

# Fisheries Legislative Framework for Somalia

AUGUST 2014



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**50 page**

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**Caption:** Fishermen land their boat in Bosaso, Somalia. (CREDIT: Kifle W. Hagos)

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## List of Acronyms

|               |   |
|---------------|---|
| <b>ADESO</b>  | African Development Solutions                   |
| <b>CBFM</b>   | Community-based fisheries management            |
| <b>CRC</b>    | Coastal Resources Center                        |
| <b>EEZ</b>    | Exclusive Economic Zone                         |
| <b>EU</b>     | European Union                                  |
| <b>FAC</b>    | Fisheries Advisory Council                      |
| <b>FAO</b>    | Food and Agriculture Organization of the UN     |
| <b>FGS</b>    | Federal Government of Somalia                   |
| <b>FRP</b>    | Fiber Reinforced Plastic                        |
| <b>FRS</b>    | Federal Republic of Somalia                     |
| <b>FSFA</b>   | Federal Somali Fisheries Authority              |
| <b>IMO</b>    | International Maritime Organization of the UN   |
| <b>IUU</b>    | Illegal, Unreported and Unregulated fishing     |
| <b>MCS</b>    | Monitoring Control and Surveillance             |
| <b>NGO</b>    | Non-Governmental Organization                   |
| <b>NM</b>     | Nautical Mile                                   |
| <b>NMFS</b>   | National Fisheries Management Service           |
| <b>PSS</b>    | Puntland State of Somalia                       |
| <b>RFMC</b>   | Regional Fisheries Management Councils          |
| <b>TACS</b>   | Trans-Africa Consultancy Services LLC           |
| <b>UN</b>     | United Nations                                  |
| <b>UNCLOS</b> | United Nations Convention of the Law of the Sea |
| <b>UNDP</b>   | United Nations Development Program              |
| <b>VMS</b>    | Vessel Monitoring System                        |

## Introduction

This report describes the process for a national fisheries legislative framework for Somalia and Somaliland. It includes a sample of national fisheries legislation for discussion. This report is part of a project on the “The Study of Illegal Unreported and Unregulated (IUU) Fishing in the Territorial Waters of Somalia,” sponsored by African Development Solutions (ADESO) and funded by European Union (EU).

The report reviews fisheries legislative instruments that the government of Somalia implemented from the time of independence in 1960 to the outbreak of the civil war in 1991. It also briefly describes the current laws governing fisheries management at the level of the Federal Government of Somalia (FGS), Puntland State of Somalia (PSS) and the Republic of Somaliland (RoS). The report projects the process for a framework for drafting modern fisheries legislation that will enable the country to regulate and manage its marine fisheries resources at all levels of the governance. This framework for the fisheries legislation recommends a stakeholder process inclusive of all stakeholders in the fisheries sector, including: government agencies, the private sector and the fishing community. The report proposes a co-management scheme for all the regions of Somalia and Somaliland in the form of Regional Fisheries Management Committees as illustrated in ANNEX II. Finally, the report includes a sample of fisheries legislation (including a regulation for its implementation) to serve as a foundation for the proposed stakeholder process to draft a fisheries legislation for Somalia and Somaliland.

It is recommended to undertake an immediate follow-up to plan the strategy for the coordination of the stakeholder process to draft updated national fisheries legislation that addresses the current situation of Somalia and Somaliland. This legislation would regulate and sustainably manage fisheries resources, deter illegal fishing activities, enable the coastal fishing communities and the private sector to engage in fishing activities and allow the country to benefit from its national marine fisheries resources. In this regard, it is suggested that the Federal Government of Somalia (FGS) takes the lead in the process of drafting the regulatory tools by involving Somali nationals with prior knowhow and experience in the field with technical and financial support of international partners involved in the fisheries development. This would be a learning process for the young Somali fisheries establishment, and most notably, a new legislation would be drafted from the perspective of the Somali traditional laws and culture.

The proclamation of national fisheries legislation within a declared and demarcated exclusive economic zone (EEZ) could provide fisheries authorities at national and local levels in Somalia and Somaliland with much needed legal powers to deter and eliminate illegal fishing in the country’s territorial waters.

## 1. Review of Somalia’s Fisheries Legislations

The Somaliland Maritime Code of 1959, established before independence, was Somalia’s first law to regulate fisheries protection in the country. It prohibited, among other things, “fishing using explosives and lighting fires in areas which are prohibited” (Hassan, 2011). Law No. 40 of 1973 on Cooperatives Development in the Somali Democratic Government had a section on fisheries production and marketing development (Law No. 40, 1973). Fishery Law No. 23 of the Somali Democratic Republic, enacted in 1985, superseded all earlier laws. It was the only fisheries law that had an effect at the national level in Somalia. The law applied to both marine commercial fisheries and artisan inland fisheries.

In 1985 “Guidelines for Fishery Joint Venture with Foreign Partners” was issued to regulate joint - venture activities among Somali companies and foreign investors. The most important fisheries legislations or regulations issued in Somalia are shown in Table 1.

|    | Somali Fisheries Legislation or Regulations                                | Date of Legislation | Entry into Force |
|----|--|---------------------|------------------|
| 1. | Somali Maritime Code (1959)  | February 21, 1959   | April 1, 1959    |
| 2. | Somali Law No.37 on the Territorial Sea and Ports                          | September 10, 1972  | NA               |
| 3. | Somali Joint Venture Guidelines  | April 1, 1985       | April 1, 1985    |
| 4  | Law No. 40 on Cooperatives Development                                     | October 4, 1973     | October 4, 1973  |
| 4. | Somali Republic Fishery Law No. 23 (1985)                                  | Nov. 30, 1985       | NA               |
| 5, | Puntland Fisheries Regulation from Somali Republic<br>Fisheries Law No. 23 | April 2004          | NA               |
| 6. | Somaliland Fisheries Law No. 24  | September 1995      | NA               |
| 7. | Draft Somali Maritime Security Bill 2011                                   | In Process          | Not yet Enforced |
| 8  | Somali Fisheries Law of 2013 <sup>1</sup>                                  | May 6, 2013         | NA               |

**Table 1:** Somali Fisheries Legislations or Regulations (SOURCE: Adopted from: Hassan 2011 and others)

<sup>1</sup> This Draft Law was submitted by the Ministry of Natural Resources of the FGS to the Prime Minister for discussion in Cabinet and approval. (Source: Ministry of Natural Resources of the FGS, June 05, 2013).

## **1.1 Federal Fisheries Legislation**

In the years that followed independence in 1960, Somalia has promulgated all national laws, including fisheries laws, and has been party to many international conventions and treaties regarding maritime resources and services. The collapse of the government of General Siad Barre in 1991, however, created a vacuum at the central governance structure of the nation. There was no central government to enforce existing national laws, to enact new ones, to implement existing international treaties and conventions or to accede to new conventions. This situation created lawlessness.

In the period during and after the civil war, there was no central government to enforce fisheries laws. Therefore, the country's fisheries resources were not protected from local and foreign illegal fishing or other illicit activities. However, Somaliland had enacted its fisheries law in the early 1990s<sup>2</sup>, and Puntland had its fisheries legislation enacted since 2004 (Mohamed and Herzi, 2005).

The new FGS has started working together with its Federal Member States and Somaliland to coordinate national issues related to fisheries<sup>3</sup>. It has also issued a fisheries legislation<sup>4</sup> - revised version of Fisheries Law of 1985 (Law No. 23) - and is working with its international partners on enforcement mechanisms. Regarding international treaties and conventions, the FGS has taken measures to revive the country's international obligations to existing conventions and to sign new treaties. For instance, the FGS has deposited<sup>5</sup> the necessary documents to the United Nations Convention on the Law of the Sea (UNCLOS) on declaring the country's EEZ. It is also working with the International Maritime Organization (IMO) of the United Nations on maritime laws and regulations<sup>6</sup>.

At the Federal level, the Ministry of Natural Resources (Fisheries), on May 6, 2013, submitted to the Prime Minister of the Federal Republic of Somalia (FRS) a revised version of Somalia Fishing Law (Law No. 23) of 1985 proposing as a draft bill to the Cabinet of the FRS for discussion and approval. This law requires that all local and foreign fishing vessels are registered and licensed. The FGS and its Member States and Somaliland have in April and May 2014 agreed that a newly established Federal Somali Fishing Authority (FSFA) administer the licensing of foreign fishing vessels for offshore highly migratory stocks in the Somali EEZ. A mechanism for sharing revenue also was agreed upon. While it is not known how far the FSFA has gone towards implementing its authority, this is a first positive step towards decentralized management system of the fisheries sector of Somalia.

## **1.2 State Fisheries Laws**

### **1.2.1 State of Puntland**

The Puntland State of Somalia in 2004 published extensive "Fisheries Regulations from Somali Republic Fisheries Law No. 23" based on the Fisheries Law of Somalia of 1985 (Mohamed and Herzi, 2005). The

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<sup>2</sup> <http://www.somalilandlaw.com/>

<sup>3</sup> Seychelles and Addis Ababa Communiqués of April and May 2014, respectively.

<sup>4</sup> Revised (Law No. 23) of 1985 submitted to Prime Minister of FGS, dated 05/06/2013.

<sup>5</sup> Proclamation by the President of the Federal Republic of Somalia, June 30, 2014.

