

Policy brief

Fisheries management in West Africa: the example of sardinella

Towards the establishment of a sardinellas RFMO between Senegal, The Gambia and Mauritania?

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In this article, the author looks to the different possibilities for improving the management of small pelagic stocks in West Africa, which are severely overfished and essential for food security. For this, M. Morin reviews the two studies from CECAF and COMHAFAT which propose, in different ways, to upgrade both institutions and instead, suggests the need for the creation of a sardinella Regional Fisheries Management Organisation (RFMO) between Mauritania, Senegal and The Gambia.

Overview

Sardinella (the round sardinella *Sardinella aurita* and the flat sardinella *S. maderensis*) belong to the so-called small pelagics, a term used in contrast to the large pelagics (tunas and associated species). They are fish that live in open water and move in generally dense schools.

Other small pelagic species are also fished in West African waters. These include sardines (*Sardina pilchardus*), anchovies (*Engraulis encrasicolus*), mackerel (*Scomber colias*), horse mackerel (*Trachurus trecae* and *T. trachurus*), ethmalose, also known as bonga (*Ethmalosa Fimbriata*), etc. In this article, we will limit our

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discussion to sardinella because they are the main species of small pelagic fish caught in the coastal waters of West Africa. They are mainly found in the waters of Mauritania, Senegal and the Gambia, as well as a little further north in the waters of the Western Sahara and south in the waters of Guinea-Bissau and Sierra Leone.

The catching of these species is a source of employment and income for the coastal populations, first and foremost the fishermen, but also the women, who are responsible for smoking the catches and trading them. By providing essential proteins to the populations of this region, this fishery is essential for the food security of West Africa.²

We will restrict our study to the three main countries, i.e. Mauritania, Senegal and The Gambia. A restriction of this order seems possible to us. On the one hand, the quantities fished to the north (in the coastal waters of the Western Sahara) or to the south (Guinea-Bissau and Guinea) seem to be small. Moreover, regarding the coastal zone north of Mauritania, any consideration of the management of the resources contained in the waters of the Western Sahara must necessarily take account of the political situation in this territory. Given that this situation has not been stabilised in terms of international law, it is not possible at the present time to hold a reasoning that would be of any practical interest; one could only formulate hypotheses.

On the other hand, the specialised working group of CECAF (Committee for Eastern Central Atlantic Fisheries)³ on small pelagics only includes Morocco, Mauritania, Senegal and Gambia in its northern sub-group, and thus stops at the border between Senegal and Guinea-Bissau to the south. We assume that the decision to set the limit of the area of competence of this sub-group at this border is consistent with the spatial distribution of the stocks of these two sardinella species. Consequently, in view of these different elements, we feel that taking into account only the coastal waters of Mauritania, Senegal and the Gambia is justified in order to carry out a legal analysis of the management of the fisheries on these species.

The destination of the products caught has changed considerably in the last decade, following the appearance of fishmeal factories.⁴ Whereas small-scale fishing used to be geared towards feeding the population, a large part of the catches is now directed towards factories that produce fishmeal for export in order to meet the needs of the aquaculture industry, whether in Europe, particularly for Norwegian salmon farming, or in China, which is a recent player in this field and whose needs are growing. It is also necessary to take into account the industrial fishing carried out by

² CAILLART, Benoît and BEYENS, Yolaine, "Study on the evolution of small pelagic fisheries in Northwest Africa and possible impacts on nutrition and food security in West Africa", EU funded study, No. 2014-353888-1. French version available at: <https://static1.squarespace.com/static/517fe876e4b03c6b86a4b81b/t/58aec198579fb308719e9abd/1487847910473/Devco+Study+on+small+pelagics+final+report+%281%29.pdf>

³ CECAF is a regional fisheries organisation (RFO) established within the framework of the FAO, the main purpose of which is to make scientific assessments of the status of fisheries stocks in its area of competence and thereby promote cooperation between states. RFOs do not have competence in fisheries management, unlike RFMOs (Regional Fisheries Management Organisations).

