Final Technical Report

Support to the LVFO to develop and harmonise legal instruments for the involvement of Revenue Authorities for impoundment of imports and exports of fishing gear and fishery products in the Lake Victoria Basin

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A project implemented by: Prof. Dr. Maggie Kigozi

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The study was successfully implemented because of the support and guidance I received from the Regional Facilitation Unit for Eastern Africa and the leadership by the Lake Victoria Fisheries Organisation (LVFO) Secretariat headed by the Executive Secretary Mr. Godfrey V. Monor. I was able to meet all stakeholders including Mr. Philip Borel, Chairman East Africa Industrial Fish Processors Association (EAIFPA) whose wide knowledge and experience was invaluable.

Appointments were made for me by friends with Commissioner Generals of the Revenue Authorities at very short notice. Their concern over what is happening in the Lake Victoria Basin was genuine and they are keen to play their part once legally empowered to save the Nile perch species.

I thank Mr. Harry Kitalya, Commissioner General Tanzania Revenue Authority (TRA), Ms. Helen Bila- Ag. Commissioner General- Kenya Revenue Authority and Ms. Allen Kagina- Commissioner General, Uganda Revenue Authority (URA) for the candid discussions on the problem and the recommendations to rectify the problem. I thank too the Commissioner Customs URA and KRA who practically shared their experiences. Customs Director at the Border Post of Busia in Uganda and Kenya shared the difficulties and complexities of the fisheries sector but also advised on solutions. I thank the fisheries officer, BMU chairman and fishers at Kasenyi landing site- Entebbe.

Based in Uganda, Hon Ruth Nankabira the State Minister for Fisheries was candid and open to welcoming the Revenue Authorities to play their part in protecting the Lake Victoria Basin. Commissioner Fisheries Mr. Lovelock Wadanya shared his vast experience and owned the recommendations of this study, Mr. Henry Nabongo the Senior Fisheries Officer- regulations who advised on the best practices in the legal reform.

I thank Uganda National Bureau of Standards (UNBS) whose work on Standards for fishnets is advanced. The Executive Director Mr Ben Manyindo is keen to have the Fishnet standards in place for East Africa so that the regional Bureau of Standards can authoritatively prevent illegal fishnets in the market.
Abbreviations and acronyms
ACP Africa, Caribbean and the Pacific
BMU Beach Management Unit
CET Common External Tariff
DFR Department of Fisheries Resources
DFTR Draft Final Technical Report
DRC Democratic Republic of Congo
EABC East Africa Business Council
EAC East African Community
EAC COM East African Community Council of Ministers
EACTPL East Africa Centre for Trade Policy and Law
EAIFPA East African Industrial Fishing and Fish Processors Association
Est Estimate
EU European Union
FRI’s Fisheries Research Institutes
IFMP Implementation of a Fisheries Management Plan
IPS Industrial Promotion Services
KRA Kenya Revenue Authority
LVFO Lake Victoria Fisheries Organisation
M.OSF Minister of State for Fisheries
MCS Monitoring control and surveillance
MOFPED Ministry of Finance Planning an Economic Development
NaFFIRRI National Fisheries Research Institute
NBS National Bureau of Standards
NFT National Fisheries Taskforce
NPFMP Nile Perch Fishery Management Plan
PSFU Private Sector Foundation Uganda
RA Revenue Authority
TL Total Length
TOR Terms of Reference
TPSF Tanzania Private Sector Foundation
TRA Tanzania Revenue Authority
UFML Uganda Fishnet Manufacturers Limited
UFPEA Uganda Fish Processors and Exporters Association
UNBS Uganda National Bureau of Standards
URA Uganda Revenue Authority
USD United States Dollar
VAT Value Added Tax
Support to the Lake Victoria Fisheries Organisation to develop and harmonise legal instruments for the involvement of Revenue Authorities for impoundment of imports and exports of fishing gear and fishery products in the Lake Victoria Basin

Executive summary
Fishing gear includes gill nets and fishing hooks. Illegal fishery products in the study will focus on the endangered Nile Perch species and therefore include immature Nile perch which is less than 20 inches and whole unprocessed fish of any size. Whole unprocessed fish is already restricted in the EAC Customs Management Act Third Schedule Part B Restricted goods (d). LVFO Council of Ministers Communiqué gillnets below 4 inches and fish hooks outside the range of number 4- 9 are illegal in all fisheries.

Kenya, Uganda and Tanzania share the second largest lake in the world covering an area of 68,000 sq. miles. Tanzania covers 51%, Uganda 43% and Kenya 6%. The shoreline is 3,460 kilometers. Lake Victoria has a mean depth of 40metres and maximum depth of 84 meters.

The lake is important to the EAC as it is the most productive freshwater body in Africa with an estimated fish landing of between 800,000- 1,000,000 tones valued at USD 350-400 million at the beach. Other lakes of importance within the EAC region include Kyoga, Albert, George, Edward, Wamala, Nabugabo, for Uganda and Lake Turkana, Naivasha for Kenya and Lake Tanganyika and Malawi for Tanzania.

The fish sector is among the highest foreign exchange earners valued at $300 million annually and the resource contributes to livelihoods of 3,000,000 people. It is an important source of protein to the communities and contributes to food security. The fishery is mainly small to medium scale commercial with minimal subsistence fishing. The fish is processed into chilled and frozen fillets for export. Much of the immature( less than 20 inches) is not processed but consumed locally or exported to countries neighboring the EAC region that’s to say; Democratic Republic of Congo( DRC) and South Sudan.

The Lake Victoria Basin lakes are all over fished and require remedial management measures to rebuild their stock biomass. This study is in response to this issue; to involve Revenue Authorities in preventing import and export of illegal gear and export of immature( less than 20 inches) Nile perch.
Monofilament gillnet use has increased by 500% Figure 1:

![Figure 1: Use monofilament gillnets](image)

Monofilament gillnets are reported to have been banned in most parts of the world. They are preferred here because they last long, are highly non-selective and therefore catch a lot more fish as compared to ordinary nets. They lack elasticity and therefore retain even small fish. Monofilament nets could affect the quality of our exports as the thin inelastic twine often cuts into the fish tissues leading to possible deterioration. Monofilament gillnets are an environmental hazard when lost in the lake as they continue to ‘Ghost fish’ over a very long period of time since they are made of non-bio-degradable material that’s to say; they continue catching and killing fish and can cause blockage in parts of the lake.

Illegal sized gillnet use has increased by 100%. The fish population is now skewed towards juveniles as the fishers use nets smaller than 7 inches allowed on Lake Victoria and less than 4 inches for the other lakes. Fishing effort through the number of fishers and boats on the lakes has doubled. The legal gill nets have declined and demand for immature fish (less than 20 inches) is growing in the EAC countries, Democratic Republic of Congo (DRC) and South Sudan. This has not only driven up the demand for smaller mesh sized gill nets but also increased the demand for smaller fishing hooks of size 9-20.

Fish maws are on demand and cost as much as USD150 per kilo in China. Maws are bigger in bigger fish and this is therefore driving the use of hooks number 1-4. These big fish were protected as they were purportedly more fertile.
LVFO was set up in 1994 as an apex organisation to manage Lake Victoria as a shared resource for the three countries; Kenya, Uganda and Tanzania. LVFO provides a forum for regional decision making, policy setting and strategic planning. LVFO works through the National Departments of fisheries, BMU’s FRI’s, Fish processors and National committees for implementation at national levels. It was recommended by stakeholders at the PSFU Investor forum that DFR’S could only achieve their mandate by working with all the other government authorities like the Revenue Authorities, Police, Marine, Army, NBS’s and BMU’s. This study has confirmed that the Revenue Authorities can play a major role once the correct legal framework is in place. Further studies on the role the armed forces can play may need to be carried out. Legal frameworks governing illegal gear are the various National Fish Acts, Statutory Instruments and the EAC Customs Management Act. These do not empower Revenue Authorities for the impoundment of imports and exports of fishing gears and fishery products in the Lake Victoria Basin. The Revenue Authorities need to be empowered through the EAC CMA as it governs customs related issues in the EAC region. Only 2 fish related items are featured in the East African Community Customs Management Act.

