitoring and Satellite Control of Fishing Vessels of the States of the Central American Isthmus. 3) Regulation 04-11 regarding the Code of Ethics for Responsible Fisheries and Aquaculture in the States of the Central American Isthmus. 4) Regulation OSP-05-11 to prohibit the practice of shark finning in SICA member countries. 5) Regulation OSP-06-13- on the Adequate Use of Marine Turtles Excluder Devices (TEDs). 6) Regulation 07-2014 to strengthen the population of the Whale Shark in the SICA member countries. 7) Regulation 08-2014 to Prevent, Discourage and Eliminate Illegal, Unreported and Unregulated Fishing in the SICA member countries. 8) Regulation OSPESCA/OIRSA No. 001-2013 for the Prevention, Control and Eradication of Diseases in Shrimp Farming in the Countries of SICA and OIRSA.
  - 168 Executive Decree No. 30742-S-MAG-MSP. Regulates the primary commercialization of piangüa (*Anadara tuberculosa*).
  - 169 Authorization for the extraction of molluscs by the Cooperativa de Moluscos de Chomes (Coopéchomes R.L.) (AJDIP/119-2017).
  - 170 Executive Decree No. 13371-A. Minimum size of capture and commercialization of the Piangüa (*Anadara tuberculosa* and *Anadara multcostata*).
  - 171 AJDIP 378/2015 approves first sexual maturity sizes for the capture and commercialization of elasmobranchs (sharks and rays).
  - 172 In a similar sense see: Regional Regulation OSP-05-11, which prohibits the practice of shark finning in the Central American Integration System (SICA).
  - 173 Fisheries and Aquaculture Law. Article 40.
  - 174 Fisheries and Aquaculture Law. Article 139 establishes sanctions with imprisonment from 6 months to 2 years, who allows, orders or authorizes the unloading of shark fins, without the respective body, in order to commercialize fins. In the case of foreign vessels, the sanction is a fine of 40 to 60 base salaries, and the cancellation of the fishing license.
  - 175 Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS.
  - 176 Executive Decree No. 37354 -MINAET-MAG- SP-MOPT-H. Prohibition of shark finning, import and transport of fins, transfer and carrying of fins within a vessel in jurisdictional waters.
  - 177 Adoption of Resolution C-11-10 on the conservation of the white tip oceanic shark (*carcharhinus longimanus*) in the Antigua Convention area (AJDIP/191-2014).
  - 178 INCOPESCA. Exports in 2016. Available at: <https://www.incopesca.go.cr/mercado/exportacion.html>.
  - 179 Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS.
  - 180 Regulations on sardine fishing (AJDIP/270-2009).
  - 181 Regulations on sardine fishing (AJDIP/270-2009). Article 1.
  - 182 Regulations on sardine fishing (AJDIP/270-2009). Article 7.
  - 183 Establishment of closed areas for sardine fishing activities (AJDIP/043-2016; AJDIP/465-2016; AJDIP 093/2018).
  - 184 INCOPESCA. Exports in 2016. Available at: <https://www.incopesca.go.cr/mercado/exportacion.html>.
  - 185 Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS.
  - 186 Fisheries and Aquaculture Law. Article 76.
  - 187 Lion fish regulations (AJDIP/051-2014). In addition, AJDIP/286-2014 authorizes the celebration of the Lionfish Capture Tournament in the Southern Caribbean.
  - 188 AJDIP 051/2014 .Reform to AJDIP/280-2013. Article 1.
  - 189 Lionfish protocol (AJDIP/407-2015).
  - 190 Fisheries and Aquaculture Law No. 8436. Chapter IV. Also: Regulation to the Fisheries and Aquaculture Law No. 8436, Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS. Chapter XVI.
  - 191 Law No. 8000. Creation of the National Coastguard Service. Article 2.
  - 192 The IATTC has also established the International Dolphin Conservation Program (AIDCP), a legally binding Agreement that aims to reduce incidental dolphin mortalities in the tuna purse-seine fishery.
  - 193 The VMS is applicable to tuna-fishing vessels with a length of 24 meters operating in the Antigua Convention's area.