⁴ On this topic, for example, see CORTEN, Ad et al., "The development of a fishmeal industry in Mauritania", in *Fisheries Research* (2017), pp. 328-336; STANDING, Andre, "Growth in fishmeal production in Mauritania: implications for regional food security", CFFA-CAPE website, 21 March 2017, available at: <https://www.cffacape.org/publications-blog/2017/02/23/2017-2-23-the-growth-of-fishmeal-production-in-mauritania-the-implications-for-regional-food-security>; GOREZ, Béatrice, "More aquaculture to feed the world? Not at the expense of African fishing communities", CFFA-CAPE website, 30 November 2021, available at: <https://www.cffacape.org/publications-blog/more-aquaculture-to-feed-the-world-not-at-the-expense-of-african-fishing-communities>; or GOREZ, Béatrice, "The rich man's fish feeds on the poor man's sardinella", CFFA-CAPE website, 13 July 2021, available at: <https://www.cffacape.org/publications-blog/the-rich-mans-fish-feeds-on-the-poor-mans-sardinella>.

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foreign vessels which has existed for a long time in this region (e.g. vessels from EU Member States or Russia), to which is now added that carried out by vessels from China or controlled by Chinese companies, as well as, recently, by Turkish seiners.

Increased demand from the aquaculture industry has led to overexploitation of sardinella. CECAF's Northern Group has recommended reducing fishing effort on both species by 50%.⁵ This recommendation underlines the urgent need for stricter management rules than those taken so far by the coastal States concerned.

Legally, the management of stocks of these species falls under Article 63 of the United Nations Convention on the Law of the Sea (UNCLOS). This article, which appears in Part V "Exclusive Economic Zone" (EEZ), States that: *"Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part"* (paragraph 1).

The management of the sardinella fishery corresponds to this situation. However, neither directly nor through a regional or sub-regional organisation have the three States principally concerned (Mauritania, Senegal and The Gambia) put in place the legal means to *"agree on the measures necessary to coordinate and ensure the conservation and development of these stocks"*.

One can only wonder about such a lack of coordination between these States to manage the stocks of these species in a concerted manner, either directly or in the framework of a regional or sub-regional organisation. In this year 2022, it is now 40 years since the UNCLOS was adopted. It should also be recalled that a compromise was already considered to have been reached as early as 1975-1976 on the general principles relating to future EEZs and that many countries had subsequently established such zones very quickly. Thus, as was noted shortly afterwards, the institution of the EEZ appeared to have a customary value in the international legal order even before the adoption of UNCLOS.⁶

In Africa, the movement has been slower. EEZs have been created, but not by all states and often imperfectly. Indeed, Article 75 UNCLOS provides that the outer limits of EEZs and the delimitation lines between States with opposite or adjacent coasts must be indicated on nautical charts or, failing that, that these limits must be described by lists of geographical coordinates. It states that coastal States should give due publicity to such maps or lists of geographical coordinates by depositing a copy with the UN Secretary General. Very often this is not the case.⁷

For the three states of interest here, only two have established EEZs, Mauritania and Senegal; for the Gambia, we have not found any such information. For Mauritania and Senegal, the boundaries of the EEZs have neither been charted nor have geographic coordinates been listed and made public in accordance with Article 75 of

⁵ FAO, "Report of the FAO/CECAF Working Group on the Assessment of Demersal Resources - Northern Subgroup", Nouakchott, Mauritania, 2-10 December 2019, p.114; and FAO, "Summary Report - FAO Working Group on the Assessment of Small Pelagic Fish off Northwest Africa 2019", p. 7, available at: <https://www.fao.org/cecaf/publications/fr/>

⁶ LUCCHINI, Laurent and VOELCKEL, Michel, *Droit de la mer Tome I - La mer et son droit*, § 231, 1990.