Under Schedule 2, of the EACMA, Part B restricted goods (d)

(21) Non-indigenous species of fish or egg of progeny. No new species of fish should be introduced into the EAC without license from the Fisheries Competent Authority.

Under third Schedule Part B Restricted goods

(d) Fresh unprocessed fish (Nile perch and Tilapia). Unprocessed Nile Perch and tilapia should be stopped by Revenue Authorities from crossing borders. The field studies involved meetings with the Commissioner General of KRA, TRA and URA. Customs officials were met at Busia Border Post. One to one discussions were held with Hon Nankabirwa- Minister of State for Fisheries in Uganda, Commissioner Fisheries and various industry players.

The visit to Kasenyi landing site enabled meetings with the Fisheries officer, BMU Chairman, fish traders and fish net traders. The recommendations below come from the analysis of the legal framework and need to be addressed in order for the revenue authorities to play their role in the fight against illegal fishing and trading and contribute to the health of Lake Victoria fisheries.

This study recommends that illegal gear is to be prohibited under the EAC Management Act. It is recommended that:

RECC 1 To empower Revenue Authorities to deal with illegal gear, the LVFO COM will advise through the EAC Council of Ministers for incorporation into the EAC Customs Management Act the following:

1. Prohibition of monofilament gillnets
2. Restriction of gill nets below mesh size 4 inches
3. Limit access to trade in fishnets. Importers to be licensed by DFR. All imports to be inspected by Revenue Authorities.
4. Prohibit fish hooks outside the size number 4-9
5. Export of immature Nile Perch below 20 inches is prohibited. This was agreed in the LVFO Council of Ministers Communiqué 2009.
Other recommendations
RECC 2 The CET for fishnets (HS Code/ Tariff no. 5608.11.00 in the EAC CET 2007 Version) was unfairly put at 10%. This has caused local manufacturers in Kenya and Tanzania to close as cheap substandard and monofilament gillnets flooded the market. It is recommended that the EAC CET of 0% for raw material, 10% for intermediate product and 25% for finished product be implemented. Uganda Fishnet Manufacturers Limited (UFNML) has a credible investor IPS who has the ability to expand production. One company in Arusha reopened recently. The other company in Arusha and one in Kenya would reopen if the above anomaly was corrected and the Revenue Authorities prevented imports of illegal gear. The recommended CET would be 0% yarn, 10% twine and 25% fishnets.

RECC 3 NBS’s to cause enactment of EA Standards for fishnets.
RECC 4 Capacity Building of Revenue Authorities and NBS’s to apprehend and penalise criminals dealing in illegal gears.
RECC 5 LVFO to develop and implement a communication strategy. Leaders and communities are not aware of the problems in the fisheries sector. Capacity of Members of Parliament, District Leaders, Cultural leaders and communities to be sensitized through trainings, media through radio, TV, newspapers on the problems in the fish sector and how they can be mitigated.
RECC 6 LVFO needs to ensure that CEOs of RAs, NBSs and Police sit on the LVFO Regional Fisheries task force as recommended by the study under ACP Fish II “Support to EAIFFPA to strengthen the taskforce approach in reducing illegal fishing and trade on Lake Victoria.” This high level taskforce will bring the strengths of the 3 regulatory and enforcement bodies to protect the Lake Victoria Basin and ensure the sustainability of the Nile perch fishery.
1.0 Background

1.1 Introduction

Fishing gear includes gillnets and fishing hooks. Illegal fishery products in the study focused on the endangered immature Nile perch species which is less than 20 inches (TL) and whole unprocessed fish of any size (LVFO COM Communiqué of 2009). Whole unprocessed fish is already restricted in the EAC Customs Management Act Schedule 3 and cannot be exported unless authorised by the Competent Authority. Gillnet below 4 inches and fishing hooks outside the range of number 4-9 are illegal according to the LVFO COM Communiqué of 2009. This study is to advise on how Revenue Authorities can reduce entry of illegal fishing gear into the EAC. This study showed that the above illegal gear must be included in the EAC Customs Management Act to authorise Revenue Authorities to prohibit their import into the East African Community.

1.2 The Lake Victoria Basin

Kenya, Uganda and Tanzania share the second largest lake in the world covering an area of 68,000 square Kilometres. Tanzania covers 51%, Uganda 43% and Kenya 6%. The shoreline is 3460km with a mean depth of 40 metres and maximum depth of 84 metres. The catchment area including Rwanda and Burundi is 193,000 km². Other lakes in the region include; Kyoga, Albert, George, Edward, Wamala, Nabugabo, in Uganda and Lake Turkana, Naivasha for Kenya and Lake Tanganyika and Malawi for Tanzania as shown on the map.

1.3 Social and economic contribution

The lake resources contribute to the livelihood of over 3,000,000 people. This is through the fish value chain from fishers, boat owners, fish traders, fish gear traders and other linkages with business in the lake basin. Fish is an important component to nutrition and food security in the region.

Fish exports are among the highest foreign exchange earners in the region. Commercial export in 2012 was USD 340.7 million for a yield of 74540 metric tonnes exported as frozen or chilled fillets to the international markets.

The above notwithstanding, the Nile perch industry is facing many challenges;

- Biomass has declined
- Fish size is reducing
- Fishing effort is increasing
- Illegal fishing gear is replacing legal fishing gear.
1.4 Status and trends in the Nile perch fishery

The total biomass of fish from Lake Victoria was 2 million tonnes in 2005 and has remained that level since 1999 when it was first estimated to be 2.2 million tonnes (LVFO 2007). Nile perch yield reached a maximum of 338,000 tonnes in 1990 (Est. IFMP 2005) It has since varied between 200,000 tonnes and 300,000 tonnes.

The fishery is mainly small to medium scale commercial with minimal subsistence fishing. The investment in the business is estimated at USD 7,000 (Est.) which includes the boat, engine; 60-100 gillnets and labour.

The fish is processed into chilled and frozen fillets for export. The immature (less than 20 inches) fish is not processed by the processors as they have a strict prohibition, monitoring policy, with stiff penalties in place. This fish is consumed locally in the region or illegally exported after drying and salting to the neighbouring countries including South Sudan, Democratic Republic of Congo and Zambia.

Lake Victoria is overfished and requires remedial management measures to rebuild its stock biomass from the 300,000 metric tonnes it is at present back to the 2006 level of 750,000 metric tonnes which is recommended by LVFO for Nile perch sustainability.

The commercial value of immature fish sold on the market does not appear to be recorded but must be substantial. Fisheries officers are found at only some of the bigger border posts and district headquarters. Revenue Authorities have no authority under the EAC CMA to impound immature Nile perch less than 20 inches TL. This enables many truckloads of dried or salted Nile perch to cross boarders to neighbouring countries such as Zambia, DRC, Southern Sudan and Rwanda. These immature fish are caught by illegal gear.
1.5 Illegal gear

1.5.1 Gillnets

Monofilament gillnets are the most efficient gear for immature Nile perch fishing. They are strong and therefore last long. In fact they do not deteriorate and even when lost in the lake, they continue ‘ghost fishing’. They are inelastic and of smaller mesh size (max 5 inches) and therefore retain all the fish they catch. Even small fish are not able to swim out when caught by a monofilament gillnet. Monofilament gillnets could affect the quality of our exports as the thin inelastic twine often cuts into the fish tissues leading to possible deterioration.

Monofilament gillnet use increased by 500% in the last 8 years.

![Figure 1: Use of monofilament gillnets](image)

Use of illegal gillnets has increased by about 100%. These are gillnets below 7 inches for Nile perch and 5 inches for tilapia on Lake Victoria while mesh size of 4” is for nets on other lakes. Although illegal gillnets form only about 20% of the total gillnet units in operation (Frame surveys 2000-2012), they are able to prevent millions of fish from growing to maturity. Data is difficult to collect on illegal gear as fishers will not inform you about themselves. Stakeholders believe the problem is much bigger than the 20% recorded.