<sup>6</sup> Personal communication with IMO staff John P. Muindi on 06 10 2014 and Kiruja Mincheni on 08 08 2014 in Nairobi.



provisions of the Constitution of Puntland State of Somalia of 2001 stipulates environmental protection measures related to fisheries, including protection of endangered species and regulating aquaculture (Hassan, 2011). The fisheries law of Puntland State, among other things, has the following provisions:

- Registration of fishers and fishing vessels - small-scale fishing boats and industrial scale vessels.
- Requirements for fish landing data collection, analysis and dissemination by the Ministry of Fisheries, Ports and Maritime Transport.
- Controlled access of the fisheries in the waters of the State for local and foreign fishing vessels
- Limitations on fishing methods, gear type (mesh size), age and other characteristics of fish that may be caught, landed or traded.
- Requirements for licenses for some domestic and all foreign fishing vessels valid for one year
- A foreign fishing vessel license shall be subject to compliance with management measures and the payment of agreed fees, royalties or charges.

Enforcement capacity of the fisheries institution at Federal and states needs to be improved in terms of human resources and equipment.

### **1.2.2 Other States**

Information on the current fisheries laws in the Federal Member States of Somalia, namely, States of Jubbaland and Galmudug, has not been received yet. The Ministries of Fisheries of the two states have been requested to fill key informant interview questionnaires. We have yet to hear from the fisheries authorities of the two States.

## **1.3 Somaliland Fisheries Law**

The Republic of Somaliland issued the “Somaliland Fisheries Law No. 24 of 1995,” based on Fishery Law No. 23 of 1985 of the Democratic Republic of Somalia. Somaliland also issued an improved version of the “Coastal and Marine Resources Policy of Somaliland” (2000). The 2001 Constitution of Somaliland specifically mentions fisheries in some of its articles.

Somaliland has also published a regulation on registration and licensing of fishing vessels in 2012.<sup>7</sup> The Regulation on Registration and Licensing of Fishing Vessels (No. 1/08/2012) is more detailed than the laws at the Federal level and Puntland’s law. It requires that:

- Every fishing vessel maintains a fishing log book
- All local vessels are registered and licensed and pay fees and royalties
- Foreign and national joint ventures in fisheries are licensed
- All foreign fishing vessels are registered, licensed, and pay fees and royalties.

Fisheries laws are posted on a website dedicated to Somaliland laws. All laws of Somaliland are available in English and Somali languages.

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<sup>7</sup> [http://www.somalilandlaw.com/somaliland\\_fishery\\_law.html](http://www.somalilandlaw.com/somaliland_fishery_law.html) Accessed on 10/23/2014.

## **2 Fisheries Management Options in Somalia**

### **2.1 Previous Centralized Management System**

Somalia had a centralized type of fisheries management in the post-independence period to the outbreak of the civil war. That type of management did not consider inputs from the different stakeholders of the fisheries sector including the fishing communities. It also did not allow coordination of the fisheries sector with other sectors of the economy related to fisheries, including tourism, agriculture, environment, maritime transport, ports administration, the navy, and provincial and local administrations. Presidential decrees proclaimed fisheries legislations and regulations. This type of fisheries management is not suitable anymore for present day Somalia and Somaliland; therefore, a new type of fisheries management needs to be considered. Decentralization and co-management of fisheries resources management are more appropriate for the current governance arrangement in Somalia, which is based on federal system of governance. In addition, the new fisheries management system should take into consideration the traditions and customs of the Somali people.

### **2.2 Co-management Option in Fisheries**

Co-management, also referred to as collaborative management, requires participation of resource users that shifts from being briefly consulted and receiving top-down information to full involvement in decision-making and interactive management (Berkes et al, 2001). Management in which the fisher can become an active member of resource management team, balancing rights and responsibilities and working cooperatively rather than combatively with the government, defines joint management or co-management.

Fisheries co-management is a partnership in which government, the community of local resource users (fishers), external agents (non-governmental organizations, academics, and research institutions) and other fisheries and coastal resources stakeholders (boat owners, fish processors and traders, tourism establishments, etc.) share responsibility and authority for making decisions about the management of the fishery (Garcia, 1994).

Somalia may adapt the principles of fisheries co-management, first by valuing the traditional and cultural experiences in natural resources management and by reviewing the experiences of fisheries management of other nations, such as the United States, Indonesia and Philippines. The USA relies on state and regional fisheries management councils. While state management councils have authority over the fisheries in their states, regional councils are mandated to manage their region's fisheries. There are eight Regional Fisheries Management Councils (RFMC) in the United States, covering all geographical regions of the country. The National Fisheries Management Service (NMFS), a federal agency under the direction of the Secretary of Commerce (the Federal Minister), coordinates RFMCs.

Somali fisheries legislation needs to create a fisheries co-management mechanism and establish fisheries management committees that are appropriate for the country (Section 2.3 below). These

management committees develop fishery management plans, select fishery management options, summon panels, conduct hearings and advise authorities on regional fishery matters.

### **2.3 Proposed Regional Fisheries Management Committees (RFMC)**

Given the length of the coastline of Somalia and Somaliland and lack of easy access by sea and by road to and from urban centers, it is difficult and costly for the central government to monitor, control and manage the fisheries resources in the vast stretches of the EEZ. Based on the federalized system of government in place in Somalia, it would be fitting for the FGS to devolve some of the management structures. The suggestion is to apply a co-management system that is appropriate for the Somali society and that involves a wide range of representation of regional and local leaders, and the fishing communities in the management of fisheries resources in their part of the coastal regions. Many countries apply this type of fisheries management and found it to be effective. The recommendation is to establish six regional fisheries management committees (RFMC). This arrangement can be adapted to reflect the uniqueness of the Somali society. The suggested committees are:

- i. Western Gulf of Aden Regional Fisheries Management Committee
- ii. Eastern Gulf of Aden Regional Fisheries Management Committee
- iii. Northern Coasts Regional Fisheries Management Committee
- iv. Central Coasts Regional Fisheries Management Committee
- v. Shebelle Regional Fisheries Management Committee, and
- vi. Jubba Regional Fisheries Management Committee

Membership in these committees could vary from region to region depending on the specifics of the region but membership has to be representative, transparent and democratic. It could include representatives of the Federal and State fisheries authorities, fishing communities, clan/elder representatives, government agencies active in the marine sector, representatives of fishermen and fisherwomen associations and private sector and a member of a regional university or a social scientist. Committees are to be headed by an authority to be nominated by the Federal Minister of Fisheries. For suggested locations of the proposed regional fisheries management committees, see map (ANNEX II).

The jurisdiction of RFMCs extends from the edge of the coasts out to the edge of the Territorial Sea (12 nm). Management of fisheries resources further offshore to the edge of 200 nm EEZ will be the jurisdiction of a federal agency (FSFA) established in 2014.

### **2.4 Decentralization of Fisheries Management**

**Decentralization** is the transfer of authority and responsibility from the central government to subordinate or autonomous government organizations and/or the private sector. It is a complex multifaceted concept. Different characteristics, policy implications and conditions for success differentiate the various types of decentralization. Political, administrative, fiscal, and market

decentralization can appear in different forms and combinations across countries, within countries and even within sectors.

The current Provisional Constitution of the Federal Republic of Somalia of 2012 allows for federalism system of government, which is composed of two levels of government—the Federal Government Level and the Federal Member State Level. Therefore, the fisheries framework needs to reflect these levels of federalism and perhaps add another structure at the local level for managing local fisheries issues that will address only locally based small-scale artisanal fisheries. In the same way, Somaliland can decentralize the management of its fisheries into two levels.

In small-scale fisheries, the consensus in policy discourse is largely in favor of fisheries management decentralization, either in the form of **co-management** or **community-based fisheries management (CBFM)** reforms (Pomeroy et al, 1997). Three main types of reforms are relevant to governance reforms in fisheries: devolution, de-concentration and decentralization.

**Devolution** refers to the transfer of rights and responsibilities from the government to representatives of user groups at the local level (fisher organizations).

**De-concentration** involves changes in governance where the decision-making authority is transferred to lower-level units of bureaucracy or government line agency (provincial and/or district level of the Ministry of Fisheries),

**Decentralization** is transfer of decision-making authority and financial capacities of fishery management to lower (provincial, or district) levels of government (Bene, 2008).

Given the administrative structure of Somalia, decentralization is the most appropriate form of co-management in which the FGS may decentralize some of the fisheries management responsibilities to Federal Member States. The establishment of Regional Fisheries Management Committees is one form of decentralized co-management of fisheries. The formation of FSFA by the FGS and giving the States the authority to issue licenses for local artisanal fisheries is another form of decentralization.

## **3 Projected Framework for Fisheries Legislative Process**

### **3.1 Overview**

Somalia has one of the longest coastlines in Africa and occupies a strategic location in the Horn of Africa. There is little evidence on the extent of recent exploitation of fisheries resources of Somalia. Reports indicate heavy fishing took place in the 1950s and 1960s (FAO, 2003). Instability in Somalia over the last two decades and the uncontrolled fishing during that period might have created additional burden for fisheries stocks restoration, due to combined effect of local artisanal fishing and heavy illegal fishing by foreign vessels from neighboring and far away countries. Due to this uncontrolled exploitation of the fisheries, there is little evidence to tell on the amount of fish caught by local artisanal fishing and foreign illegal fishing vessels.

Somalia has potential abundance of fish and various marine resources. Like all other sectors of the Somali economy, the fisheries sector has not been managed properly for over two decades. The absence of central government with proper legislative and enforcement tools and mechanisms has led to the proliferation of illegal activities in the country and its marine environment, including: illegal fishing by foreign fishing vessels, alleged dumping of toxic waste and piracy in near shore and high seas (Steenhard, 2012).