⁷ See the website of the UN Law of the Sea Division: <https://www.un.org/depts/los/index.htm> under the tab "Maritime space: legislation and treaties (database)" as well as the FAOLEX database, available at: <https://www.fao.org/faolex/country-profiles/fr/>

UNCLOS.⁸ These failures do not, of course, reflect a lack of interest on the part of these countries in EEZs and the rights they confer on coastal states, but they do reflect a certain negligence. It should also be noted that the fisheries agreements concluded between these countries and the EU make reference, at least implicitly, to EEZs.⁹

Some time ago, we asked the question of the role that African coastal states give to EEZs in setting their fisheries policies.¹⁰ The impression we got in the course of this study was of a very individualistic behaviour of African States, their administrations and their staff.¹¹ In some ways, this probably explains a situation where the national authorities of these states appear reluctant to collaborate with neighbouring States to establish intergovernmental institutions such as RFMOs.

In this respect, it is significant that the studies that have been carried out to date in Africa to assess the feasibility of establishing an RFMO have not been carried out at the initiative of several neighbouring States that would have consulted each other for this purpose, but by two intergovernmental organisations, on the one hand, the FAO and, on the other, COMHAFAT (Ministerial Conference on Fisheries Cooperation among African States bordering the Atlantic Ocean), which has its headquarters in Rabat and whose members include all the States bordering the Atlantic, from Morocco to Namibia. It should also be noted that the Economic Community of West African States (ECOWAS), whose constitutive treaty states that its objective is to "*promote cooperation and integration with a view to the establishment of a West African Economic Union*" (Article 3, 1°), seems to have been alien to these initiatives, whereas it could, and in our view should, have played a leading role in launching such initiatives. The same is true of three other West African intergovernmental organisations which, although specifically concerned with fisheries cooperation, have not launched any study within themselves with a view to establishing an RFMO: The Sub-Regional Fisheries Commission (SRFC), which groups States from Mauritania to Sierra Leone, including Cape Verde; the Fisheries Committee for the West Central Gulf of Guinea (FCWC), which groups States from Liberia to Nigeria; and the Gulf of Guinea Regional Fisheries Commission (COREP), which groups States from Cameroon to Angola, including Sao Tome and Principe.

The two studies carried out on the initiative of the FAO and COMHAFAT do not specifically concern sardinella. Logically, they take into account the fields of application of the organisations from which the reflection initiated:

⁸ For Mauritania, the EEZ was established by Article 3 of Order 88-120 of 31 August 1988. For Senegal, the notion of EEZ appears in Article 2 of the Maritime Fishing Code which was the subject of Law 2015-18 of 13 July 2015. These texts do not include maps or lists of coordinates. However, it should be noted that for these two countries, a delimitation treaty was signed with Cape Verde, on 19 September 2003 for Mauritania and on 17 February 1993 for Senegal, and that these two treaties contain lists of coordinates.

⁹ Cf. agreement with Mauritania which refers, in the second recital of its preamble, to the EEZ extending up to 200 MM from its coastline (agreement published in OJ EU L 343 of 8 December 2006, p. 4). This is less clear for Senegal or the Gambia; for Senegal, it states that Senegalese waters are the waters under its sovereignty or jurisdiction (agreement published in OJ EU L 304 of 23 October 2014) and, for the Gambia, that the "Gambian fishing zone" corresponds to the waters under its sovereignty or jurisdiction (agreement published in OJ EU L 208 of 8 August 2019, p. 3); however, it is clear that these formulations refer, in the said agreements, to the EEZs of these countries, or the EEZ restricted to the fishing zone (Gambia).

¹⁰ MORIN, Michel, "Fisheries in Africa: Exclusive Economic Zones for What?", CFFA-CAPE website, 19 May 2020, available at: <https://www.cffacape.org/publications-blog/fisheries-in-africa-exclusive-economic-zones-for-which-purpose>.

¹¹ We are thinking here in particular of the phenomenon of corruption, which has been well identified and described by INTERPOL; see §b III.3, of the abovementioned article.

- For the FAO study, this is the CECAF study, which covers the coastal zone from Cape Spartel in the north to the mouth of the Congo in the south, covering an area of high seas up to longitude 36° West;¹²
- For COMHAFAT, the study covers the fisheries in the coastal zone of countries from Morocco to Namibia; its spatial scope, which is not defined in the founding convention, corresponds in practice to fishing carried out off the coast of these countries, including on the high seas, since the cooperation provided for between its member States also covers cooperation in the evaluation of highly migratory stocks and the coordination of actions in this field within the competent international organisations (Article 4), in other words, coordination within the International Commission for the Conservation of Atlantic Tunas (ICCAT) set up in 1966 by the Rio de Janeiro Convention.