  - 194 IATTC Plan for regional management of fishing capacity, June 24, 2005.
  - 195 IATTC Resolution C-00-06, 15 June 2000.
  - 196 INCOPESCA. Exports in 2016. <https://www.incopesca.go.cr/mercado/exportacion.html>.
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- 197 Fisheries and Aquaculture Law. Article 7. A specific provision was set by INCOPECSA on licenses for national flag vessels to commercially fish tuna in the Atlantic Ocean, outside the Costa Rican EEZ. Costa Rica has the status of Cooperating Non-Party in the International Commission for the Conservation of Atlantic Tunas (ICCAT), and vessels must comply with satellite tracking systems and must not be registered in IUU fishing lists. AJDIP/300-2016. Grants licenses for commercial fishing of tuna in the Atlantic Ocean.
  - 198 Fisheries and Aquaculture Law. Article 60.
  - 199 Fisheries and Aquaculture Law. Article 50, 57.
  - 200 Foreign flag tuna vessels are allowed to unload tuna in Costa Rican ports. In the case that a vessel has to arrive at any port in the Eastern Pacific due to force majeure or fortuitous event, such vessel has the right to be authorized an extension of the fishing license by INCOPECSA. Executive Decree No. 36081-MAG. Extension of fishing licenses to foreign tuna purse seiners, licensed to carry out activities in Costa Rican jurisdictional waters.
  - 201 Fisheries and Aquaculture Law. Article 53.
  - 202 Fisheries and Aquaculture Law. Article 55.
  - 203 Fisheries and Aquaculture Law. Article 61.
  - 204 Fisheries and Aquaculture Law. Article 51.
  - 205 Fisheries and Aquaculture Law. Article 56.
  - 206 Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS.
  - 207 Administrative Contentious Tribunal through its Resolution No. 84-2018-I, 3 August 2018. This Resolution has been appealed.
  - 208 Foreign flagged vessels that operate in the Costa Rican EEZ and on the high seas supply the tuna canning processing industry in the country, as it doesn't have a purse-seine national flag fleet. Important to acknowledge is that the authorization granted for the use of fishing quotas by the purse-seine tuna foreign fleet does not grant any right to develop fishing activities in the Exclusive Economic Zone of Costa Rica.
  - 209 Some of these requirements are: not be included in a IUU vessel list; compliance with national fishing regulations; access to information related to the fishing activity; satellite tracking, compliance with measures of fisheries management and on-board observer mechanisms; comply with IATTC and the Agreement on the International Program for the Conservation of Dolphins resolutions; ship-owner offers all of its catch to the tuna processing companies operating in Costa Rica; among others.
  - 210 Executive Decree No. 37386-MAG. Article 10.
  - 211 Executive Decree No. 37386-MAG and its Reform No. 39503-MAG. Regulation for the utilization of the purse-seine tuna fishing capacity recognized to Costa Rica within the Inter-American Tropical Tuna Commission. Article 11. The resources generated by the annual fee is destined to finance the development and promotion of tuna fisheries and related species; the participation of the country in RFMO meetings and other International Fora; implementation of the National Development Plan of Fisheries and Aquaculture; improve national scientific capacity; among others.
  - 212 AJDIP 108/2017. Article 1.
  - 213 INCOPECSA has the legal authority to create new categories of fishing licenses. Creation of the Costa Rican Institute of Fisheries and Aquaculture Law No. 7384. Article 5 (g). Relying on the technical report DGT-054-2018, INCOPECSA determined that 'Green Stick' fishing is highly selective.
  - 214 Holders of a long-line fishing license could request INCOPECSA to add the Green Stick fishing gear to their vessel or completely change the traditional long-line for the Green Stick.
  - 215 Authorizes fishing gear "Green Stick" or "Palo verde" (AJDIP/165-2018).
  - 216 Prohibits the tuna fishing on artificial planted structures or Fish-Aggregating Devices (AJDIP/241-1999).
  - 217 Tracking and verification system of tuna captured with and without mortality of Dolphins (AJDIP/107-2000). In this system the not-dolphin-safe tuna, and tuna caught with possible damage or death of dolphins, have to be unloaded in different containers to, as well as classified, weighed, stored and processed separately from, the dolphin-safe tuna or tuna caught without damage to dolphins.