The escalation of piracy in the region resulted in the buildup of anti-piracy foreign navies, apparently, to provide protection to international shipping lanes. However, the presence of these foreign naval vessels has contributed to the unintended consequence of the proliferation of illegal foreign fishing in Somali waters. With the diminishing effects of piracy in the regions, the combined impacts of illegal fishing increased much more than before the coming of the foreign naval forces, according to fishermen in the survey for the study of illegal fishing. These foreign illegal fishing vessels are estimated to have a combined annual fish catch valued at about US \$ 300 million (HSTF, 2006). Some estimates are even much higher.<sup>8</sup> The issue of illegal fishing is a very serious problem for Somalia and needs a serious and an immediate solution, not without input from the international community that had a role in its growth, unintended, as it may be. This section is a framework for fisheries legislation and describes the stakeholder participatory process in formulating fisheries legislation for the country (ANNEX I).

### **3.2 Stakeholder Participation**

The law-making process for all-inclusive comprehensive fisheries legislation shall include government agencies, the fishing communities and the private sector. They include the Ministries of Fisheries (Lead Agency); Tourism, Environment, Maritime Transport, Justice; Navy and/or Coast Guard; and the government agency responsible for national development programs. The Federal Ministry of Natural Resources (Fisheries) takes leadership role in coordinating the legislative process. Participation of some government agencies may not necessarily involve their physical presence in deliberations during meetings. Their attendance in most important meetings and conferences may suffice. They could

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<sup>8</sup> Personal Communication with former journalist, Mohamed Abshir Waldo, Nairobi, June 10, 2014.

otherwise enrich the legislative process through reviews of documents, sharing their perspectives, memos, and comment.

The presence of legal experts is necessary to guide and facilitate the deliberations in agreement with local, national, and international legal requirements related to fisheries. The legislation is expected to have national, regional and international effects, therefore, expert knowledge and experiences in regional and international legal issues is essential. Expert input and/or financial contributions from multi-lateral organizations involved in fisheries of Somalia and the region, including FAO, EU, IMO, UNDP, the World Bank and national and international non-governmental organizations (NGO) involved in fisheries would strengthen the participatory process.

The fishing communities, including fishermen, fisher women, community elders, fish processors and traders, are the main beneficiaries of fisheries law in Somalia and Somaliland. Legislation would provide organized services, a centralized, well-funded fisheries management system, monitored and controlled national fisheries resources base and a protected marine ecosystem devoid of foreign illegal, unreported, unregulated (IUU) fishing. The legislative process would benefit from the rich traditional by-laws, knowledge and first-hand experiences of fishery communities through their participation in the legislative process, while their participation would, no doubt, augment their knowledge and ownership of, and adherence to, the legislation.

### **3.3 Legislation Drafting Conference**

Selecting a drafting committee from among the stakeholders simplifies the process of fisheries legislation. Such stakeholders include legal experts with knowledge of Somalia's governance system and national, regional and international fisheries. The Drafting Committee selects a chairperson and a secretary, assigns subcommittees for detailed undertakings and in-depth research pertinent to fisheries resources management of Somalia. A clearly defined job description, definite timelines and resources commensurate with the task are allotted to the drafting committee. The drafting committee would develop an outline of a draft legal document to be discussed in the legislative stakeholder conference. All relevant stakeholders must attend this conference. The conference will produce an all-round draft fisheries legislation that will address the aspirations of the Somali fishing communities and the nation.

Participants in the stakeholder conference must be representatives of a cross section of the fisheries sector and related sectors of the economy. The stakeholder conference shall have two important outcomes: a draft legislation and formation of a Fisheries Advisory Council (FAC).

### **3.4 Draft Legislation**

The stakeholder conference after discussing the outline presented by the Drafting Committee should come out with a draft legislation that had inputs from all participants. This draft legal document would be given to the lead federal agency—Ministry of Natural Resources (Fisheries)—including a list of all participants and the minutes of all the meetings as supporting documents of the draft legislation. The draft legislation would then be submitted by the Minister of Natural Resources (Fisheries) to the Office

of the Prime Minister for submission to Federal Parliament for discussion and adoption as a law. According to Article 80 (Initiating New Laws) of the Provisional Constitution of the Federal Republic of Somalia of 2012, (1) Draft legislation at the National Level may be initiated, among others, by the Council of Ministers (FGS, 2012).

### **3.5 Fisheries Advisory Council**

The Fisheries Advisory Council (FAC) would represent the cross-section of the fisheries sector and provide advice on the management and development of the fisheries sector, while also discharging such responsibilities as are conferred on it under the fisheries Law.

- The FAC shall be composed of the following persons:
  - Fisheries officer appointed by the Minister
  - A member of the Department of Ports and Maritime Transport
  - Member of the Department of Economic Development and Cooperation;
  - A representative of the Academia (University)
  - At least two persons engaged in fisheries—one in trade and the other in processing
  - A representative of the National Fishermen Association
  - A (female) representative of the Fisher Women Association
- The FAC shall elect one of its members to be the chairperson
- The FAC may invite other persons to participate in its meetings and shall, whenever it considers matters particularly affecting one area of Somalia or a Federal/regional government department, invite one or more persons engaged in fisheries in that area, or representative from that department, to participate in its meetings
- The FAC shall determine its own rules of procedure

### **3.6 Enacting into Law and Distribution**

Once the draft fisheries legislation was discussed and passed the required procedures, the Federal Parliament would adopt it as law. It would then be signed by the Executive branch (the President) to become the law of the land. This would be a national law, and it would be expected to have a national significance that will address issues relevant to the nation, including legal issues of fisheries governing the Exclusive Economic Zone (EEZ). The final fisheries legislation would then pass down to Federal Member States in accordance with the constitution of Somalia and will have to be coordinated with Somaliland in a way that the two governments agree to..

Once the fisheries legislation was signed by the Executive body of the Federal Government of Somalia, the next phase would be translation into different languages, if necessary, and publication in Somali,

English and Arabic languages in the local media and online, if possible. The law would be prepared in booklets and made available to the public free of charge. It would be distributed to the different regions of the country for easy access to the common people. Local workshops could further familiarize the public with the legislation.

The proclamation of the fisheries legislation and its subsequent enforcement will, no doubt, play a positive role in the management of the fisheries resources of the country and provide the necessary legal authority for the prevention of illegal fishing. It will allow the Somali fishing communities necessary legal protection to enable them to utilize their fisheries resources.



## 4. Conclusion and Recommendations

The issue of illegal, unreported and unregulated (IUU) fishing is of serious and growing concern in world fisheries. IUU fishing undermines efforts to conserve and manage fish stocks in capture fisheries. IUU fishing weakens the efforts of national and regional fisheries management organizations to achieve management goals. This situation leads to loss of both short and long-term social and economic opportunities and to negative effects on food security and environmental protection<sup>9</sup>. This is true in the case of Somalia as it is in many countries. IUU fishing is destabilizing the coastal communities by disturbing the livelihoods and security of the entire coastal population of the country.

Some vital recommendations, covering legal and social aspects, are made here pertinent to the issue covered in this report - the framework for fisheries legislation in Somalia and Somaliland.

- Initiate a stakeholder process to draft national fisheries legislation. This is an internal legislative process and has to be entirely led and coordinated by Federal fisheries authority with participation of other government agencies, the fishing communities and other stakeholders (ANNEX I). Given the constraints in financial resources and lack of technical expertise, however, the FGS may invite participation of international partners and solicit financial and technical support towards this national fisheries legislative process and for training fishing officers and members of the judiciary to strengthen the enforcement mechanism of the legislation.
- Take steps to establish regional fisheries management committees (RFMC) as part of fisheries co-management of the vast stretches of coastal areas in Somalia and Somaliland as described in ANNEX II.
- Take measures to implement agreement made on decentralization of fisheries jurisdiction in a transparent and fair manner. According to the agreement made in Seychelles and Addis Ababa in April and May 2014, respectively, the FGS is to administer offshore migratory fish stocks within the EEZ through the newly established Federal Somali Fisheries Authority (FSFA). The FSFA is to issue licenses to industrial scale foreign fishing vessels and national commercial scale fishing vessels.<sup>10</sup> The size of the industrial scale vessels need to be limited by tonnage of the vessels. The idea of limiting the sizes of the fishing vessels in near shore fisheries is to protect the small-scale artisanal fisheries and the near-shore fishing habitats from the impacts of large fishing vessels.
- Delegate Federal Member States to administer licensing of small-scale artisanal fishing within 12 nm Territorial Seas only for national fishermen. Foreign artisanal fishermen should not be issued these licenses. This category of fishing is limited to nationals only.
- Since Somalia (and Somaliland) has a very long coastline, it will be very difficult and costly for the governments to enforce fisheries legislation and to control illegal fishing activities. Once government(s) begins to enforce fisheries laws, they need to use the support of the coastal fishing communities, to supplement the efforts of enforcement agencies. The fishing

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<sup>9</sup> Food and Agriculture Organization of the UN - <http://www.fao.org/fishery/ipoa-iuu/en>.

<sup>10</sup> In many countries 15 gross tonnages is taken as a standard for determining industrial vessels. More than 15 GRT is considered industrial and less than 15 GRT as artisanal.

communities could serve as watchful guardians of the fisheries resources. This has worked in many countries; including the Philippines<sup>11</sup>. The federal fisheries authority needs to introduce the system of citizen watches or deputized fish wardens. This is a system of community enforcement mechanism in terms of just surveillance and reporting but not policing or arresting violators. The authorities may need to recruit few of these as “Community Wardens” in each fishing village or in selected strategic villages, provide them with preliminary training and assign them to work with an enforcement unit. They could be equipped with communication equipment.