After presenting these two studies (§ I and II), for which there is no indication at present that they will be followed by negotiations to establish an RFMO for the Atlantic coast of West Africa, we will discuss the merits of being less ambitious in relation to the proposals emanating from these two studies. In our view, it would be useful to consider the hypothesis of establishing an RFMO specifically for the management of sardinella between the three States we have identified above, i.e. Mauritania, Senegal and The Gambia (§ III).

I. The CECAF study¹³

This study aimed to identify different options for a better functioning of this committee. In reality, it focuses on the possible transformation of CECAF into an RFMO, i.e. an organisation empowered to adopt measures for the conservation and management of fisheries resources. The study almost completely ignores the legal and political aspects of this change, although these are essential. Indeed, it focuses, on the basis of a cost-benefit analysis, on the financial dimensions of this transformation with the need for capacity building of the future organisation.

The study thus raises the possibility of having fisheries research, i.e. in the authors' view the operation of CECAF, funded by consumers or their representatives, for example by non-member countries of CECAF now fishing in the Central East Atlantic (pp. 12-13). A sub-section on "Mergers and acquisitions" refers to the possibility of CECAF's growth through the aggregation of similar organisations, e.g. through mergers with sub-regional fisheries organisations, with CECAF being presented as an "acquiring firm" (p. 15). Possible partnerships with the EU, China, the USA, etc., are evoked which should lead to increased resources (p. 17), are evoked. There are many more examples of this.

In fact, in this study, CECAF transforming into an RFMO is seen as a private company that needs funding of 1 million to start up, which could be funded as follows: the EU and China, each for 475,000 euros, ECOWAS (Economic Community of West African

¹² See *supra* note 3.

¹³ McCARTHY, Jeffery and CHIMATIRO, Sloans, "Independent study to identify different options in support of an improved functioning of the Fishery Committee for the Eastern Central Atlantic (CECAF)", FAO, 2020, p.24, available at: <https://doi.org/10.4060/ca9297b>

States) for 40,000 euros and ECCAS (Economic Community of Central African States) for 10,000 euros (p. 27). It is as if these three organisations and China were in a position to act as shareholders to ensure the start-up of the new RFMO.

This study was not carried out by the FAO itself but by consultants. It is, however, available on the FAO website, which means that it has given its consent to publication. However, none of the real issues at stake in the creation of an RFMO, which are primarily political and legal and lie in the field of international public law, are mentioned. The authors confine themselves to an economic reasoning that ignores international law, as if States could only be present by providing funds without participating in the functioning of such an inter-State mechanism. It was even envisaged that CECAF could become an NGO (p. 67); although this option was rejected, the fact that the authors considered it as a possible option shows the high degree of unrealism in this study.

To propose that countries from outside the region become "partners" in its creation, knowing that at that time, the said partners would most certainly claim to participate in the governance of the RFMO thus created, is to disregard Article 56 of UNCLOS, which states that "*In the EEZ, the coastal State has: (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living resources, of the waters superjacent to the seabed and of the seabed and its subsoil [...]*". It is as if, through this study, CECAF coastal countries were asked to share their sovereign rights with other States or entities (China, EU).

Sixty years after the period of decolonisation of African countries, the reasoning behind this study appears strange, to say the least. It is likely that this study will not have a great future and will not be of much use.¹⁴ This is regrettable because there was an interesting study to be made on the possibility of transforming CECAF into an RFMO, for example on the model of what happened with the General Fisheries Commission for the Mediterranean (GFCM). Like CECAF, the GFCM was originally a regional fisheries organisation set up by the FAO to promote cooperation between its members. The GFCM only became an RFMO, while remaining within the institutional framework of the FAO, after the adoption of an amendment in 1997 which entered into force on 29 April 2004.