  - 218 Protocol on landing of hydrobiological products from purse-seine tuna foreign flag vessels (AJDIP/199-2017).
  - 219 Foreign purse-seine tuna vessels without a Costa Rican license that intend to unload fishery products in national ports will be obliged, prior to unloading, to be registered in INCOPECSA. (AJDIP/166-2018). Article 1.
  - 220 Executive Decree No. 38681-MAG-MINAE. Establishment of measures for the exploitation of tuna and related species in the exclusive economic zone of the Costa Rican Pacific Ocean.
  - 221 Satellite tracking of vessels of the national commercial fishing fleet and foreign purse-seine tuna fishing fleet operating in Costa Rican jurisdictional waters. AJDIP / 230-2009. In addition, some tasks assigned to the Satellite Monitoring Center of INCOPECSA are: monitoring fishing vessels of the foreign purse-seine tuna fishing
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- fleet, as well as the national long-line fishing fleet (medium and advanced scale); elaboration of maps; use of satellite tracking information to identify possible illegal fishing vessels; cross-control of information with landing forms (FID), among others. INCOPESCA. Financial Department. Budget Modification No. 05-2017. Pg. 6-9.
- 222 UNCLOS article 62 (utilization of the living resources); article 63 (Stocks occurring within the EEZ of two or more coastal States or both within the EEZ and in an area beyond and adjacent to it), article 64 (Highly migratory species), article 73 (Enforcement of laws and regulations of the coastal States), article 119 (Conservation of the living resources) of the high seas.
- 223 The Fisheries and Aquaculture Law No. 8436 defines aquaculture activity on its article 2.1 as the “cultivation and production of aquatic organisms through the use of methods and techniques for their controlled development; covers its complete or partial biological cycle, in natural or controlled water environments, in both marine and continental waters.
- 224 Fisheries and Aquaculture Law No. 8436. Article 2.
- 225 Fisheries and Aquaculture Law No. 8436. Article 13.
- 226 Fisheries and Aquaculture Law No. 8436. Article 23.
- 227 E.g. the use of malachite green in aquaculture products is prohibited and SENASA is responsible for ensuring compliance with this provision. Resolution SENASA-DG-R068-2016.
- 228 Executive Decree No. 34687-MAG. RTCR 409: 2008 Regulation of Maximum Microbiological Limits and Residues of Drugs and Contaminants for the Products and Subproducts of Fisheries and Aquaculture Destined for Human Consumption. Article 6.
- 229 Fisheries and Aquaculture Law. Article 84.
- 230 Fisheries and Aquaculture Law. Article 83.
- 231 Fisheries and Aquaculture Law. Article 83.
- 232 Fisheries and Aquaculture Law. Article 85.
- 233 Fisheries and Aquaculture Law. Article 84.
- 234 Fisheries and Aquaculture Law. Article 90.
- 235 Law of the Maritime Terrestrial Zone. Article 11, 22.
- 236 Environment Organic Law. Articles 43 and 44. Also: Executive Decree No. 29342-MINAE. Article 5; Executive Decree No. 31849-MINAE-MOPT-MAG-MEIC. Annex 1.
- 237 Executive Decree No. 23247-MIRENEM. Entered into force on April 20, 1994. Article 4.
- 238 Executive Decree No. 29342-MINAE. Articles 1, 2, 3.
- 239 Environment Organic Law. Article 45. Also: Executive Decree No. 39411-MINAE-MAG. Article 9; and Executive Decree No. 22550-MIRENEM. Article 3, 7; Wildlife Conservation Law. Article 98. The sanction for this conduct is imprisonment of one (1) to three (3) years.
- 240 Fisheries and Aquaculture Law. Article 144.
- 241 Law of the Maritime Terrestrial Zone No. 6043. Article 18. It is necessary an agreement of the respective Municipal council approving the proposed use in the maritime terrestrial zone, as well as the corresponding administrative approval acts from the other entities referred to in article 18. Attorney General of the Republic. Opinion No. C-110-2014, March 28, 2014.