1.5.2 Hooks

Long lines with baited hooks have become the most widely used fishing method for Nile Perch in Lake Victoria. The number of hooks has trebled over the past 8 years and is estimated that about 12,000,000 hooks are presently in use on the lake. The live bait is obtained from wild stock from the lake and its basin and threatens the recovery of the native species valuable in other fisheries. In Tanzania alone, it is estimated that 22,000 tonnes of bait are required annually.

Legal hooks of number 4-9 are being replaced by smaller hooks of number 9-20 which can catch immature Nile perch.
Big hooks number 1-4 are also increasing as the Chinese market for fish maws makes the bigger maws attractive at USD 150 per kilogram. The prohibition on these large hooks (size 1-3) by the LVFO COM was to allow mature breeding stock to replenish the lakes. It is therefore important that these are prohibited from entry into the EAC by Revenue Authorities through the EAC Customs Management Act.

1.5.3 Other illegal gear
Many fishers are resorting to illegal gear such as cast nets, traps/baskets, beach and boat seines which have also contributed to reducing the Nile perch population. LVFO must empower the National Bureau of Standards and the police force to work with the BMUs at the Lake side. Another study would be required to study the legal framework for LVFO to harness the armed forces to protect the lake resource.

1.6 Common External Tariff
EAC is set to become a manufacturing hub to add value to its resources and create jobs. A tax regime to encourage local manufacturing was put in place - the CET where raw materials from outside the EAC are taxed 0%, Intermediate products 10% and finished products 25%. This CET would help companies over the high cost of doing business in the region where infrastructure is poor and cost of credit is high. EAC had 4 companies manufacturing fishnets - 1 in Uganda, 1 in Kenya and 2 in Tanzania.
An unfortunate anomaly in the CET HS Code 5608.11.00 for fishnets was set at 10%. Regional companies have therefore had to compete with imports from China, India and South Africa. These are often illegal, often substandard and even made out of the banned monofilament. The two companies in Tanzania and 1 in Kenya had closed. Only Uganda Fishnet Manufacturers Ltd has tried to compete because the investor IPS is a social investor who wishes to help us save the lake. IPS is the industrial development arm of the Agha Khan Fund for economic development. UFML has the capacity to invest further. CNF Ltd from Tanzania recently reopened. The other companies might also reopen if given the 25% protection offered to other regional manufacturers.

1.7 Fisheries Management
LVFO was set up in 1994 as the apex body to manage Lake Victoria as a shared resource of the 3 original members of the East African Countries; Kenya, Tanzania and Uganda. The LVFO provides a forum for regional decision making over the use of a shared resource. The member states are supposed to implement these decisions through national action plans. The competent Authorities at the national level are the fisheries departments which have put in place BMU’s at the landing sites. Other stakeholders include the FRI’s that support science and data based management and the fish processors (small and large scale) who have a significant role in driving fishing practices.

Nile perch is mainly exported to the European Union where standards must be complied with. The National Bureau of Standards plays a key role in enforcing standards all over the
country. LVFO needs to work more closely with NBS in managing illegal gear. NBS has the authority to impound illegal gear and penalize users. Another study on the legal framework may need to be undertaken to empower NBS’s to manage illegal gear.

LVFO has taken several management measures to reverse the Lake Victoria fish decline. These include:

The Kampala declaration ‘ Zero tolerance to illegal fishing by 2009 and the zero tolerance compliance policy of the harvested Nile perch size less than 20 inches of total length by the industry in 2009.

The zero tolerance compliance policy of the harvested Nile perch was launched by the LVFO Council of Ministers in November 2009. A Regional Fisheries Task Force (RTF) would oversee the NPFMP 2009-2014.

The National Fisheries Taskforce Committee (NFT) and the RTF must include heads of RA’s, NBS’s, Police, Marines, army, Processors, and DFRs. This taskforce would focus on strengthening enforcement and surveillance systems to abolish illegal gear in the Lake Victoria Basin.

### 1.8 Legal gear and fishery products in the EAC Region

According to the Fish Acts in the EAC, the following gears are legal

<table>
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<tr>
<th>Gear</th>
<th>Uganda</th>
<th>Kenya</th>
<th>Tanzania</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gillnets for Nile perch</td>
<td>7”</td>
<td>6”</td>
<td>-</td>
</tr>
<tr>
<td>Gillnets for other large commercial species such as Tilapia on Lake Victoria</td>
<td>5”</td>
<td>5”</td>
<td>5”</td>
</tr>
<tr>
<td>Minimum mesh size for gillnets to be used on other lakes</td>
<td>4”</td>
<td>4”</td>
<td>3”</td>
</tr>
<tr>
<td>Nets for Mukene/ Dagaa/ <em>Rastrineobolaargentea</em> on Lake Victoria</td>
<td>10mm</td>
<td>10mm</td>
<td>10mm</td>
</tr>
<tr>
<td>Mukene nets on other lakes</td>
<td>8mm</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Hooks</td>
<td>4-9</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Slot size for Nile perch</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Slot size for tilapia</td>
<td>11”</td>
<td>10”</td>
<td>10”</td>
</tr>
<tr>
<td>Fish Maws</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

*Aquaculture nets are usually seine nets and cage bags*
1.9 **Illegal gears, fishing methods and fishery products according to the Fish Act and/ Statutory Instrument by countries in the EAC Region**

<table>
<thead>
<tr>
<th>Illegal gears, fishing methods and fishery products according to the Fish Act and/ Statutory Instrument</th>
<th>Uganda</th>
<th>Kenya</th>
<th>Tanzania</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monofilament gillnets</td>
<td>Banned</td>
<td>-</td>
<td>Banned</td>
</tr>
<tr>
<td>Gillnets less than 5’’ on Lake Victoria for other commercial larger fish</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Gillnets less than 4’’ on other lakes within the basin</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>(Prohibit &lt;3’’)</td>
</tr>
<tr>
<td>Prohibited mesh size of gillnets for Nile perch</td>
<td>&lt;7’’</td>
<td>&lt;6’’</td>
<td>-</td>
</tr>
<tr>
<td>Trawling and use of trawlers on fresh boat bodies</td>
<td>Banned</td>
<td>Banned</td>
<td>Banned</td>
</tr>
<tr>
<td>Use of boat/ beach seine nets or use of nets used in aquaculture on fresh water bodies for fishing</td>
<td>Banned</td>
<td>Banned</td>
<td>Banned</td>
</tr>
<tr>
<td>Prohibited Tilapia length</td>
<td>&lt;11’’</td>
<td>&lt;10’’</td>
<td>&lt;10’’</td>
</tr>
<tr>
<td>Prohibited Nile Perch length</td>
<td>&lt;20’’</td>
<td>&lt;20’’</td>
<td>&lt;20</td>
</tr>
<tr>
<td>Mukene/ dagaa fishing nets on Lake Victoria</td>
<td>&lt;10mm</td>
<td>&lt;10mm</td>
<td>&lt;10mm</td>
</tr>
<tr>
<td>Prohibited Mukene/ dagaa fishing nets on other lakes</td>
<td>&lt;8mm</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Use of gillnets with more than 26 Meshes deep</td>
<td>Banned</td>
<td>-</td>
<td>Banned</td>
</tr>
<tr>
<td>Fishing Hooks outside the range of no. 4- 9</td>
<td>Prohibited</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Explosives, noxious substances, electric devices that aid easy killing or stunning fish for easy capture</td>
<td>Banned</td>
<td>Banned</td>
<td>Banned</td>
</tr>
<tr>
<td>Use of tycoons/ katuli</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>

However, the LVFO COM Communiqué 2009 clarified on harmonised regional sizes of gillnets and fish hooks as follows:
Gillnets for Nile perch on Lake Victoria were set at 7 inches, gillnets for tilapias at 5”, gillnets on other lakes 4 inches and fish hooks outside the range of no. 4- 9 are prohibited.
2.0 Approach to the assignment

The purpose of this assignment is to document the legal instruments empowering the Revenue Authorities in the three LVFO Partner States to deal with fishing gear and fishery products and also identify the existing gaps within the different spheres of influence of the different stakeholders.