In our opinion, the Mediterranean situation cannot be reproduced in West Africa. Indeed, the Mediterranean is a semi-enclosed sea and the riparian States have an obvious interest in cooperating with each other for the management of the resources found there, whether in the EEZs or on the High seas. In the Atlantic, the African States bordering the Atlantic are faced with an open sea and only states that are geographically close to each other have a genuine interest in cooperating in the management of their fisheries resources. Conversely, States that are far apart (e.g. Senegal and Ghana, Liberia and Angola, etc.) do not have stocks to manage together. That said, it is regrettable that a truly comprehensive study on the possible transformation of CECAF into an RFMO has not shown the difficulties of doing the same thing in the Atlantic.

¹⁴ This does not mean that it should not be read. On the contrary, it is an excellent example of a well-argued theoretical study, but one that is totally unrealistic in terms of the way international law works. One can only be puzzled by the way the terms of reference for this study were conceived by the FAO and the choice of consultants who were clearly unfamiliar with fisheries and the nature of the issues at stake.

Furthermore, if CECAF were to be transformed into an RFMO, it is assumed that its spatial scope would be the same as at present, i.e. it would include areas of the High seas. However, given that highly migratory species (tuna and tuna-like species) are already managed by ICCAT and will therefore be excluded from this future RFMO, retaining the current spatial scope of CECAF would oblige African States to admit to this new RFMO those States fishing or claiming to fish in adjacent High seas areas, even though High seas fisheries for species other than highly migratory species represent marginal quantities. These non-area States could thus, on the basis of such marginal high seas fisheries, intervene in the management of resources in EEZs falling within the spatial scope of the RFMO. Ultimately, this would amount to an indirect renunciation by African States of the full exercise of their sovereign rights in the EEZ under Article 56 of UNCLOS.

II. The COMHAFAT study

This study was carried out in accordance with a declaration adopted in Abidjan on 28 August 2018 by the Conference of Ministers of this organisation, which decided to set up a working group to examine the possibilities of raising COMHAFAT to the status of an RFMO.¹⁵ It was carried out in 2019 by consultants (including the author of this article) and published in 2020.¹⁶

The study found that the convention establishing COMHAFAT is, in terms, far removed from an RFMO convention and that its transformation into such an organisation would require an almost complete overhaul of the current convention. In view of this, it was concluded that it would be preferable to negotiate a new international instrument to which COMHAFAT members would be invited to become members.

This study includes in annex the draft convention establishing this future RFMO. It has been drawn up with a view to serving as a basis for discussion of the negotiations of this future convention, which could take place within the framework of COMHAFAT mandated for this purpose by the Conference of Ministers. The establishment of this RFMO would not imply the end of COMHAFAT itself, which would continue to carry out the general fisheries policy co-ordination tasks of its members in accordance with its mandate. For the time being, due to the covid-19 pandemic, with the exception of a meeting by video conference in September 2020, there has been no follow-up.

This study started from an analysis of the needs that exist in fisheries management in West Africa. Firstly, it was noted, as already mentioned, that tuna and tuna-like species are managed under ICCAT; therefore, the RFMO to be created should exclude these species from its mandate. As for small pelagic and demersal species, they are present on the High seas only very marginally. Therefore, the spatial scope of this

¹⁵ COMHAFAT, "Report of the Meeting of Ministers", 10ème ordinary session, available at: https://www.comhafat.org/fr/files/publications/doc_publication_197.pdf.

¹⁶ CAILLART, Benoît, MORIN, Michel et THOM, Mireille, « Etude pour examiner la pertinence et les modalités pratiques pour faire évoluer la COMHAFAT vers une Organisation régionale de Gestion des Pêches », November 2019, available at : https://www.comhafat.org/fr/files/actualites/doc_actualite_15218116.pdf

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RFMO can be restricted to coastal areas under sovereignty or jurisdiction. There is no reason to include the High seas.

This has the advantage that African coastal States would reserve for themselves the possibility of becoming a member of this RFMO. They would thus be able to take management decisions based primarily on their own interests and not on those of third States whose vessels currently fish in their waters, either under bilateral agreements (e.g. EU) or directly with private companies from these third States (e.g. China). This does not, of course, exclude the possibility for African coastal States to continue to have bilateral or multilateral relations with any third country or entity (EU), but decisions within the RFMO would be taken solely by them, as the primary stakeholders in the management of the resources found in their waters and holders of sovereign rights under UNCLOS.