- 242 Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS.
- 243 For example an authorization on the viability of the project by MINAE, who must coordinate with MOPT not to authorize aquaculture projects in areas that affect navigation routes.
- 244 For example environmental feasibility study granted by SETENA, water concession authorized by MINAE; authorization to export or import aquaculture products granted by INCOPESCA, among others.
- 245 Approves list of species of fishery and aquaculture interest (AJDIP/289-2017).
- 246 Procedure for attention to aquatic animal disease cases PN-ACUI-PG-04.
- 247 INCOPESCA. Technical Note No. 68. Available at: [https://www.incopescas.go.cr/mercado/documentos/sol\\_aut\\_imp.pdf](https://www.incopescas.go.cr/mercado/documentos/sol_aut_imp.pdf).
- 248 INCOPESCA. Exports on 2016. Available at: <https://www.incopescas.go.cr/mercado/exportacion.html>.
- 249 Sandi Meza, Jose Vinicio. Fact Sheet on Seafood Manufacturing Sector. DOALOS-UNCTAD project “Evidence-based and policy coherent Oceans Economy and Trade Strategies.” 2018.
- 250 Law No. 7384 Creation of the Costa Rican Institute of Fisheries and Aquaculture (INCOPESCA). Article 5.
- 251 Fisheries and Aquaculture No. 8436. Article 14.d
- 252 Fisheries and Aquaculture Law. Article 100.
- 253 Regulations for the National Certification Program for Compliance with Good Management Practices for Fishery Products for Exports and the Internal Market. AJDIP 114/2003. Article 1.
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- 254 Executive Decree No. 34687-MAG. RTCR 409: 2008 Regulation of Maximum Microbiological Limits and Residues of Drugs and Contaminants for the Products and Subproducts of Fisheries and Aquaculture Destined for Human Consumption.
- 255 Executive Decree No. 34687-MAG. RTCR 409: 2008 Regulation of Maximum Microbiological Limits and Residues of Drugs and Contaminants for the Products and Subproducts of Fisheries and Aquaculture Destined for Human Consumption. Article 4.
- 256 Executive Decree No. 34687-MAG. RTCR 409: 2008 Regulation of Microbiological Maximum Limits and Residues of Drugs and Contaminants for the Products and Subproducts of Fisheries and Aquaculture Destined for Human Consumption. Article 5.
- 257 COMEX. Development of capacities. Available at: <http://www.comex.go.cr/desarrollo-de-capacidades-y-aprovechamiento/>.
- 258 Organic Law of the Ministry of Economy, Industry and Commerce (MEIC) No. 6340.
- 259 Executive Decree N°36980-MEIC-MAG. Technical Regulations for the Labeling of Fish Products- RTCR 449-2010.
- 260 Fisheries and Aquaculture Law. Article 98.
- 261 Fisheries and Aquaculture Law. Article 99.
- 262 Executive Decree No. 36782-MINAET-MAG-MOPT-TUR-SP-S-MTSS.
- 263 Some requirements and important provisions are: marketing of fishery and aquaculture products shall be carried out through duly authorized establishments; the use of labels throughout the marketing and industrialization process; the mandatory observance of commercial sizes; comply with measures of protection, conservation and use of fishery products, among others.
- 264 Fisheries and Aquaculture Law. Article 55. In a similar sense, the provisions included in the Regulations of Foreign Fishing Vessels in the Patrimonial Sea, Executive Decree No. 20554-MAG. Articles 2, 4.
- 265 Executive Decree N°36980-MEIC-MAG. Technical Regulations for the Labeling of Fish Products- RTCR 449-2010.
- 266 Executive Decree No. 34687. Regulation of maximum microbiological limits and residues of drugs and contaminants for the products and subproducts of fish and aquaculture products destined for human consumption - RTCR 409-2008.
- 267 Catch certificate for the export of fishery products (AJDIP/042-2010).
- 268 UNCTAD. Trade and Environment Review 2016. Fish Trade. Available at: [http://unctad.org/en/PublicationsLibrary/ditcted2016d3\\_en.pdf](http://unctad.org/en/PublicationsLibrary/ditcted2016d3_en.pdf). Pg 70.