- The use of Vessel Monitoring Systems (VMS) as part of monitoring, control and surveillance (MCS) in fisheries management is very important. The FGS could use VMS to control illegal fishing vessels in Somali EEZ. This computer-based, satellite (PGS) aided tracking system allows Somali fisheries regulatory agency to track the position, time at a position and course and speed of fishing vessels licensed by Somali to operate in Somali waters. If integrated with aerial and/or patrol boat surveillance it is an ideal system to control illegally fishing vessels. This is an important part of monitoring, control and surveillance system (MCS) in fisheries management. It will be necessary to enforce VMS equipment on every licensed foreign fishing vessel (and domestic industrial vessels) and set up the computerized tracking system at the regulators’ base office.

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<sup>11</sup> Fish Wardens Protect Marine Resources.

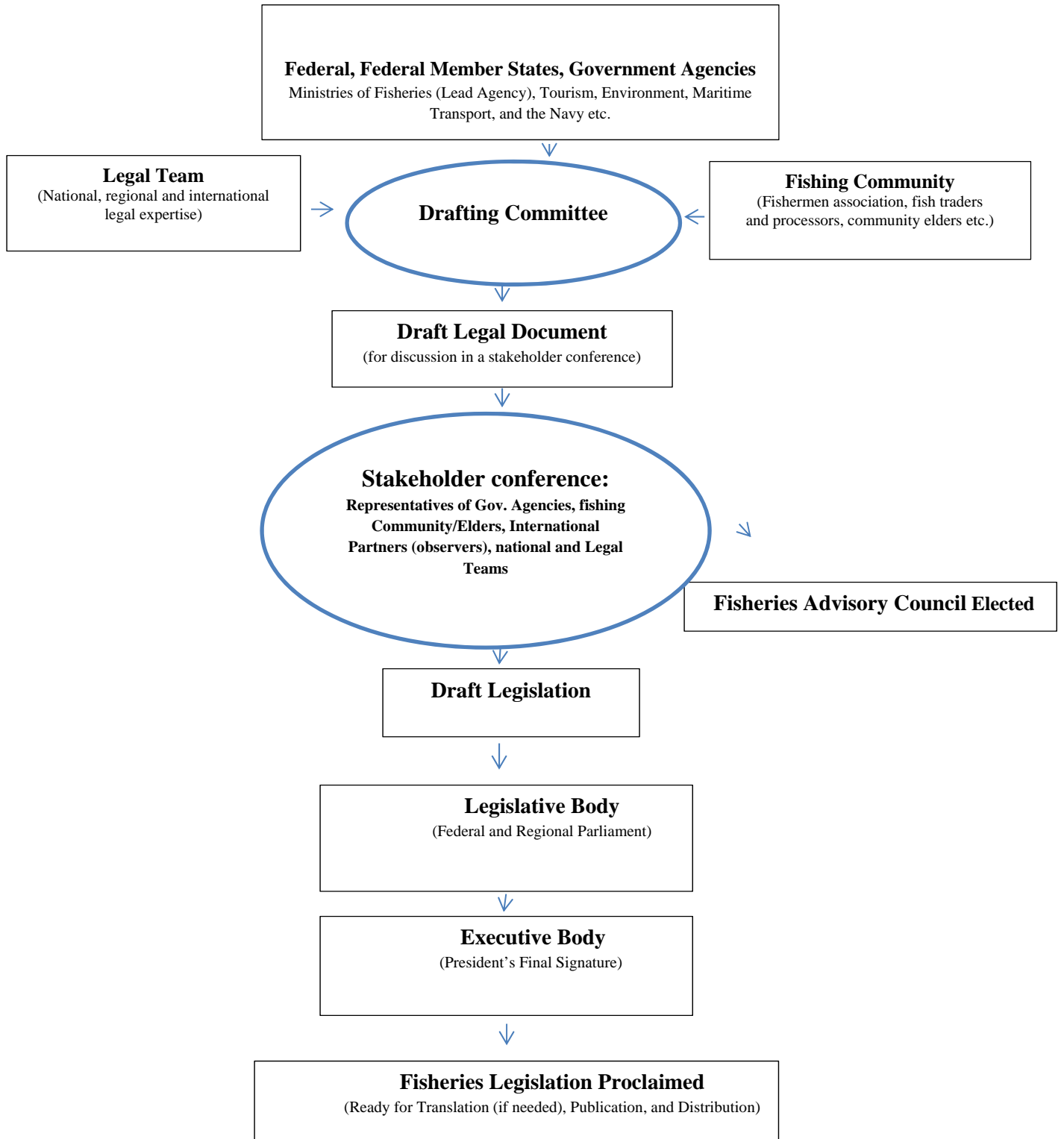
[http://coraltriangleinitiative.org/sites/default/files/resources/57\\_Philippines%20Success%20Stories.pdf](http://coraltriangleinitiative.org/sites/default/files/resources/57_Philippines%20Success%20Stories.pdf). Accessed on: October 20, 2014.

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# ANNEX I

## Projected Fisheries Legislative Framework Process



## ANNEX II

### Proposed Regional Fisheries Management Committees for Somalia and Somaliland



**ANNEX III**  
**Sample Fisheries Proclamation**

*(Adopted for Discussion from FAO Draft Fisheries Legislation of 1993)*

**PROCLAMATION NO.** \_\_\_\_\_ *(Serial Number)*

**FISHERIES PROCLAMATION** *(Official Name of Legislation)*

WHEREAS the Federal Government of Somalia is aware of the potential of the fishery resources of Somalia for development and of its obligation to manage them for the permanent benefit of the nation and the people of Somalia,

NOW THEREFORE the following Law is hereby proclaimed:

**PROCLAMATION NO.** \_\_\_\_\_ *(Serial Number)*

**FISHERIES PROCLAMATION**

**PART I**

**PRELIMINARY**

**Art. 1. Issuing Authority**

This Law has been proclaimed by the Ministry of Fisheries and Marine Resources of the Federal Government of Somalia.

**Art. 2. Short Title**

This Law may be cited as the Fisheries Proclamation No. \_\_\_\_ of 20\_\_\_\_\_.

**Art. 3. Definitions**

For the purposes of this Law, unless the context otherwise requires -

“aquatic organism” means any aquatic plant or animal with the exception of birds, and includes any fish, crustacean, mollusk, coral, echinoderm, holothurian, aquatic reptile or aquatic mammal and its shells, eggs and other naturally occurring products;

“authorized officer” means any authorized officer appointed under Article 5, any police officer and any member of the armed forces .....

“Ministry” means the Ministry of Fisheries and Marine Resources and, in respect of any communication, authorization or requirement, means the officer of the Ministry appointed by the Minister for that purpose.

“Somali waters” means inland waters, marine internal waters, the territorial sea and any waters or the seabed over which Somalia exercises sovereign rights in respect of living resources;

“fishing” means fishing for, catching, taking or killing fish or other aquatic organisms by any method;

“fishing license” means a license issued under appropriate articles of this Law;

“fishing vessel” means any vessel used for fishing;

“foreign fishing vessel” means a foreign fishing vessel in accordance with p;

“licensing officer” means, in respect of a license issued under this Law, the Minister, and, in respect of any other license under this Law, the fisheries officer appointed by the Minister to issue the license;

“national fishing vessel” means a national fishing vessel in accordance with the provisions of this Law;

“related activities” in relation to fishing means -

- a. transshipping fish or other aquatic organisms to or from any vessel;
- b. storing or processing fish or other aquatic organisms;
- c. transporting fish or other aquatic organisms taken from Somali waters up to the time they are first landed;
- d. refueling or supplying fishing vessels or performing other activities in support of fishing operations;

“Minister” means the Minister of the Ministry of Fisheries and Marine Resources;

“this Law” includes regulations made under this Law.

## **PART II**

### **ADMINISTRATION**

#### **Art. 4. Ministry of Fisheries and Marine Resources**

The Ministry shall be responsible for the management and development of fisheries in Somalia and for the administration of this Law.

#### **Art. 5. Authorized Officers**

The Minister may appoint any public officer to be an authorized officer for the purpose of this Law.

#### **Art. 6. Fisheries Advisory Council**

- There shall be a Fisheries Advisory Council to advise on the management and development of fisheries and discharge such responsibilities as are conferred on it under this Law.
- The Fisheries Advisory Council shall be composed of the following persons:

- a. a fisheries officer appointed by the Minister;
  - b. a representative of the Ministry of Ports and Maritime Transport;
  - c. a representative of the Ministry of Economic Development and Cooperation;
  - d. Two representatives from fishermen and fisherwomen associations
  - e. a representative of the academia (University);
  - f. at least two persons engaged in fisheries – one in trade and the other in processing.
- The Fisheries Advisory Council shall elect one of its members to be the chairperson.
  - The Fisheries Advisory Council may invite other persons to participate in its meetings and shall, whenever it considers matters particularly affecting one area of Somalia or a government agency, invite one or more persons engaged in fisheries in that area, or representative from that agency, to participate in its meetings.
  - The Fisheries Advisory Council shall determine its own rules of procedure.

### **PART III**

#### **FISHERIES MANAGEMENT**

##### **Art. 7. Fisheries Management and Development Plans**

1. The Minister shall prepare and keep under review plans for the management and development of fisheries in Somali waters, and shall base the national fisheries development program on such plans.
2. Each plan shall:
  - a. identify the fishery and assess the present state of its exploitation;
  - b. specify the objectives to be achieved in the management of the fishery;
  - c. specify the management and development measures required to achieve the objectives; and, in particular,
  - d. specify the licensing program to be followed for the fishery, the limitations, if any, to be applied to national fishing operations and the amount of fishing, if any, to be allowed to foreign fishing vessels.
3. In the preparation of each fisheries management and development plan, the Minister shall:
  - a. consult with persons engaged in the fishery, local authorities, other persons and government agencies affected by the plan;
  - b. present a draft of the plan to the Fisheries Advisory Council for its opinion.
4. The Minister shall consult whenever feasible with the fisheries management authorities of neighboring countries in the Gulf of Aden and the Indian Ocean, and in particular with those sharing the same or related stocks, with a view to ensuring the harmonization of their respective fisheries management and development plans.