The draft convention was developed on the basis of this spatial restriction. The difficulty was to define a decision-making method that took into account the fact that the area over which it would apply, i.e. from the north of Morocco to the south of Namibia if one refers to COMHAFAT's area of competence, does not correspond to an area where the fisheries resources are part of stocks found in the EEZs of all the coastal States or even stocks that are linked in an ecosystemic manner. Thus, how can Morocco be interested in fishing on the coast of Angola and vice versa?

The solution was to propose that the Commission, as the governing body of this RFMO, should be able to establish sub-regional committees which would be empowered to make recommendations to the Commission for the conservation and management of the resources under the purview of these sub-committees. The Commission would then endorse these recommendations, which would thus become conservation and management measures of this RFMO. To take the specific example of sardinella, a sub-regional committee competent for the waters of Mauritania, Senegal and the Gambia could propose conservation and management measures for these species, which would then be formally adopted by the Commission of this RFMO.

On the other hand, it was not foreseen in this draft that this RFMO would automatically have competence for a very broad set of species, for example all small pelagic species. The draft provides that it is the Commission that determines the species for which it will then adopt conservation and management measures and the States for which these measures would apply. Thus, a given species will only be managed by this RFMO if there is agreement within the Commission that it should be so managed, and the measures adopted for its management will only apply to the coastal waters of those States for which this has been expressly provided.

This flexible architecture makes it possible to show COMHAFAT member States that it is possible, along the African coast, to create an RFMO to manage stocks of species found in the EEZs of several coastal states. It also implicitly shows that, while not all COMHAFAT States are ready to commit to such a negotiation, it is possible for a group of States neighbouring the same area to create an organisation to manage species in their coastal waters. Thus, if such management is possible within the framework of an RFMO with a wide spatial scope, it is necessarily simpler to define the appropriate structure if the States concerned consult each other directly.

III. The hypothesis of a dedicated RFMO for sardinella in West Africa

This hypothesis makes sense. As mentioned in the introduction, there are three States (Mauritania, Senegal and The Gambia) for which the fishery for the two sardinella species is of major importance. In our view, these three States should consult directly to establish an RFMO specifically dedicated to the conservation and management of stocks of these two species. The time needed to reach a management agreement should be relatively short, certainly shorter than the time needed to negotiate the establishment of an RFMO involving all COMHAFAT States and in which a sub-regional committee involving these three countries would then be established.

The executive secretariat of this three-member RFMO, whose function would be to prepare the work of the Commission and provide its administrative secretariat, would certainly have a light structure. In particular, this secretariat would be in constant contact with CECAF which, whatever plans there may be for its function to evolve, will always be the institution that has the capacity to provide the scientific information necessary for the management of sardinella stocks.

The functioning of this structure, Commission and Executive Secretariat, should not entail high expenses in view of the interest it would represent in return. This would certainly be very low compared to large RFMOs such as ICCAT or GFCM. On the other hand, the costs of the meetings would be low because the distances would be small. Under these circumstances, it is questionable why such an RFMO has not yet been established.

Various hypotheses can be put forward in this respect:

- i) The weight of habit: since CECAF exists, why create another organisation, especially as the transformation of CECAF into an RFMO is regularly mentioned?**

In fact, one might wonder whether this hypothesis of transforming CECAF into an RFMO, which continues to be raised regularly despite the vacuity of the study described above, does not indirectly constitute a brake on action for those States that might be ready to commit themselves to the establishment of an RFMO. As for the proposal put forward in the context of COMHAFAT, even if this organisation shows a certain willingness to move forward, one may also wonder whether we are not ultimately arriving at a wait-and-see attitude of the same kind.

In this regard, it would certainly be useful for COMHAFAT to make known its intentions on how it intends to follow up on the conclusions of the study carried out on its initiative. Thus, in the event that negotiations for the establishment of an RFMO are not quickly opened within the broad framework of COMHAFAT, those of its members who are willing to move forward could do so among themselves without giving the impression that they are competing with this organisation.