- 269 UNCTAD. Trade and Environment Review 2016. Fish Trade. Available at: [http://unctad.org/en/PublicationsLibrary/ditcted2016d3\\_en.pdf](http://unctad.org/en/PublicationsLibrary/ditcted2016d3_en.pdf). Pg 74.
- 270 World Trade Organization. Ministerial Conference 12. Decision on Fisheries Subsidies: WT/MIN(17)/64 WT/L/103 of the 13 December 2017.
- 271 Treaty of Montevideo, signed on August 12, 1980. Available at: <http://www.aladi.org/sitioAladi/normativalnstTM80.html>.
- 272 Ratified by Costa Rica through Law No. 8300 of September 10, 2002. Entered into force on November 1, 2002.
- 273 Ratified by Costa Rica through Law No. 8055 of January 4, 2001. Entered into force on February 15, 2002.
- 274 Ratified by Costa Rica through Law No. 8953 of June 21, 2011. Entered into force on August 1, 2011.
- 275 Ratified by Costa Rica through Law No. 9238 of May 5, 2014. Entered into force on August 1, 2016.
- 276 Ratified by Costa Rica through Law No. 9122 of November 22, 2011. Entered into force on July 1, 2013.
- 277 Ratified by Costa Rica through Law No. 8675 of October 16, 2008. Entered into force on November 23, 2008.
- 278 Ratified by Costa Rica through Law No. 9133 of April 25, 2013. Entered into force on June 1, 2013.
- 279 Ratified by Costa Rica through Law No. 7882 of June 9, 1999. Entered into force on March 7, 2002.
- 280 Ratified by Costa Rica through Law No. 9123 of April 22, 2013. Entered into force on July 1, 2013.
- 281 Free Trade Agreement between the Government of the Republic of Costa Rica and the Community of Caribbean States (CARICOM). Entered into force on November 15, 2005.
- 282 General Treaty of Central American Economic Integration. Entered into force on July 29, 1963.
- 283 It was ratified by Costa Rica through Law No. 8622, and entered into force on January 1, 2009.
- 284 CAFTA. Article 4.22(d).
- 285 CAFTA. Article 4.22.
- 286 CAFTA. Annex 4.1.
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- 287 CAFTA. Annex 17.9
- 288 CAFTA. ARTICLE 17.4
- 289 Ratified through Law No. 9154, on July 11, 2013.
- 290 COMEX. AACUE. Available at: <http://www.comex.go.cr/tratados/aacue/>.
- 291 Ratified by Costa Rica through Law No. 9232, May 2 of 2014.
- 292 COMEX. Schemes of Certification of Origin according to the country to be exported or imported. Available at: <http://www.comex.go.cr/certificación-de-origen/>.
- 293 For example the European Free Trade Association (EFTA), Caribbean Community (CARICOM), China, Colombia, Peru and the European Union. PROCOMER. Certificate of Origin. Available at: <https://www.procomer.com/es/certificacion-origen-costa-rica#1>.
- 294 Executive Decree No. 36651-COMEX. Article 1.
- 295 Law No. 7638 Creation Ministry of Foreign Trade and Foreign Trade Promoter of Costa Rica. In addition, this Law creates the Promoter of Foreign Trade in Costa Rica (PROCOMER), being one of its functions to design and coordinate programs related to exports and investments.
- 296 Law of the Ministry of Economy, Industry and Commerce (MEIC) No. 6340.
- 297 The General Customs Law No. 7575 regulates the entry and exit of merchandise from the national territory.
- 298 Regulation to the General Customs Law, Executive Decree No. 25270-H. Article 21.
- 299 Protocol Agreement of the Central American Tariff and Customs Regime. Law 7346 of January 9, 1993.
- 300 Law of the Maritime Terrestrial Zone, Law No. 6043. Article 1.
- 301 Law of the Maritime Terrestrial Zone, Law No. 6043. Article 9.
- 302 Law of the Maritime Terrestrial Zone, Law No. 6043. Article 10.