##### **Art. 8. Fisheries Management Measures**

1. The Minister may make regulations prescribing measures for the proper management of fisheries.
2. Prescribed management measures may include but are not limited to -
  - a. closed seasons and closed areas;
  - b. prohibited fishing methods and gear and specifications of gear that may be used (including the mesh size of nets);



- c. the species, sizes and other characteristics of fish and other aquatic organisms that it is permitted or forbidden to catch;
  - d. schemes for the limitation of entry into all or any specified fisheries.
3. A regulation prescribing management measures may also prohibit the possession, purchase, sale, import or export of any gear, fish or other aquatic organism.

#### **Art. 9. Fisheries Information**

1. The Ministry shall collect, analyze and publish statistical and other information on fisheries.
2. Every person engaged in fishing, related activities or aquaculture shall supply such information regarding those activities, in such form, as an authorized officer may require.
3. The Minister may consult with the fisheries management authorities of neighboring countries in the Region with a view to the harmonization and exchange of information on fisheries.

#### **Art. 10. Scientific Research**

1. No vessel shall be used in Somali waters for research related to living resources except under the authority of an authorization under paragraph (2) or of a fishing license.
2. The Minister may in writing authorize any person or vessel to fish for the purpose of scientific research, subject to such conditions as he may prescribe by regulations or otherwise specify.
3. Authorization under paragraph (2) may exempt persons or vessels from any provision of this Act.

#### **Art. 12. Marine Reserves**

1. The Minister may—after consultation with the occupiers of adjoining land, authorities responsible for other uses of the area, the appropriate local and Federal Member State government councils and the Fisheries Advisory Council—declare any area of Somali waters to be a marine reserve.
2. A declaration of a marine reserve may prohibit or restrict fishing within the reserve.
3. Except with the written permission of the Minister, no person shall within any marine reserve -
  - a. take or destroy any coral or take any shell;
  - b. dredge or take any sand or gravel;
  - c. otherwise destroy or disturb the natural habitat;
  - d. fish contrary to any prohibition or restriction under paragraph (2).

### **PART IV**

#### **FISHING LICENSES**

#### **Art. 13. Nationality of Fishing Vessels**

1. A fishing vessel which -
  - a. is wholly owned by one or more citizens of Somalia, the Federal Government, Federal Member States, their bodies or enterprises; or

- b. is wholly owned by a business organization established under the Commercial Code, of which all of the shareholders or partners are citizens or state enterprises of Somalia or the Federal Government or the Federal Member States

shall be a national fishing vessel for the purposes of this Law.

2. The Minister may in writing determine that a vessel which [is wholly owned or chartered by a business organization established under the Commercial Code and of which 51 per cent of the voting shares are held by Somali citizens, the Federal Government, Federal Member States, their bodies or enterprises,] shall be a national fishing vessel for the purposes of this Law.
3. Any fishing vessel that is not a national fishing vessel in accordance with this Article shall be a foreign fishing vessel for the purposes of this Law.

#### **Art. 14. Fisheries Access Agreements**

1. The Minister, with the approval of the Council of Ministers, may enter into agreements with other Nations and with international organizations to which Nations have delegated the power to negotiate fishing agreements, and with associations representing foreign fishing vessel operators, providing for the allocation of fishing rights to vessels from those Nations, organizations or associations.
2. The total fishing rights allocated under agreements entered into under this Article shall not exceed the total resources or amount of fishing allowed to foreign fishing vessels under the applicable fisheries management and development plan.
3. Any agreement entered into under this Article shall include a provision establishing the responsibility of the foreign Nation, organization or association to take all necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the laws relating to fishing in Somali waters.

#### **Art. 15. Foreign Fishing Vessel License**

1. No foreign fishing vessel, except a vessel used exclusively for recreational fishing, shall be used for fishing in Somali waters except under the authority of a valid license issued under this Article or of an authorization under the provisions of this Law.
2. Subject to this Law and to the applicable fisheries management and development plan, the Minister may issue a license in respect of any foreign fishing vessel authorizing the vessel to be used in Somali waters for such fishing or related activities as may be specified in the license.
3. No license shall be granted under paragraph (2) unless:
  - a. there is in force with the Government of the flag State of the vessel, with an intergovernmental organization to which the flag State has delegated the power to negotiate fishing agreements or with an association of which the operator is a member, an agreement entered into under Article 14 to which Somalia is a party; or
  - b. where there is no applicable agreement under Article 14, the Minister determines that such an agreement is not feasible and the applicant provides sufficient financial and other guarantees for the fulfilment of all obligations under this Law.

#### **Art. 16. Stowage of Gear**

Any foreign fishing vessel, except a vessel used exclusively for recreational fishing, that is not licensed in accordance with Article 15 or authorized under Article 10 shall at all times that it is in Somali waters keep its fishing gear stowed in such manner as may be prescribed by regulations.

#### **Art. 17. National Fishing Vessel License**

1. No national fishing vessel may, unless it has been exempted under paragraph (2), be used for fishing except under the authority of a valid fishing license issued under this Article or of an authorization under Article 10.
2. The Minister may make regulations exempting any category of local vessel from the requirements of this Article, subject to such conditions as he may prescribe.
3. A licensing officer shall, upon proper application in accordance with Article 19, grant a license in respect of a national fishing vessel if he/she is reasonably satisfied that-
  - a. the issue of the license is consistent with the applicable fisheries management and development plan; and
  - b. the applicant is able and willing to comply with the conditions of the license.

#### **Art. 18. Other Fishing Licenses**

1. The Minister may make regulations requiring a license for-
  - a. any kind of fishing, with or without the use of a vessel;
  - b. the use of a vessel for any related activity.
2. A licensing officer may, upon application in accordance with Article 19, issue a license authorizing the applicant to conduct any kind of fishing or related activity for which the license is required by regulations under paragraph (1).

*Note: Art.18 - Regulations can be provided for licenses for the operation of collector vessels and for aquarium fish. Eventually licenses might be required for game fishing, other recreational fishing, snail nails, bêche de mer, turtles, coral and shells. However, it is premature to require such licenses until they are needed.*

#### **Art. 19. Applications for Fishing Licenses**

An application for a license under this Law shall be made in the form and manner prescribed by regulations.

#### **Art. 20. Conditions of Fishing Licenses**

1. Every fishing license shall be subject to such general conditions as the Minister may prescribe, to the conditions made applicable to the license by any agreement under Article 14, and to any special conditions which may be endorsed on the license by the licensing officer, including conditions relating to-
  - a. the type and method of fishing or related activity authorized;
  - b. the areas within which such fishing or related activity is authorized;

- c. the target species and amount of fish or other aquatic organisms authorized to be taken, including any restrictions on by-catch; and
  - d. measures to facilitate enforcement of this Law.
2. The Minister may from time to time, where he/she is satisfied that it is expedient for the proper management of fisheries, vary any special condition attached to any fishing license.
3. *Where any special condition attached to any fishing license is varied under paragraph (2), the Minister shall notify the licensee of such variation as soon as practicable."*

#### **Art. 21. Fees and other Payments**

There shall be payable in respect of every fishing license such fees and other payments as may be prescribed by regulations or as may be provided for by an agreement under Article 14.

#### **Art. 22. Validity of Fishing Licenses**

1. A fishing license issued under this Law shall be valid for such period not exceeding [five years] as may be prescribed by regulations or specified in the license.
2. Where a vessel licensed as a national fishing vessel ceases to be a national fishing vessel, the license in respect thereof shall automatically terminate.
3. The term of a license issued under Article 15 shall not extend beyond the term of any applicable agreement under Article 14, or if there is no such agreement, beyond one year.
4. No fishing license shall be transferable except with the written permission of a licensing officer or as may be prescribed by regulations for the limitation of entry into any fishery.

*Note: Art. 22 - Annual licenses are very common in fisheries, but they are so often renewed that the short term is rather fictitious. Foreign licenses are normally renewed throughout the duration of the access agreement. Local licenses are only subject to non-renewal for causes that would justify cancellation. On the other hand, some licenses are very short term (seasonal fisheries).*

*It is recommended that no license be longer than can be economically justified, perhaps five years. Foreign licenses should be limited to the duration of the access agreement, which will almost always be less than five years. If there is no access agreement, the license should not exceed one year.*

#### **Art. 23. Suspension and Cancellation of Fishing Licenses**

1. The Minister may suspend any fishing license where a vessel or any gear in respect of which the license has been issued has been used, or any activity has been conducted, in contravention of this Law or of any condition of the license.
2. A licensing officer may suspend and the Minister may cancel any fishing license where such action is necessary or expedient for the proper management of fisheries.
3. In the event of the suspension or cancellation of any fishing license for the reasons set out in paragraph (2), any fees paid with respect to the period of time during which the license is suspended or cancelled shall be refunded to the licensee.