The action taken to achieve the above had to be very focused as the contract period was short yet fisheries issues are complex and involve many stakeholders. By focusing on the role of Revenue Authorities and how they can prohibit illegal gear and illegal fishery products at customs points, implementable recommendations are made.

The meeting with ACP regional manager and the LVFO Executive secretary laid down the expectations, methodology and output expected. Stakeholders were open and willing to share information and advice. Field visits were made to Kasenyi landing site, Busia Boarder Post, the headquarters of KRA in Nairobi and TRA in Dar-es-salaam.

Literature review provided a clear picture of the existing legal framework which was different in each partner state. The LVFO COM Communiqué is supposed to override national policies and laws but, amendments have not yet been made. The RA’s are not empowered to act by the National Fisheries Act.

2.1 Comments on Terms of References

The purpose of this assignment is to document the legal instruments empowering the Revenue Authorities in the three LVFO Partner States to deal with fishing gear and fishery products and also identify the existing gaps within the different spheres of influence of the different stakeholders.

The assignment will therefore be conducted to establish what exists; and the gaps within the spheres of the different stakeholders in the fisheries sector and thus devise a way forward towards the collaborative and efficient way to support the LVFO develop and harmonise legal instruments for the involvement of Revenue Authorities for impoundment of imports and exports of illegal fishing gear and fishery products in the Lake Victoria Basin.

The assignment will also review the existing EAC Common External Tariff (CET) structure and make recommendations to the EAC COM for harmonisation with regard to the tariff structure for the primary inputs for fishing nets (yarn), secondary inputs (twines) and finished products (fishing nets).

An office space will be provided by LVFO whenever required by the Consultant. Letters of introduction will be written by LVFO Secretariat to the various stakeholders when required.
### 2.2 Organisation and Methodology

#### (a) Delivery of Terms of Reference

<table>
<thead>
<tr>
<th>Terms of Reference</th>
<th>How delivered through the assignment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Be briefed by the ACP Fish II Programme and the LVFO Secretariat with regard to project implementation;</td>
<td>Briefing by the ACP Fish II Program was held at the ACP Fish II project offices by the Regional Manager for Eastern Africa on 24/09/2013 and this was followed by briefing session at the LVFO Secretariat.</td>
</tr>
<tr>
<td>2. Consult with Revenue Authorities and Customs Administrations in Kenya, Tanzania and Uganda to understand the problems, collect relevant literature and consult on possible solutions;</td>
<td>This was done through visits and meetings with the Commissioner General of the Revenue Authorities of Uganda, Kenya and Tanzania</td>
</tr>
<tr>
<td>3. Detail and record the legal instruments empowering the Revenue Authorities/ Customs in the three LVFO Partner States to deal with fishing gear, fish and fishery products, identify and analyse the existing gaps, conflicts or areas requiring strengthening;</td>
<td>This involved a review of the existing literature, field visits and consultations from the different stakeholders governing/ managing fisheries resources within East Africa.</td>
</tr>
<tr>
<td>4. Detail and record the legal instruments empowering the Revenue Authorities/ Customs in the three LVFO Partner States to deal with fishing gear, fish and fishery products, identify and analyse the existing gaps, conflicts or areas requiring strengthening;</td>
<td>From the review of the existing literature and the consultative meetings held with the several stakeholders, the existing gaps, conflicts or areas requiring strengthening were identified and the possible recommendations made in the report.</td>
</tr>
<tr>
<td>5. From the gaps identified, consider options and propose approaches and solutions for the harmonisation of such instruments within the EAC Customs Legal framework;</td>
<td>From the consultative meetings with the stakeholders, options and approaches to the identified gaps were proposed. These were summed up as recommendations within the report.</td>
</tr>
</tbody>
</table>
6. Review the existing EAC Common External Tariff (CET) structure and make recommendations for harmonisation with regard to the tariff structure for the primary inputs for fishing nets (yarn), secondary inputs (twines) and finished products (fishing nets); The existing CET structure was discussed with the Ministry of Finance of Uganda and all the RA’s and Uganda Fishnet Manufacturers Limited

7. Present preliminary findings to an informal meeting of selected officers of the LVFO in the Secretariat offices in Jinja; The findings were presented at the LVFO Secretariat to select fisheries officers.

8. Prepare a Policy Memo for approval through the LVFO Council of Ministers and later to the EAC Council of Ministers —this Policy Memo should recommend how such legal instruments can be included under the EAC Customs Management Act; Prepare and submit the required technical reports in accordance with ACP Fish II guidelines. Policy memo prepared and attached following stakeholder meetings and recommendations for LVFO Council of Ministers Technical reported submitted in accordance with ACP Fish II guidelines.

(b) Conduct and details of the assignment including visibility activities

Results of consultations and investigations
One on one meetings were held with stakeholders.
All were concerned about the status of the fishery where overfishing had occurred in all the lakes in the basin.
All were concerned about the failure to prevent illegal gear usage by the present fisheries management structures which had few fisheries officers with limited powers and resources to impound and penalise criminals dealing in or using illegal gear.
Empowering RA’s through their customs department would add an organisation that is present at all border posts, is well resourced and has the capacity to impound, destroy and penalise criminals dealing in illegal fishing gear and fishery products.
The fish processors reported that more companies had closed down and others were working at 10-15% capacity.
The fishnet manufacturers found no market for legal gear. A new distributor set up in Soroti to supply the area around Lake Kyoga failed to sell as fishers demand only small mesh sized gillnets and monofilament nets which are freely available on the market. Out of the 3 closed fishnet manufacturers, CNF Ltd in Mwanza is back in production. The Fisheries Act in Tanzania allows the use of 3 inch mesh fishnets with in fresh water bodies other than Lake Victoria. The LVFO COM Communiqué pronouncement of 4 inches as the minimum mesh size to be enforced. If the CET anomaly from 10% to 25% is corrected, the closed fish net companies will reopen.
I was privileged to meet the 2 Commissioner Generals from TRA and URA and the Ag Commissioner General from KRA about their role in preventing any entry of illegal gear
into the region and preventing export of Nile perch less than 20 inches and unprocessed whole fish. They were not aware of the extent and complexity of the problem. They understood that Nile perch was diminishing in numbers and size that processing companies were closing and others working at less than 15% capacity, that fish export earnings reduced and over 3 million people dependant on the sector will lose their livelihoods. They were all concerned and requested that LVFO COM urgently causes EAC to include illegal fishery gear and fishery products on the EAC Customs Management Act Schedule 2 of prohibited/ restricted items for export or import to the EAC. They have officers at all border points and the mandate to stop import and export of items prohibited or restricted on the EAC Customs Management Act Schedule 2. The Revenue Authorities are at the moment working with fisheries officers who are mandated by the Fisheries Act to impound and penalise imports and exports of illegal gear and illegal fishery products. It was noted that fisheries officers are not present at all border points at all times. The Revenue Authorities will also need capacity building once the products are prohibited on the EAC Customs Management Act. The training will need to include all Revenue Authority officers as the Revenue Authorities continually redeploy the officers. LVFO was asked to produce explicit signage for placement at all border points.

The Revenue Authorities’ mandate includes preventing smuggling of legal and illegal gear into the region. They will be better placed to do this effectively after the capacity building is undertaken. They also frequently carry out monitoring activities in outlets and homes and impound illegal products. They would be able to prevent illegal gear which is at the moment sold openly in shops.

The Revenue Authorities collect CET online as per the e- tax system. LVFO COM must correct the anomaly where the imported finished gillnets are taxed 10% only. The Ministry of Finance confirmed that it was a request from the Ministry of Agriculture to reduce the cost of fishery products that caused the CET on finished gillnets to be set at 10% instead of the EAC mandated 25%. Now that this incentive was misused to overfish Lake Victoria with undersized and monofilament nets, the LVFO COM must advise the EAC COM to set the tariff at 25% for finished nets, 10% for the intermediate twine and 0% for the raw material yarn.