- ii) There is probably the fact that the three States in question (Mauritania, Senegal and The Gambia) have divergent interests, especially since the significant increase in the number of fishmeal production plants.**

The question is then to bring out a common interest between these three countries for a healthy exploitation of the stocks of these species for the benefit of African populations.

iii) There is certainly also the phenomenon of corruption and lack of transparency in the issuing of fishing licences.¹⁷ These phenomena hinder the development of the fisheries sector.

The all too frequent lack of transparency in the procedure and allocation of fishing authorisations by national administrations makes it possible to hide fraudulent practices that are nevertheless well documented, for example by INTERPOL.¹⁸ Those who are in strategic positions for the delivery of authorisations, whether in national administrations or only as obliged intermediaries, have no interest in putting an end to this lack of transparency because this situation allows them to enrich themselves with impunity.

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In view of these various hypotheses, the existence of an RFMO would be beneficial, provided of course that it is given the technical means to function. Indeed, in order to perform its function properly, the secretariat of this RFMO will necessarily need to have information on the beneficiaries of fishing authorisations, at least on the types of vessels fishing on these stocks and on the destination of the catches. The dissemination of reliable information would certainly lead to greater transparency than at present and, under these conditions, the three States concerned would probably be more inclined to make concessions to each other in order to reach agreement on the management measures to be taken.

It is only by respecting such a requirement that these coastal States will be able to manage their fisheries resources in the collective interest and that of their populations. The food security of this region of Africa is at stake, which is of greater interest than supplying the aquaculture industry of other continents.

Furthermore, the establishment of such an organisation could have a knock-on effect. By demonstrating the value it would have for the management of a species in a given area, the competence of this organisation could be extended to other species. It would also set an example for other African coastal States to act in the same way.

Conclusion

As mentioned above, it is not normal that, sixty years after the period of decolonisation, the participation of distant water fishing third States in the management of West African fisheries resources is seen as a necessity. It is up to coastal States to manage their own resources in their EEZs, in accordance with Article 63 of UNCLOS. This would not, of course, prevent them from working with third party States that could fund, for example, research programmes as part of development aid. However, their sovereign rights, as recognised by UNCLOS, cannot be called into question on this pretext. This is why the solution of a very limited

¹⁷ See *supra* note 11.

¹⁸ INTERPOL, "Study on illegal fishing off West Africa", September 2014, available at: <https://www.interpol.int/fr/Infractions/Criminalite-environnementale/Criminalite-liee-a-la-peche>

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RFMO, which could be established rapidly, is in our opinion a solution that should be considered and which could serve as an example.

Such a solution certainly has a better future than relying on the solution of transforming CECAF into an RFMO, as the European Commission has again recently advocated.¹⁹ In fact, given the cumbersome nature of this transformation process, which will take years given the inconclusive study carried out so far on the subject, it is as if the European Commission were satisfied with the status quo and wanted to dissuade African States from becoming full players in the management of the fisheries resources located in their waters. Sixty years after decolonisation and forty years after the adoption of UNCLOS, such a position by the EU appears anachronistic.

Brussels, 17 October 2022

¹⁹ GOREZ, Béatrice and ALI JEBALI, Mohamed, "The new EU-Mauritania agreement: towards a sustainable management of small pelagics in West Africa?", CFFA-CAPE website, 18 January 2022, available at: <https://www.cffacape.org/publications-blog/the-new-eu-mauritania-agreement-towards-a-sustainable-management-of-small-pelagics-in-west-africa>; see paragraph 4, "A regional management organisation is indispensable", note 21 which gives access to a letter from the European Commission to the Long-distance Advisory Committee, an advisory council set up in accordance with Article 43 of Regulation 1380/2013 (the basic regulation of the EU Common Fisheries Policy). In this letter, dated 18 June 2021, the Commission states that "it would be beneficial to establish a non-tuna RFMO covering the waters off West Africa and this is in fact our stated objective for CECAF under the Ocean Governance Communication".