*Note: Art. 23 - In the case of misbehavior of the licensee, suspension is provided at the administrative level, but cancellation requires a court order under Article 36.*

## PART V

### AQUACULTURE

#### **Art. 24. Aquaculture Authorization**

1. No person shall, in any water other than a personal aquarium facility, culture fish or other aquatic organisms except under the authority of a valid authorization issued under this Article.
2. The Minister may in writing grant an exclusive authorization to any person to culture and take fish and other aquatic organisms in any specified place in Somalia or Somali waters.
3. No authorization shall be granted under this Article unless:
  - a. the applicant has rights to occupy any land or any area of the sea and to abstract any water required for the aquaculture activities; and
  - b. the Minister is satisfied, following consultation with the Fisheries Advisory Council and the authorities responsible for other uses of the sea and for the environment, that the proposed activity will not cause undue interference with other uses of the sea or with the environment.

*Note: Art. 24(2) - The exclusive authority is necessary to avoid any implication that others can fish in a licensed aquaculture facility. It only relates to the place where the licensee has rights to occupy the land or maritime area (paragraph (3)(a)), and not to a whole region of the country.*

#### **Art. 25. Conditions of Aquaculture Authorization**

1. An authorization under Article 24 shall be for such term not exceeding [twenty] years, and subject to such conditions, including the payment of such fees, as the Minister may determine.
2. The Minister may vary the conditions of an authorization under Article 24 at any time in order to protect the environment from contamination or to prevent the spread of disease or to protect the quality of the organisms in the aquaculture facility.

*Note: Art. 25(1) - The duration of an aquaculture authorization should be sufficient to allow the investor to amortize his facilities, but not longer than necessary to attract the investment. It is suggested that twenty years is the maximum term that would be necessary; for methods such as cage culture, five years might be sufficient.*

#### **Art. 26. Protection of Aquaculture Facility**

No person shall fish in any aquaculture facility authorized under Article 24 except with the permission of the operator of the facility.

#### **Art. 27. Suspension of Operations and Closure of Facility**

1. The Minister may order the suspension of operations and closure of an aquaculture facility authorized under Article 24 at any time -
  - a. where any condition of the authorization has been violated;

- b. where such action is necessary to protect the environment from contamination or to prevent the spread of disease or to protect the quality of the aquatic organisms in the facility.
2. Where an order is made under paragraph (1), the Minister may allow a reasonable time to the operator of the facility to correct the conditions leading to the closure or suspension of operations and if such conditions are not or cannot be corrected, the Minister may cancel the authorization under Article 24.

## **PART VI**

### **ENFORCEMENT**

#### **Art.28. Powers of Authorized Officers**

1. For the purposes of enforcing this Law, any authorized officer may, without a warrant -
  - a. stop, board and search any fishing vessel in the waters of Somalia;
  - b. require to be produced, examine and take copies of any license, logbook or other document required under this Law;
  - c. enter, inspect and search any premises, other than premises used exclusively as a dwelling house, where fish or other aquatic organisms are being cultivated;
  - d. require to be produced and examine any fish or other aquatic organism, fishing net or other fishing gear whether at sea or on land;
  - e. destroy or otherwise render harmless any fish or other aquatic organism, which he has reasonable grounds to believe is diseased.
2. The master of any fishing vessel ordered by an authorized officer to stop shall stop the vessel and take all necessary measures to facilitate its boarding.
3. Any authorized officer, where having reasonable grounds to believe that an offence has been committed under this Law, may, without a warrant -
  - a. stop and search any vehicle in which he has reasonable grounds to believe that fish or other aquatic organisms illegally taken or illegally cultured are being transported;
  - b. enter and search any premises, other than premises used exclusively as a dwelling house, in which he has reasonable grounds to believe that an offence has been committed or where he has reasonable grounds to believe that fish or other aquatic organisms illegally taken or illegally cultured are being processed or stored;
  - c. seize any vessel (together with its gear, stores and cargo), vehicle or fishing gear, which he has reasonable grounds to believe has been used in the commission of the offence or in relation to which the offence has been committed;
  - d. seize any fish or other aquatic organism which he has reasonable grounds to believe has been caught or produced in the commission of the offence, or is being possessed, imported or exported in contravention of this Law;
  - e. seize any poison or explosive which he has reasonable grounds to believe is being possessed in contravention of this Law;
  - f. take samples of any fish or other aquatic organisms found in any fishing vessel, premises or vehicles searched under this Article;
  - g. arrest any person who he has reasonable grounds to believe has committed an offence under this Law.

4. An authorized officer in exercising any of the powers conferred on him/her by this Article shall on demand produce such means of identification as may be necessary to show that he is an authorized officer for the purposes of this Law.
5. A written receipt shall, wherever feasible, be given for anything seized under paragraph (3) and the grounds for such seizure shall be stated in the receipt.
6. Any vessel seized under paragraph (3) and the crew thereof shall be taken to the nearest or most convenient Somali port, and any vessel or other thing seized under paragraph (3) shall be delivered into the custody of a court.
7. Any person arrested shall be taken as soon as practicable before a court to be dealt with according to the law.
8. In cases of arrest or detention of foreign vessels, the flag State shall be promptly notified of the action taken and of any penalties subsequently imposed.

*Notes: Art. 28 - The Criminal Procedure Code provides for most matters of criminal procedure, but certain aspects of fisheries enforcement (boarding of vessels, disposal of perishable good, release of vessels) require special treatment. Those are provided in this and the succeeding Articles, but the other provisions of the Code still apply.*

*Under international law, enforcement authorities can exercise control over national vessels even outside of national waters, but they cannot pursue such actions into the territorial sea of another state and there is some question about enforcement in another state's EEZ. Since it is likely that Somalia will extend its jurisdiction to those areas that are important for fisheries purposes, it should be sufficient to limit enforcement to "Somali waters". This will avoid possible misunderstandings with neighboring countries.*

#### **Art. 29. Hot Pursuit**

Where, following the commission in Somali waters of an offence against this Law with the use of a vessel, the vessel is pursued beyond the limits of Somali waters, the powers conferred on authorized officers under Article 28 shall be exercisable in respect of such vessel beyond the limits of such waters in the circumstances and to the extent recognized by international law.

#### **Art. 30. Custody of Seized Goods**

Any vessel or other thing seized under Article 28(3) shall, except as provided in Articles 31 and 32, be held by the court and dealt with as provided in Article 35.

#### **Art. 31. Disposal of Perishable Goods**

1. An authorized officer or the court may, to avoid spoilage or decay of any fish or other aquatic organism or other thing of a perishable nature seized under this Law, sell them or, if sale is impracticable, dispose of them in such manner as may appear suitable.
2. In case of sale or disposal under paragraph (1), the authorized officer or court shall give to the person from whom the seizure was made a receipt stating -
  - a. the date of the sale;
  - b. the quantity of fish or other aquatic organisms and other things of a perishable nature sold; and
  - c. the amount realized from the sale.

3. The proceeds of any sale under paragraph (1) shall be paid to a court and dealt with in the manner provided by Article 35 for the fish or other thing sold.

#### **Art. 32. Release of Vessels, etc., on Bond**

1. The Minister may on application therefor, order the release of any fishing vessel (together with its gear, stores and cargo), vehicle, fish, other aquatic organism or fishing gear seized under this Law on receipt of a reasonable bond or other form of security.
2. Any bond or other form of security received under paragraph (1) shall be delivered to a court and dealt with in the manner provided by Article 35 for vessel or other thing released.

#### **Art. 33. Offences**

1. Where any foreign vessel, except a vessel used exclusively for recreational fishing, that is not licensed under Article 15 or authorized under Article 10 is used for fishing in Somali waters, the owner or charterer and master shall each be guilty of an offence and liable to a fine not exceeding [\$ \_\_\_\_\_].
2. Where any foreign vessel that is licensed under Article 15 or authorized under Article 10 is used in contravention of any condition of the license or authorization, the owner or charterer and master shall each be guilty of an offence and liable to a fine not exceeding [\$ \_\_\_\_\_].
3. Where any national vessel that is required to be licensed under Article 17 or authorized under Article 10 is not so licensed or authorized and is used for fishing in Somali waters, the owner or charterer and master shall each be guilty of an offence and liable to a fine not exceeding [\$\_\_\_\_\_].
4. Where any national vessel that is licensed under Article 17 or authorized under Article 10 is used in contravention of any condition of the license or authorization, the owner or charterer and master shall each be guilty of an offence and liable to a fine not exceeding [\$\_\_\_\_\_].
5. Any person who, in Somalia or Somali waters, conducts any fishing or related activity for which a license is required under Article 18 otherwise than under the authority of and in accordance with the terms of a valid license, shall be guilty of an offence and liable to a fine not exceeding [\$\_\_\_\_\_].
6. Where any foreign fishing vessel, except a vessel used exclusively for recreational fishing, that is not licensed under Art. 15 or authorized under Art. 10 is found in Somali waters without its fishing gear stowed in the prescribed manner, the owner or charterer and master shall each be guilty of an offence and liable to a fine not exceeding [\$\_\_\_\_\_].
7. Where any vessel that is not authorized under Article 10 or licensed under Articles 15, 17 or 18 is used in Somali waters for research related to living resources, the owner or charterer and master shall each be guilty of an offence and liable to a fine not exceeding [\$\_\_\_\_\_].
8. Any person who uses any explosive or poison to kill, stun or disable fish or other aquatic organisms in order to render them more easily caught shall be guilty of an offence and liable to a fine not exceeding [\$\_\_\_\_\_].
9. Any person who fishes in contravention of any management measure prescribed under Article 8 shall be guilty of an offence and liable to a fine not exceeding [\$\_\_\_\_\_].
10. Any person who prevents or hinders an authorized officer's exercising the powers conferred on him under Articles 28 or 29 shall be guilty of an offence and liable to a fine not exceeding [\$\_\_\_\_\_].
11. Any person who destroys or abandons any fish or other aquatic organism, fishing gear, explosive, poison or any other thing with the intent to avoid their seizure or the detection of an



offence against this Law shall be guilty of an offence and shall be liable to a fine not exceeding [\\$\_\_\_\_\_].