The Revenue Authorities also advised that trade in legal fishing gear must be regulated by the National DFR. Importers and Exporters must be licensed and few in number. Wholesalers must also be licensed. DFR must sanction any imports and Revenue Authorities informed to expect the containers. All the containers must be examined by trained Revenue Authority officers before entry into EAC. NBS officers will ensure the quality and standards of the nets at borders, in outlets, in the trade and on the lake once the EAC standards are enacted. Fishnet standards for Uganda are in advanced stages of drafting. The police in the EAC must also be empowered through sensitisation and training to penalise criminals dealing in illegal gear.

Meetings with other stakeholders contributed to the recommendations below:
3.0 Conclusions and recommendations

3.1 Conclusions

The law is inadequate to prevent import and export of items used for illegal fishing. The Revenue Authorities in the 3 member countries can play a major role in eliminating illegal gear and illegal fishery products if empowered through the EAC Customs Management Act Schedule 2. The capacity of the RA is very limited in terms of enforcing fisheries rules and regulations. They will need capacity building to recognise illegal gear. The CET is set incorrectly. Regional production of legal gear can be encouraged by correcting the EAC CET anomaly in HS Code 58.08.11 where the finished product (fishnets) attracts only 10% CET. LVFO COM must advise the EAC Ministers of Finance to correct the anomaly as per set EAC norms of 25% CET on finished products. This will enable regional companies compete with imported legal and illegal gear. NBS’s in the region must enact the East Africa Standards for fishnets and would then have the authority to work with the Revenue Authorities to impound and penalise dealers in illegal gear at border points, in the trade and on the lake. EAC Police need to be advised and sensitised to prosecute criminals dealing with illegal gear.

3.2 Recommendation

RECC 1. To empower Revenue Authorities to deal with illegal gear, the LVFO COM will advise through the EAC Council of Ministers for incorporation into the EAC Customs Management Act Schedule 2 the following:

- Prohibition of monofilament gillnets
- Restriction of gill nets below mesh size 4 inches
- Limit access to trade in fishnets. Importers to be licensed by DFR. Any imports to be inspected by Revenue Authorities.
- Prohibit fish hooks outside the size number 4-9
- Prohibit immature Nile perch below 20 inches

Other recommendations
RECC 2 LVFO COM advise the EAC COM to correct the CET anomaly on fishnets under HS Code 58.08.11 from 10% on finished products to the EAC set CET of 25% to encourage domestic manufacturing.
RECC 3 NBS’s to enact East Africa Standards for fishnets.
RECC 4 Capacity Building of Revenue Authorities and NBS’s to apprehend and penalise criminals dealing in illegal gears.
RECC 5 LVFO to develop and implement a communication strategy. Leaders and communities are not aware of the problems in the fisheries sector. Capacity of Members of Parliament, District Leaders, Cultural leaders and communities to be sensitized through trainings, radio, TV, and newspapers on the problems in the fish sector and how they can be mitigated.
RECC 6 LVFO needs to ensure that CEOs of RAs, NBSs and Police sit on the LVFO Regional Fisheries task force as recommended by the study under ACP Fish II “Support to EAIFFPA to strengthen the taskforce approach in reducing illegal fishing and trade on Lake Victoria.” This high level taskforce will bring the strengths of the 3 regulatory and enforcement bodies to protect the Lake Victoria Basin and ensure the sustainability of the Nile perch fishery.
Annexes:

(i) Terms of Reference

ACP FISH II – STRENGTHENING FISHERIES MANAGEMENT IN ACP COUNTRIES
9 ACP RPR 128 ACCOUNTING NO. RPR/006/07 – EDF IX
REGIONAL FACILITATION UNIT FOR EASTERN AFRICA – PROJECT EA-2.3-B27
TERMS OF REFERENCE

<table>
<thead>
<tr>
<th>Assignment title</th>
<th>Support to the LVFO to develop and harmonise legal instruments for the involvement of Revenue Authorities for impoundment of imports and exports of fishing gear and fishery products in the Lake Victoria Basin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beneficiary country</td>
<td>Kenya, Tanzania and Uganda</td>
</tr>
<tr>
<td>Work plan activity</td>
<td>Activity No. 2.3, RFU-EA Project No. EA-2.3-B27</td>
</tr>
<tr>
<td>Administrative Supervisor</td>
<td>Programme Coordinator, ACP Fish II Programme Coordination Unit (CU) 36/21 Avenue de Tervuren, 5th Floor, Brussels 1040, Belgium Tel: +32 (0)273 90062 – Fax: +32 (0)273 90068</td>
</tr>
</tbody>
</table>
| Technical Supervisors | • Regional Manager, ACP Fish II Programme Regional Facilitation Unit for Eastern Africa (RFU-EA), Kitante Close, Plot 14, 2nd Floor, Speke Apartment 5, Kampala, Uganda Tel: +256 (0)414 251 640 – Fax: +256 (0)414 251 714  
  • LVFO Executive Secretary, Plot 7 B / E Bell Avenue, P.O. Box 1625 Jinja, Uganda Tel: +256 434 122 508 – Fax: +256 (0)434 123 123 |
| Background information and rationale | Illegal trading of immature and undersized fish is known to have seriously affected the Lake Victoria fisheries in general and Nile perch fishery in particular. The three Partner States (Kenya, Tanzania and Uganda) of the Lake Victoria Fisheries Organisation (LVFO) have put in place measures and regulations to control such a trade but collaborative efforts are required by different stakeholders. They have, under the Regional Working Group for Monitoring, Control and Surveillance (RWG-MCS), constituted taskforces to monitor local markets and border points for undersized fish to regional markets. Within the regional framework co-ordinated by the LVFO, stakeholders are expected to take action within their own direct sphere of influence in order to achieve the regionally agreed goals for the fishery. As such, for example, the industrial fish processors and exporters, under their umbrella body —the East African Industrial Fishing and Fish Processors Association (EAIFFPA), have established a self-policing team to check factories, and in collaboration with the Competent Authorities (CAs) ensure there is no processing of undersized fishes. The National Revenue Authorities in Kenya, Tanzania and Uganda are key stakeholders in the fight against illegal fishing both related to the capture and... |
trading of undersized fish. They have responsibilities in terms of import and trade in materials used to make illegal fishing gear and they also control the borders through which much of the undersized fish is traded. As such, these Authorities are requested by their Fisheries Administration to impound any illegal fishing gear imported into the country and illegal fish and fishery products taken across the borders; but there is no legal instrument empowering them to deal with these commodities under the East African community (EAC) Customs Management (Amendment) Act, 2011.

The factories manufacturing fishing gear in the three Partner States are well informed about illegal gear and their compliance is quite satisfactory. However, various fishing materials and equipment are imported into these countries and with minimal tariff which is actually affecting the competitiveness of the local factories manufacturing fishing gear. The importation and trading of such materials (i.e., those materials potentially usable in making fishing gear) requires a thorough study to ensure imports of fishing materials and equipment are properly taxed and should not be packed as different products while they end up into fishing. To this end, the legal instruments to be used by Customs Officers should be clear and harmonized.

On the other hand, the Customs Officers are well placed to ensure undersized fish and fishery products do not cross the borders. Yet, they have no legal powers to confiscate or compound fishery products or offenses. They have to call the designated CAs (Fisheries Page 2 of 3Department, Division or commission) to follow up any suspects. This has delayed the process and sometimes the Customs Officers shy away and ignore such products. This concern was expressed during the Investors Forum held in Kampala in October 2012. It was advised during that Forum that the LVFO could propose to the EAC Council of Ministers to have legislation under Schedule 2 of the aforementioned EAC Customs Management Act to empower Revenue Authorities to deal with fishery products. This requires a study to establish what exists and the gaps in that regard, and prepare a Policy Memo for the approval process and submission to the LVFO Council of Ministers and later to EAC Council of Ministers. These Terms of Reference (TOR) have been devised to that effect.