- 303 Law of the Maritime Terrestrial Zone, Law No. 6043. Article 22.
- 304 Law of the Maritime Terrestrial Zone No. 6043. Article 18. It is necessary an agreement of the respective Municipal council approving the proposed use in the maritime terrestrial zone, as well as the corresponding administrative approval acts from the other entities referred to in article 18. Attorney General of the Republic. Opinion No. C-110-2014, March 28, 2014.
- 305 Regulation to the Law of the Maritime Terrestrial Zone, Executive Decree No. 7841-P. Article 8.
- 306 Law of concession and operation of marinas and tourist docks. No. 7744, December 19, 1997.
- 307 Organic Law of the Environment No. 7554, October 4, 1995.
- 308 Biodiversity Law No. 7788, April 30, 1998.
- 309 Forestry Law No. 7575. Entered into force on February 13, 1996.
- 310 Wildlife Conservation Law No. 7317, October 30, 1992.
- 311 Territorial Maritime Zone Law. Article 17, 18.
- 312 Territorial Maritime Zone Law. Article 17.
- 313 Regulation of the Law of the Maritime Terrestrial Zone, Executive Decree No. 7841-P. Article 15.
- 314 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. 1046 UNTS 120. Entered into force on August 30, 1975.
- 315 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. Article 1.
- 316 Ibid. Article VII.
- 317 Ibid. Article IV.
- 318 Protocol to the Convention on the prevention of marine pollution by dumping of wastes and other matter. 36 ILM 1. Entered into force on March 24, 2006.
- 319 London Protocol. Article 23.
- 320 International Convention on Civil Liability for Oil Pollution Damage. UNTS 14097. Entered into force on June 19, 1975. Date of accession by Costa Rica: December 8, 1997.
- 321 International Convention on Civil Liability for Oil Pollution Damage. Article 2.
- 322 International Convention on Civil Liability for Oil Pollution Damage. Article 5.
- 323 International Convention on Civil Liability for Oil Pollution Damage. Article 1(7).
- 324 International Convention on Civil Liability for Oil Pollution Damage. Article 3.
- 325 This instrument sets the minimum standards for the construction, equipment and operation of ships, compatible with their safety. Flag States are responsible for ensuring that ships under their flag comply with its requirements. Date of accession by Costa Rica: June 6, 2011.
- 326 The Convention provides for gross and net tonnages. Date of accession by Costa Rica: May 27, 2009.
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- 327 Prescribes minimum standards relating to training, certification and watchkeeping for seafarers which countries are obliged to meet or exceed. Ratified by Costa Rica on March 25, 2003.
- 328 The IMSO was established as the inter-governmental body that oversees the provision of certain satellite-based maritime distress communication service. Date of accession by Costa Rica: June 5, 1995.
- 329 Creates the Ministry of Transport to replacing the Ministry of Transport and Public Works, Law No. 3155 and its reform Law No. 4786.
- 330 Executive Decree No. 40803-MOPT. Organizational and functional reform of the Maritime Port Division of the Ministry of Public Works and Transport. Article 12.
- 331 Law of the Costa Rican Institute of Ports of the Pacific (INCOP) No. 1721.
- 332 Regulatory Law of the Port activity in the Pacific coast Law No. 8461.
- 333 Organic Law of the Board of Port Administration and Economic Development of the Atlantic Slope (JAPDEVA) Law No. 3091.
- 334 Executive Decree No. 36172-MP-MOPT (21/07/2010) Creates the National Port Council.
- 335 Autonomy means the distance that a vessel can travel from a base port to the next port of refuge, as well as the distance that may exist between the vessel and the coast. Executive Decree No. 28742-MOPT. Article 2.
- 336 Regulation of tonnage measurement of ships. Executive Decree No. 28528-MOPT. Article 1.
- 337 Navigation Law Project No. 18.512. Available at: <http://proyectos.conare.ac.cr/asamblea/18512.pdf>.
- 338 International Convention on Civil Liability for Oil Pollution Damage. Article 3.
- 339 International Convention on Civil Liability for Oil Pollution Damage. Article 5.