12. Any person who, in Somali waters, fishes for any marine mammal or, having accidentally caught any marine mammal, fails to release the marine mammal forthwith and return it to the waters from which it was taken with the least possible injury, shall be guilty of an offence and liable to a fine not exceeding [\\$\_\_\_\_\_].
13. Any person who in a marine reserve, without the written permission of the Minister takes or destroys any coral, takes any shell, dredges or takes any sand or gravel, destroys or disturbs the natural habitat, or fishes contrary to any prohibition or restriction under Article 12(2), shall be guilty of an offence and liable to a fine not exceeding [\\$\_\_\_\_\_].
14. Any person, who, in any water other than a personal aquarium facility, cultures fish or other aquatic organisms except under the authority of an authorization under Article 24, shall be guilty of an offence and liable to a fine not exceeding [\\$\_\_\_\_\_].
15. Any person authorized under Article 24 who cultivates fish or other aquatic organisms in contravention of any condition of the authorization, shall be guilty of an offence and liable to a fine of [\\$\_\_\_\_\_].
16. Any person required supplying information under this Law who fails to supply such information or supplies false or misleading information shall be guilty of an offence and liable to a fine not exceeding [\\$\_\_\_\_\_].
17. Any person who uses or discloses information received pursuant to this Law for any purpose except the purposes of this Law shall be guilty of an offence and liable to a fine not exceeding [\\$\_\_\_\_\_].

*Notes: Art. 33 - The amounts of fines are not specified. In general, it is recommended that those involving foreign vessels be punished more severely than those involving national vessels.*

*Art. 33(10)- This provision does not refer to cases of assault, threats with violence, bribery, which already fall under the provisions of the Somali Penal Code. If a specific provision on assault, etc. were to be included in this Law, the possibility of administrative settlement (see Art. 40) of such an offence should be excluded.*

#### **Art. 34. Liability of Master**

Where an offence under this Law has been committed by any person on board or employed on a fishing vessel, the master of that vessel shall also be guilty of the offence.

#### **Art. 35. Forfeiture**

1. Where any person is convicted of an offence under this Law, the court, in addition to any other penalty imposed:
  - a. may order that any vehicle or fishing gear used in the commission of the offence and, in the case of an offence under Article 33(1), any fishing vessel (together with its gear, stores and cargo) used in the commission of the offence be forfeited;
  - b. shall order that any fish or other aquatic organism caught in the commission of such offence and any explosive or poison possessed in the commission of such offence be forfeited.

2. Where in any prosecution under this Law, all accused are acquitted of any offence, all things held shall be released to the persons entitled thereto and if no person is so entitled, shall be forfeited.
3. Where anything in the custody of the court is not ordered to be forfeited, it shall be held until all fines imposed for any offence in commission of which the thing was used, caught or possessed have been paid; and if within thirty days following a judgment of guilt, any part of such fines remains unpaid, such thing may be sold and the proceeds applied toward payment of the fines.
4. In the case of any administrative settlement under Article 40, all things ordered by the Minister to be released shall be released forthwith and all other things held shall be forfeited.
5. If, within thirty days of a seizure under this Law, no charge is filed in respect of an offence in connection with which things are held by the court, such things shall be released to any person who is entitled thereto and, if no person is so entitled, they shall be forfeited.

*Note: Art. 35 - The disposition of forfeited goods can be dealt with by the court as with forfeiture under the Penal Code.*

*No mention is made of aquaculture in connection with forfeiture because the reasons for its use in capture fisheries (difficulties of apprehension, public right to the fishery resources) do not fully apply to aquaculture.*

#### **Art. 36. Cancellation of Licenses**

Where any person is convicted of an offence under this Law, the court, in addition to any other penalty imposed, may order that any license or authorization under this Law be cancelled and that no new license or authorization be issued to the person or in respect of the vessel involved in the offence for such period of time as the court may specify.

*Note: Art. 36 - Article 23 provides for cancellation of licenses when required for management purposes. Where cancellation is desirable because of the misbehavior of the licensee, a court order is required. As an interim measure, however, Article 23 would allow suspension of the license. Aquaculture authorizations, on the other hand, could be cancelled by the Minister.*

#### **Art. 37. Presumptions**

Unless the contrary is proved:

- a. all fish and other aquatic organisms found on board any fishing vessel which has been used in the commission of an offence under this Law are presumed to have been caught in the commission of that offence;
- b. all fish, other aquatic organisms, coral, shells, sand and gravel found in the possession of a person within a marine reserve are presumed to have been taken within that marine reserve.

#### **Art. 38. Burden of Proof**

1. In any proceedings under this Law where the defendant is charged with having committed an offence under which a license or the authorization of any person is required for the doing of any

act, the burden shall be on the defendant to prove that at the time to which the charge relates, the requisite license or authorization was duly held.

2. In any proceeding under this Law where an exception to any requirement is claimed on behalf of a vessel used exclusively for recreational fishing, the burden shall be on the defendant to prove that the vessel in question was used exclusively for recreational fishing.

#### **Art. 39. Jurisdiction of the Court**

Any offence committed under this Law within the waters of Somalia by any person, or any such offence committed outside such waters by any person on board any national fishing vessel is triable in the courts of Somalia.

#### **Art. 40. Administrative Settlement**

1. Any offence under this Law involving a foreign fishing vessel may be subject to administrative settlement in accordance with the provisions of this Article.
2. The Minister may, if he is satisfied that an offence under this Law has been committed by any person and if the person admits the commission of the offence and consents in writing to its being dealt under this Article -
  - a. settle the offence by accepting on behalf of the Government -
    - i. a sum of money not exceeding the maximum fine specified for the offence; and
    - ii. where the gravity of the offence so warrants, surrender of any license or authorization issued under this Law;
  - b. order the release of any vessel or other thing seized in connection with the offence on payment of a sum of money not exceeding the value of the vessel or other thing;
3. Any sum of money received under this Article shall be dealt with as though it were a fine imposed by a court.
4. In any proceedings brought against any person for an offence under this Law, it shall be a good defense if the person proves that the offence has been settled under this Article.

*Note: Art. 40 - The procedure for administrative settlement is intended to facilitate rapid settlement of cases involving foreign vessels, allowing them to depart Somalia with minimum loss of time without the risk that Somalia will be unable to exact penalties. In cases of foreign fishing without a license it is intended that the Minister settle the case for an amount that approaches what the vessel and catch are worth, bearing in mind that a quick disposition is desirable.*

### **PART VII**

#### **GENERAL PROVISIONS**

#### **Art.41. Appeals**

Any person aggrieved by -

- a. the refusal of a licensing officer to issue a license in respect of a national fishing vessel;
- b. the suspension, cancellation or variation of a condition of any fishing license;

- c. the suspension of operations or closure of an aquaculture facility or the cancellation or variation of a condition of an authorization under Article 24 -

may, within thirty days, appeal to the court of competent jurisdiction.

*Note: Art. 41 - The usefulness of an article on appeals will depend on the Government's policy concerning administrative remedies and on the constitutional and other provisions that might in the future govern the matter. Where there is no administrative court, so an appeal would be heard by the ordinary courts.*

#### **Art.42. Regulations**

1. The Minister may make regulations for the implementation of this Law, including regulations:
  - a. delimiting areas of Somali waters in which fishing shall be reserved to Somali citizens and national vessels;
  - b. prescribing the manner in which fishing gear is to be stowed and requiring any fishing vessel to stow its gear at any time that it is in an area of Somali waters where it is not authorized to fish;
  - c. regulating the import and export of live fish and other aquatic organisms;
  - d. further providing for the control of aquaculture;
  - e. regulating the quality of fish and other aquatic organisms that may be sold or exported, including -
    - i. providing for inspection and for the issue of certificates of inspection;
    - ii. prescribing methods of handling and processing;
    - iii. prescribing standards for product quality;
  - f. prescribing any other matter that is required or authorized to be prescribed.
2. Regulations made under this Article may provide that their contravention shall constitute an offence and may prescribe fines not exceeding [\$\_\_\_\_\_] for any offence.

### **Joint Venture Guidelines**

#### **Guidelines for the Approval of Fishing Joint Ventures**

The following factors will be taken into account by the Minister of Fisheries and Marine Resources in determining whether a fishing vessel should be a local fishing vessel for the purposes of the Fisheries Proclamation, of \_\_\_\_\_(year). References to “the company” indicate the company owning or chartering the vessel for which local vessel status is sought.

1. Capital
  - a. At least 51 per cent of the paid up capital of the company owning or chartering the vessel must be owned, directly or through companies, by Somali citizens. Evidence of payment by Somali citizens for their shares in the joint venture and related companies may be required.
  - b. A greater Somali share in the company will receive more favorable consideration.
  - c. A lower ratio of debt to equity in the company will be preferred.
  - d. The sources of loans, and in particular the connections between the sources of loans and foreign equity partners, will be taken into account.