<table>
<thead>
<tr>
<th>Purpose of the assignment</th>
<th>The purpose of this assignment is to document the legal instruments empowering the Revenue Authorities in the three LVFO Partner States to deal with fishing gear and fishery products and identify the existing gaps.</th>
</tr>
</thead>
</table>
| Activities of the Consultant | The Consultant will undertake the following activities as part of this assignment:  
  - Be briefed by the ACP Fish II Program and the LVFO Secretariat with regard to project implementation;  
  - Consult with Revenue Authorities and Customs Administrations in Kenya, Tanzania and Uganda to understand the problems, collect relevant literature and consult on possible solutions;  
  - Detail and record the legal instruments empowering the Revenue Authorities/ Customs in the three LVFO Partner States to deal with fishing gear and fishery products. |
"Strengthening Fisheries Management in ACP Countries"

gear, fish and fishery products, identify and analyse the existing gaps, conflicts or areas requiring strengthening;

- From the gaps identified, consider options and propose approaches and solutions for the harmonisation of such instruments within the EAC Customs Legal framework;
- Review the existing EAC Common External Tariff (CET) structure and make recommendations for harmonisation with regard to the tariff structure for the primary inputs for fishing nets (yarn), secondary inputs (twines) and finished products (fishing nets);
- Present preliminary findings to an informal meeting of selected officers of the LVFO in the Secretariat offices in Jinja;
- Prepare a Policy Memo for approval through the LVFO Council of Ministers and later to the EAC Council of Ministers —this Policy Memo should recommend how such legal instruments can be included under the EAC Customs Management Act; Prepare and submit the required technical reports in accordance with ACP Fish II guidelines.

<table>
<thead>
<tr>
<th>Expected outputs</th>
<th>The Consultant shall produce the following outputs:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• A report prepared summarising the existing legal instruments at national level empowering the National Revenue Authorities to deal with fishing gear, fish and fishery products, as well as the existing gaps —the report shall also propose the harmonization of such instruments;</td>
</tr>
<tr>
<td></td>
<td>• A Policy Memo prepared to be presented to the LVFO Council of Ministers and later to the EAC Council of Ministers for incorporation into the EAC Customs Management Act, Schedule 2.</td>
</tr>
</tbody>
</table>

| Qualifications and experience of the Consultant | The Consultant selected for this assignment will be a Fisheries Specialist or an Experienced Policy Advocacy Expert or have qualifications in natural resource management and/or experience in fisheries management, trade and compliance issues. Experience in international and/or regional (Eastern Africa) trade issues, MCS issues, institutions for fisheries management and governance will be a distinct advantage. The selected Consultant should be able to demonstrate a successful history of consultancy engagements in a field related to these Terms of Reference. |

| Location and travel | The Consultant will be based at Lake Victoria Fisheries Organisation (LFVO) Secretariat in Jinja, Uganda but will have to consult the National Revenue Authorities based in Kampala, Nairobi and Dar es Salaam. The Consultant will also visit at least one border post (e.g., on Uganda-Kenya border and on Uganda-Democratic Republic of Congo border). |

| Expected starting date and duration | 15th August 2013 and will be completed within a period of two (2) months utilizing approximately 25 person-days. |

<table>
<thead>
<tr>
<th>Reports</th>
<th>Title of Report</th>
<th>Content</th>
<th>Time of Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inception Report (IR)</td>
<td>Analysis of existing situation and work plan for the project. The 10-page report will be submitted to LVFO and RFU-EA/CU, for comments.</td>
<td>No later than 5 days after the Consultant arriving in the place of posting for the first time. Comments, if any, on the IR must be provided within 5 days from receipt.</td>
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<tr>
<td>----------------------</td>
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<td></td>
</tr>
<tr>
<td>Draft Final Technical Report (DFTR)</td>
<td>Description of achievements, problems encountered, calendar of activities, places visited and people Consulted.</td>
<td>Within one week of the completion of the Assignment. Comments on the DFTR, if any, must be provided by LVFO and RFUEA/CU within 14 days.</td>
<td></td>
</tr>
<tr>
<td>Final Technical Report (FTR)</td>
<td>Revised DFTR taking into account changes and comments from LVFO and RFUEA/CU.</td>
<td>Within 10 days after Receiving comments on the DFTR. If no comments on the report are given within the time limit of 14 days, the DFTR shall be considered as the FTR.</td>
<td></td>
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</tbody>
</table>

**Format of Final Technical Report**

| Format | MS Word Style  
| Pages numbered  

**Structure**

- Title Pages, Table of Contents, List of Annexes, List of Tables, List of Figures, List of Photographs (if appropriate), Abbreviations and Acronyms  
- Executive Summary (1 to 2 pages)  
- Body of Report (up to 20 pages)  
- Conclusions and Recommendations (each recommendation must be preceded by a conclusion) linked to the main content  

**Annexes**

- Annex 1 – Terms of Reference  
- Annex 2 – Work plan and people met (including contact details)  
- Annex 3 – Itinerary  
- Annex 4 – Stand-alone technical outputs as required  

Please refer to the ACP Fish II guidelines for reports available at: http://acpfish2-eu.org/index.php?page=templates&hl=en

**Estimated cost**

EUR 9,990  
Please note that this is a Global Price Contract already including fees, per diems, international and national travel expenses and incidentals.

**Payment schedule**

A 30% advance may be paid to the Consultant on the signing of contract to support the operational activities. If any advance is requested, an original invoice duly signed must be submitted to the CU including all relevant details (Name of the consultant and address, name of the bank, bank account number (IBAN), percentage of the total contract value requested). If any information is missing
the CU will not be able to process the payment unless duly justified. The balance will be paid on approval of the Final Technical Report (FTR) once the Consultant submits the final invoice together with two copies of the FTR.
"Strengthening Fisheries Management in ACP Countries"
(ii) Itinerary, institutions and individuals consulted

<table>
<thead>
<tr>
<th>Individual consulted</th>
<th>Position</th>
<th>Institutions/Ministry</th>
<th>Stakeholder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Koane Mindjimba</td>
<td>Regional Manager for Eastern Africa</td>
<td>ACP Fish II, Uganda</td>
<td>Development partner</td>
</tr>
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<td></td>
</tr>
<tr>
<td>Dr Rhoda Tumwebaze</td>
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<td>LVFO</td>
<td>Fisheries Management</td>
</tr>
<tr>
<td>+256772927889</td>
<td></td>
<td></td>
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<td>Samson Abura</td>
<td>Sen. Fisheries Management Officer</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Godfrey Monor</td>
<td>Executive secretary</td>
<td>LVFO</td>
<td>Fisheries Management</td>
</tr>
<tr>
<td><a href="mailto:monorgy@lvfo.org">monorgy@lvfo.org</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Patrick Seruyange</td>
<td>Delegation Officer</td>
<td>EU</td>
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<tr>
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<td></td>
<td></td>
<td></td>
</tr>
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<td>Greenfields Uganda limited and Chairman EAIFPA</td>
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<td>+256752764764</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Ovia Katiti Matovu</td>
<td>CEO UFEPA</td>
<td>UFEPA</td>
<td>Industry</td>
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<tr>
<td><a href="mailto:ufpea@infocom.co.ug">ufpea@infocom.co.ug</a> +256772631058</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hon Ruth Nankabirwa</td>
<td>Minister of State Fisheries, Uganda</td>
<td>Ministry of Agriculture Animal Industry and Fisheries</td>
<td>Political/Policy</td>
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<tr>
<td>+256414321235 <a href="mailto:Mos.fisheries@gmail.com">Mos.fisheries@gmail.com</a></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Ankunda Oscar</td>
<td>Business advisor</td>
<td>Uganda Fishnet Manufacture’s Limited</td>
<td>Private Sector</td>
</tr>
<tr>
<td>+256751441172 <a href="mailto:Oscar@ipsuganda.com">Oscar@ipsuganda.com</a></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Nabongo Henry</td>
<td>Fisheries officer-Regulations</td>
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<td>Fisheries Management</td>
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<td></td>
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</tr>
<tr>
<td>Niaz Hirani</td>
<td>CEO UFML</td>
<td>Uganda Fishnet Manufacture’s Limited</td>
<td>Industry</td>
</tr>
<tr>
<td><a href="mailto:hirani@ipsuganda.com">hirani@ipsuganda.com</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hellen Bila</td>
<td>Ag. Commissioner General</td>
<td>Kenya Revenue Authority</td>
<td>Revenue Authority</td>
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<tr>
<td>+254722513491 <a href="mailto:Hellen.bila@kra.go.ke">Hellen.bila@kra.go.ke</a></td>
<td></td>
<td></td>
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<tr>
<td>Jonah Cheruiot</td>
<td>KRA Commissioner Customs</td>
<td>Kenya Revenue Authority</td>
<td>Revenue Authority</td>
</tr>
<tr>
<td><a href="mailto:Jonah.cheruiot@kra.go.ke">Jonah.cheruiot@kra.go.ke</a></td>
<td></td>
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</tr>
<tr>
<td>Name</td>
<td>Position</td>
<td>Organization</td>
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<tr>
<td>Allen Kagina</td>
<td>Commissioner General</td>
<td>Uganda Revenue Authority</td>
<td>Revenue Authority</td>
</tr>
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<td>+256772792543 <a href="mailto:akagina@ura.go.ug">akagina@ura.go.ug</a></td>
<td></td>
<td></td>
<td></td>
</tr>
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iii) Inception Report