- 340 International Convention on Civil Liability for Oil Pollution Damage. Article 7.
- 341 Executive Decree No. 34431-MINAE-S. Article 3 (14). The concept of water bodies includes rivers, streams, lakes, lagoons, canals, estuaries, mangroves, freshwater or salt water bodies, where wastewater is discharged.
- 342 UNCLOS. Article 213.
- 343 Executive Decree No. 33601-MINAE-MS. Regulations for Wastewater Discharge and Reuse.
- 344 Fisheries and Aquaculture Law No. 8436. Article 68.
- 345 The Costa Rica Tourism Board (ICT) fosters tourism development, and is the competent body in the promotion of tourism, as well as protecting and publicizing places of natural beauty or scientific importance (Organic Law of the Costa Rican Institute of Tourism No. 1917). ICT also seeks to maintain the tourism industry as an engine of the country's economy, promoting a tourism development that is sustainable, inclusive and innovative, ensuring the protection of the environment, as well as the support and strengthening of small industries and local productive chains (Costa Rica Tourism Board. National Plan for Tourism Development 2017-2021. Pg. 73, 75).
- 346 Fisheries and Aquaculture Law No. 8436. Article 69.
- 347 Fisheries and Aquaculture Law No. 8436. Article 72.
- 348 Fisheries and Aquaculture Law No. 8436. Article 73.
- 349 Fisheries and Aquaculture Law No. 8436, March 1, 2005. Article 79.
- 350 Executive Decree No. 36782. Regulation to the Fisheries and Aquaculture Law, May 24, 2011.
- 351 Executive Decree No. 36782. Regulation to the Fisheries and Aquaculture Law, May 24, 2011. Article 68.
- 352 Executive Decree No. 36012-MINAET-MEIC-TUR. Regulations for the awarding of the Tourism Sustainability Certificate.
- 353 Certification norm for tourism sustainability for coastal and marine tour operation activities. Available at: [http://www.turismo-sostenible.co.cr/pdf/Norma\\_Tour\\_Operacion\\_Marino\\_Costeras.pdf](http://www.turismo-sostenible.co.cr/pdf/Norma_Tour_Operacion_Marino_Costeras.pdf).
- 354 Certification standard for sustainable for gastronomic companies in Costa Rica. Available at: [http://www.turismo-sostenible.co.cr/pdf/Norma\\_Empresas\\_Gastronomicas\\_de\\_Costa\\_Rica.pdf](http://www.turismo-sostenible.co.cr/pdf/Norma_Empresas_Gastronomicas_de_Costa_Rica.pdf).
- 355 Certification standard for sustainable for gastronomic companies in Costa Rica. Point 2.7.
- 356 Certification standard for sustainable for gastronomic companies in Costa Rica. Point 2.6.
- 357 Certification standard for sustainable for gastronomic companies in Costa Rica. Point 11.2.
- 358 Political Constitution of Costa Rica. Title XI. Also: Organic Law of the Judiciary Branch of Costa Rica No. 8.
- 359 Policy on the Persecution of Environmental Crimes. Available at: [https://ministeriopublico.poder-judicial.go.cr/documentos/Documentos\\_2018/Circulares/PPP/02-PPP-2010.pdf](https://ministeriopublico.poder-judicial.go.cr/documentos/Documentos_2018/Circulares/PPP/02-PPP-2010.pdf).
- 360 Policy on the Persecution of Environmental Crimes. Available at: [https://ministeriopublico.poder-judicial.go.cr/documentos/Documentos\\_2018/Circulares/PPP/02-PPP-2010.pdf](https://ministeriopublico.poder-judicial.go.cr/documentos/Documentos_2018/Circulares/PPP/02-PPP-2010.pdf) Pg. 44-67.
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361 Organic Law of the National Apprenticeship Institute No. 6868.

362 INA. Nautical and Fishing Core. Available at: [http://www.ina.ac.cr/nautico\\_pesquero/estructuranucleo\\_nautico.html](http://www.ina.ac.cr/nautico_pesquero/estructuranucleo_nautico.html).

363 Fisheries and Aquaculture Law. Article 23.