Support to the LVFO to develop and harmonise legal instruments for the involvement of Revenue Authorities for impoundment of imports and exports of fishing gear and fishery products in the Lake Victoria Basin

Project ref. N° EA-2.3-B27

Region: East Africa
Country: Uganda

Date: submitted to ACP Fish II and LVFO on 11 October 2013

Assignment by: Prof. Maggie Kigozi
1.0 Background

The fisheries sector remains among the highest foreign exchange earners in East Africa. The yield of Nile perch reached a maximum of 338,000 tonnes in 1990. The proportion of yield exported has grown from about 25% to 97% in 2007. In 2011, yield of Nile perch fell to less than 200,000 tonnes. The export value exceeds USD 300,000. People engaged in the sector exceed 3,000,000. A number of fish processing factories have closed and a number of existing companies operate at 20-40%. Illegal gear usage is difficult to estimate as fishers will not give correct figures. Monofilament gillnets are clearly increasing within the region. Illegal gillnets which are less than 4 inches are on the rise again. A policy on zero tolerance on illegal gillnets was adopted and a directive from the council of ministers (2009) resolved that 50% of the illegalities be removed from the lake by June 2009 and 100% by December 2009. There’s increasing illegal trade in immature fish for the local market and for export to neighbouring countries.

Gillnets were locally manufactured by four companies; 1 in Kenya, 2 in Tanzania and one in Uganda. Three have wound up and only one (Uganda Fishnet Manufacturers) is in production. The common External Tariff is not supportive of the local manufactures.

Citing the TORs for ACP FISH II on title “Support to the LVFO to develop and harmonise legal instruments for the involvement of Revenue Authorities for impoundment of imports and exports of fishing gear and fishery products in the Lake Victoria Basin,” Illegal trading of immature and undersized fish is known to have seriously affected the Lake Victoria fisheries in general and Nile perch fishery in particular. The three Partner States (Kenya, Tanzania and Uganda) of the Lake Victoria Fisheries Organisation (LVFO) have put in place measures and regulations to control such a trade but collaborative efforts are required by different stakeholders. They have, under the Regional Working Group for Monitoring, Control and Surveillance (RWG-MCS), constituted taskforces to monitor local markets and border points for undersized fish to regional markets.

Within the regional framework co-ordinated by the LVFO, stakeholders are expected to take action within their own direct sphere of influence in order to achieve the regionally agreed goals for the fishery. As such, for example, the industrial fish processors and exporters, under their umbrella body —the East African Industrial Fishing and Fish Processors Association (EAIFFPA) —, have established a self-policing team to check factories, and in collaboration with the competent Authorities (CAs) ensure there is no processing of undersized fishes.

The National Revenue Authorities in Kenya, Tanzania and Uganda are key stakeholders in the fight against illegal fishing both related to the capture and trading of undersized fish. They also have responsibilities in terms of import and trade in materials used to make illegal fishing gear and they also control the borders through which much of the undersized fish is traded. As such, these Authorities are requested by their Fisheries Administration to impound any illegal fishing gear imported into the country and illegal fish and fishery products taken across the borders; but there is no legal instrument empowering them to deal with these commodities under the East African community (EAC) Customs Management (Amendment) Act, 2011. Customs Officers are well placed to ensure undersized fish and illegal fishery products do not cross the borders. Yet, they have no legal powers to confiscate or impound fishery products. They have to call the designated CAs (Fisheries Department, Division or Commission) to follow up any suspects. This concern was expressed during the Investors Forum held in Kampala in October 2012. It was advised during that forum that the LVFO could propose to the EAC Council of Ministers to have legislation under Schedule 2 of the aforementioned EAC Customs Management Act to empower Revenue Authorities to deal with fishery products. This requires a study to establish what exists and the gaps in that regard, and
prepare a Policy Memo for the approval process and submission to the LVFO Council of Ministers and later to EAC Council of Ministers.

1.1 Comments on Terms of Reference
The purpose of this assignment is to document the legal instruments empowering the Revenue Authorities in the three LVFO Partner States to deal with fishing gear and fishery products and also identify the existing gaps within the different spheres of influence of the different stakeholders.

The assignment will therefore be conducted to establish what exists; and the gaps within the spheres of the different stakeholders in the fisheries sector and thus devise a way forward towards the collaborative and efficient way to support the LVFO develop and harmonise legal instruments for the involvement of Revenue Authorities for impoundment of imports and exports of illegal fishing gear and fishery products in the Lake Victoria Basin.

The assignment will also review the existing EAC Common External Tariff (CET) structure and make recommendations to the Ministries of Finance for harmonisation with regard to the tariff structure for the primary inputs for fishing nets (yarn), secondary inputs (twines) and finished products (fishing nets)

An office space will be provided by LVFO whenever required by the Consultant.

Letters of introduction will be written by LVFO Secretariat to the various stakeholders when required.
2.0 Approach to the assignment (methodology)
   i) Literature review
   The consultant will endeavour to consult as much relevant literature to the assignment as possible.
   ii) Meeting with the technical supervisors
   iii) Meeting with key stakeholders
       Commissioner for fisheries
       European Union Operations Officer, Rural Development Section
       East African Industrial Fishing and Fish Processors Association (EAFPA) - Chairman
       Uganda Fish Exporters and Processors Association (UFEPFA)
       National Fisheries Research Institute (NAFFIRRI)
       Private Sector Foundation
       Uganda Fishnet Manufacturers
       Fishing gear trader
       Uganda National Bureau of Standards
       Commissioner Customs- Uganda
       Ministry Finance- Commissioner tax policy
       Commissioner General- Revenue Authorities in Uganda, Kenya and Tanzania
       Minister of Fisheries- Uganda
       President; Tanzania Chamber of Commerce Industry and Agriculture
       Tanzania Private Sector Foundation
       East Africa Centre for Trade Policy and Law
       East Africa Business Council (EABC)
       East African Community- Secretary General and Deputy Secretary General
   iv) Field visits.

   In order to understand what is really on ground, the consultant will pay a visit to Busia boarder post.
   The consultant will also visit at least one Beach Management Unit (BMU)

   i) Make recommendations for harmonisation and present to an informal meeting of selected LVFO officers in Jinja.
   ii) Prepare a policy memo for approval through the LVFO Council of Ministers
   viii) Prepare and submit the Draft Final Technical Report to technical supervisors. Comments on the DTFR must be provided by LVFO RFU-EA/CU within fourteen days

Members of the technical team
Prof. Maggie Kigozi- Policy Advocacy Expert
## Proposed work plan (including travel plan of experts)

<table>
<thead>
<tr>
<th>Date</th>
<th>Activity</th>
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<tr>
<td>24/09/2013</td>
<td>Meeting technical advisors: Briefing by the ACP Fish II, Regional Manager and LVFO with regard to project implementation</td>
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<tr>
<td>24/09/13- 30 Oct 2013</td>
<td>Literature review and preparation for meetings, scheduling field visits</td>
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<tr>
<td>3- 25/ Oct 2013</td>
<td>Stakeholder meetings</td>
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<tr>
<td>18- 30/ Oct 2013</td>
<td>Travel plan to Tanzania Revenue Authority, Kenya Revenue Authority and Busia Customs Boarder Post</td>
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<tr>
<td>Nov 2013</td>
<td>Present preliminary findings to LVFO officers</td>
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<tr>
<td>8 Nov 2013</td>
<td>Submit required technical reports including a report prepared summarising existing legal instruments at national level empowering the national revenue authorities to deal with fishing gears, fish and fishery products, as well as the existing gaps. The report shall also propose the harmonisation of such instruments</td>
</tr>
<tr>
<td>8 Nov 2013</td>
<td>Prepare a policy memo prepared to be presented to council of ministers and later to the EAC council of ministers for incorporation into the EAC Customs Management Act, schedule 2.</td>
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Results of initial document review, consultations and TNA

According to the various Fish Acts in the LVFO partner states, the illegal gear were clearly specified but not included in the Customs Act. For example in Uganda, it’s clear that gillnets below four inches are illegal on all lakes within the Lake Victoria basin while on lake victoria the mesh size is at five inches for tilapia fish and 7 inches for gillnets catching Nile Perch while Mukene nets are 0.31 inches (8mm) on other lakes and 0.39 inches (10mm) on Lake Victoria. According to Tanzania’s Fish Act, gillnets with a mesh size of three inches are allowed on other lakes within the Lake Victoria basin while Kenya’s fish Act tolerates a minimum of four inches for tilapia and 0.39 inches (10mm) for mukene.

Illegal gear is clearly identified in the Fish Act in the three partner states. However, these are not reflected in the countries’ Customs Act or the East African Customs Management Act Schedule 2.

Illegal fishing gear definition in the three Fish Acts is not harmonised for example, minimum size gillnets in the Lake Victoria Basin are 4 inches for Uganda and Kenya while Tanzania allows 3 inches mesh size.

Monofilament gillnets are banned in all the three countries’ Fish Act

Hooks between numbers 4- 9 are legal in the Uganda Fish Act. Kenya and Tanzania Fish Acts are silent on the issue.

Fish hooks number 1- 3 are used in the quest for very large Nile perch with the largest maws. It’s important that hooks with number 10- 20 that catch immature fish are banned.

The Uganda National Bureau of Standards has produced a Draft Fishnet Standards. The Uganda Fishnet Standards will evolve into the EAC Fishnet Standards.

To complicate matters further for fishnet imports, there are over 70 species of fish requiring varying types and sizes of fishing gears, for example Tilapia niloticus can be caught by a 3.5-6 inch and a Nile perch can be caught by a gillnet of 6- 12 inches while other species like the Haplochromines, tilapia Zilli require a gillnet with mesh size lower than 3.5 inches.

Under Common External Tariff Hand book, HS code no. 54.07 Woven fabrics of synthetic material should be taxed at 25%. This is where fishnets should fall. Unfortunately, two items were differentiated

1. HS code number 58.08.11.00 made up fishing nets 10%
2. HS code number 56.08.19.90 Fruit tree and seed bed netting 10%

The CET for fishnets was therefore;

1. 0% for yarn (raw material) and 0% for twine (intermediate product) and 10% for fishnets (finished product)

This is not in line with EAC recommended CET. The effect of this is to make local manufacture of fishnets uncompetitive by allowing substandard, illegal and cheap fishnets to be imported in the region.
5.1 Briefing at LVFO SECRETARIATE

During a meeting with LVFO Officials at LVFO secretariat in Jinja on 20th October 2013, the following issues were raised:

- The declining/dwindling fish stocks
- Failure by National fisheries departments to implement fisheries policies and laws.
- Few fisheries staff to implement fisheries laws and policies
- Limited employment opportunities in the sector for a growing population
- Limited funding to the sector
- Lack of standards for fishnets
- Liberalised market in fishing gear and fishery products.
- Inadequate monitoring and enforcement.
- Failure to involve the Revenue Authorities in the export and import of illegal gear
- Failure by stakeholders including the Revenue Authorities to stem export in immature fish

5.2 Briefing at ACP Fish II

The regional manager went through the TORs with the consultant to ensure they were well understood before the commencement of the assignment. He advised on the stakeholders for interviews and clarified on illegal gear and fishery products in the Lake Victoria basin. These included gillnets less than 4 inches for tilapia, and gillnets less than 7 inches for Nile perch; beach and boat seines; mukene nets less than 0.31 inches (8mm), monofilament nets, fishing hooks outside the range of numbers 4-9.

The Draft Final Technical Report and the policy memo will be received by 7th November 2013.

3.0 Key issues to be addressed/solved including visibility activities

To document the legal instruments empowering the Revenue Authorities in Uganda, Kenya and Tanzania to deal with fishing gears and fishery products.

Recommend legal instruments to be included under EAC Customs Management Act, Schedule 2

Prepare a policy memo for approval through the LVFO Council of Ministers.

The failure by fishnet companies in the EAC to compete against both legal and illegal imported and re-exported gear will be addressed by implementing the set EAC CET tariff structure for fishnets.

Financial statement

This is a price global contract already including fees, per diems, international and national travel expenses and incidentals.
4.0 Recommendations
Inclusion of banned illegal fishing gear and fishery products to be included on the EAC Customs Management Act Schedule 2. This will enable customs officers to impound illegal fishnets and fishery products even in the absence of fisheries officers.

The CET on fishnets should be changed to 0% for yarn (raw material), 10% for twine (intermediate product), and 25% for the fishing nets so as to protect the indigenous fishnet manufacturers against the imported fishing nets.

Licence traders in fishnets by the competent authority since the liberalisation policy has failed. Traders will seek clearance from the Revenue Authorities before importing any fishnets to ensure effective monitoring.
(iv) List of reports and documents consulted

East African Community Common External Tariff 2007 version
Governance of Africa’s resources program: Troubled waters’ Sustaining Uganda’s Lake Victoria Nile Perch Fishery
LVFO COM Communiqué of 2009
Republic of Kenya: Fisheries (Beach Management Unit) Regulations, 2007
Republic of Tanzania: Fisheries Regulations 2009
The East African Community Customs Management Act, 2004
The East African Community Common External Tariff 2007 version
The Present Status OF The Hook Fishery and its impact on the Stocks of Lake Victoria
The Republic of Uganda: The Fish (Beach Management) Rules, 2003
The Republic of Uganda: The Fish (Fishing) Rules, 2010
Uganda Fish Act Cap. 197 2000
(v) Photographs of project, key activities and events to illustrate field activities and achieved results

(a) Map 1: The Lake Victoria Basin
b) Map 2: Lakes in the EAC Region
(vi) Photographs

(a) Portion of destroyed illegal gear (beach seine and monofilament gillnet)

A portion of a beach seine net (mesh size is at 1.5 inches)

Portion of monofilament gill net

(b) Fisher displaying a Fish maw

(c) Smoked Nile perch meant for both local and regional consumption
Illegal gears
(e) Setting a cast net

(f) Cast net

(g) Boat and Beach seine

(h) Monofilament gillnets
(j) Undersized Nile perch for the local market (Factory reject)

Fishing boats at Kasenyi landing site

(k) Boat loaded with legal fishing gear

l) Boats awaiting at the beach
m) A boat yard at the landing site

n) Setup of a longline
(vii) Technical outputs

These are the PowerPoint presentation to the LVFO and the Policy Memo