- e. Charter arrangements are permitted, but they will be examined carefully in order to avoid their use to avoid local equity requirements. Charter arrangements with owners unrelated to the joint venture will be preferred.
  - f. Long-term sales preferences to foreign partners will not be favored.
2. Management
- a. Companies in which Somali partners have the dominant role in management will be preferred. This will be judged based on positions in corporate and operations management and on the existence of contractual arrangements management services and personnel.
  - b. The managing director and a majority of the directors of the company should be Somali citizens.
  - c. Where managerial positions are not filled by Somali citizens, the company should present a plan for the localization of positions. All arrangements for the recruitment of foreign managers will be required to be reported.
  - d. Management contracts, technical assistance contracts and other arrangements for the supply of management services will be examined critically, especially if they are with the foreign partner or associated interests.
  - e. Shareholder and board voting or committee arrangements will be examined critically and those that increase local control of the company will be favored.
3. Technology transfer
- a. Technology that is both new to Somalia and appropriate for introduction will be favored.
  - b. Arrangements for the transfer of technology will be examined and those considered most realistic will be favored.
  - c. Proposals involving employment of local staff in the largest proportion of technical positions will be favored. To the extent that foreign technical staff is proposed, the proposal should include a program for training of local staff and their employment in those positions.

# Draft Fisheries Regulations

Fisheries Proclamation No. \_\_\_\_\_ (Serial Number)

**FISHERIES REGULATIONS,** \_\_\_\_\_ (Official Name of Regulation)

IN EXERCISE of the powers conferred by Article 42 of the Fisheries Proclamation No. \_ of \_\_\_\_\_(year), the Minister of Fisheries and Marine Resources hereby makes the following Regulations.

## PART I

### PRELIMINARY

#### Art. 1. Short Title

These Regulations may be cited as the Fisheries Regulations of \_\_\_\_\_(year)

#### Art. 2. Definitions

For the purposes of these Regulations, unless the context otherwise requires -

“foreign fishing vessel license” means a license issued under Article 15 of the Law;

“national fishing vessel license” means a license issued under Article 17 of the Law.

*Note: Art. 2 - It is not necessary that the application be in the form set out in the Schedule, only that it contains the required information. The application can be sent by e-mail, letter, fax, or any other suitable means.*

## PART II

### FOREIGN FISHING VESSEL LICENSES

#### Art. 3. Applications

Every application for a foreign fishing vessel license shall be made in writing to the Minister and shall contain the information set out in the First Schedule to these Regulations.

#### Art. 4. Form of Licenses

Every foreign fishing vessel license shall be in writing in the form set out in the Second Schedule to these Regulations.

#### Art. 5. Fees

1. The fees payable in respect of a foreign fishing vessel license shall be the fees established by the applicable agreement under Article 14 of the Law, the fees specified in the foreign fishing vessel

license or if no such fees are established or specified, the fees set out in the Third Schedule to these Regulations.

2. Where fees are paid periodically, a foreign fishing vessel license shall be automatically suspended at any time that a payment has not been received within fifteen days of the date it is due.

*Note: Art. 5 - The fees set out in Third Schedule (and, for national vessels, in the Sixth Schedule) are given only as examples. The real level of foreign fishing fees would depend on what foreign vessel-owners and their Governments were willing to pay.*

## **Art. 6. License Conditions**

Every foreign fishing vessel license shall be subject to the following general conditions:

- a. the vessel shall only be used for such fishing and related activities, during such times and in such place as are specified in the license;
- b. all provisions of the Law shall be complied with;
- c. any change in the information set out in the application shall be notified to the Minister within seven days;
- d. the licensee shall appoint an agent [resident] in Somalia who shall be legally and financially responsible for the activities of the vessel in Somali waters and who shall be authorized to accept and respond to the service of legal process;
- e. the master of the vessel shall maintain a logbook recording the nature, time and position of all fishing operations and the quantity of catch by species and such related information as the Minister may require;
- f. reports of the information required to be recorded under paragraph (e) shall be transmitted by the master of the vessel to the Ministry:-
  - i. monthly and on request of the Ministry at any other time during the term of the license; and
  - ii. not later than thirty days after the expiry of the license;
- g. the master of the vessel shall cause its position and the amount of catch on board to be reported by radio or other means of communication approved by the Ministry -
  - i. upon entering or leaving Somali waters;
  - ii. at such times as the Ministry may specify while the vessel is in Somali waters;
- h. the master of the vessel shall cause the estimated time of its entry into port to be notified to the Ministry at least twenty-four hours prior to such entry.
- i. the master of the vessel and each member of the crew shall comply with any directions given to them by an authorized officer and, in particular, shall on request of the officer -
  - i. stop the vessel;
  - ii. permit boarding and inspection of the vessel; and
  - iii. bring the vessel into port;
- j. the vessel shall at all times that it is in Somali waters -
  - i. fly the flag of its flag State;
  - ii. display identification markings in accordance with the specifications set out in the Seventh Schedule to these Regulations;
- k. no fish may be transshipped from or onto the vessel while in the fishery waters except with the permission of the Ministry and in accordance with such conditions as it may specify;

- l. the master of the vessel shall take all reasonable precautions to avoid causing damage to any national fishing operations;
- m. the master of the vessel shall permit an observer designated by the Ministry to go and remain on board the vessel for any or all of the time it is in Somali waters and shall -
  - i. provide the observer with suitable food and accommodation while on board;
  - ii. co-operate fully with the observer in the performance of his/her duties;
  - iii. arrange for the observers to send and receive messages by way of the communications facilities on board the vessel;
- n. any records, reports or notifications required to be maintained in the [Somali, Arabic or English] language.

*Notes: Art. 6 - In addition to these conditions, the license will also be subject to the conditions of the access agreement and to any special conditions noted on the license.*

*Art. 6(b) - "Law" is defined to include regulations.*

*Art. 6(d) - Residency in Somalia may not be necessary if the agent is physically present.*

*Art. 6(m) - "The observers" is an alternative to "his".*

*Art. 6(n) - The choice of language depends on whether the Ministry finds it convenient to receive and compile all foreign fishing reports in one language, of which English is the most practical.*

#### **Art. 7. Responsibility of Agent**

The agent appointed under Article 6(d) shall be responsible for the timely receipt of the reports required by Article 6(f), (g) and (h) and shall be liable under Article 33(16) of the Law if any such report is not received by the required time or is incomplete or contains false or misleading information.

*Note: Art. 7 - If a report is not received, the agent (as well as the master) would be guilty of the offence of failing to supply information (Art. 33(16) of the Law.*

#### **Art. 8. Stowage of Gear**

Any foreign fishing vessel, except a vessel used exclusively for recreational fishing, that is not licensed under Article 15 of the Law or is not authorized under Article 10 of the Law shall keep its fishing gear stowed in the following manner -

- a. in the case of trawlers, all nets, trawl boards and weights shall be disconnected from their towing or hauling wires, ropes or rigid frames and lashed to the deck or superstructure;
- b. in the case of purse seiners -
  - i. the boom shall be lowered;
  - ii. all nets and ropes shall be carried wholly inboard and lashed to the deck or superstructure;
  - iii. all boats belonging to the purse seiner shall be carried wholly inboard;
  - iv. any helicopter shall be lashed down.



## PART III

### NATIONAL FISHING VESSEL LICENSES

#### Art. 9. Exemptions

A national fishing vessel not exceeding [eight] meters in overall length or used exclusively for recreational fishing is exempted from the requirement of a national fishing vessel license.

#### Art. 10. Applications

Every application for a national fishing vessel license shall be made in writing to a licensing officer and shall contain the information set out in the Fourth Schedule to these Regulations.

*Note: Art. 10 - It is not necessary that the application be in the form set out in the Schedule, only that it contains the required information. The application can be sent by fax, email, letter or any other suitable means.*

#### Art. 11. Form of Licenses

Every national fishing vessel license shall be in writing in the form set out in the Fifth Schedule to these Regulations.

#### Art. 12. Fees

1. The fees payable in respect of a national fishing vessel license, other than a license to which paragraph (2) applies shall be the fees set out in the Sixth Schedule to these Regulations.
2. The fees payable in respect of a vessel determined by the Minister to be a national vessel pursuant to Article 13(2) of the Law shall be the proportion of the fees set out in the Third Schedule to these Regulations equal to the proportion of foreign ownership of the company owning or chartering the vessel, but shall be no less than the fee payable under paragraph (1).

*Note: Art. 12(2) - Where the Minister has determined that a joint-venture vessel should be treated as national, this provision would require that the fishing fee be based on the foreign fishing fees, reduced by the proportion of Somali ownership of the licensee.*

#### Art. 13. License Conditions

Every national fishing vessel license shall be subject to the following general conditions -

- a. the vessel shall only be used for such fishing and related activities, during such times and in such place as are specified in the license;
- b. all provisions of the Law shall be complied with;
- c. any change in the information set out in the application shall be notified to a licensing officer within seven days;
- d. the master of the vessel and each member of the crew shall comply with any directions given to them by an authorized officer and, in particular, shall on request of the officer -

- i. stop the vessel;
  - ii. permit boarding and inspection of the vessel; and
  - iii. bring the vessel into port;
- j. the vessel shall display the identification marks assigned to it by the licensing officer in accordance with the specifications set out in the Seventh Schedule to these Regulations;
- k. no fish may be transshipped from or onto the vessel while in the fishery waters except with the permission of the Ministry and in accordance with such conditions as it may specify.

## **PART IV**

### **OTHER LICENSES**

#### **Art. 14. Collector Vessel**

1. Except in accordance with a license issued under this Article, no vessel may be used for collecting fresh fish or other aquatic organisms directly from a fishing vessel or from a point on shore near the fishing grounds for processing or transport to port.
2. A licensing officer may issue a license for a vessel to collect fresh fish or other aquatic organisms from such fishing vessels or shore points, in such locations and subject to such conditions as may be specified in the license.
3. The fee payable in respect of a vessel licensed under this Article shall be that which would be payable under the Third or Sixth Schedule to these Regulations if the vessel were a fishing vessel.

#### **Art. 15. Aquarium Fish**

1. No person shall fish for, buy, keep, sell or export aquarium fish except in accordance with paragraph (2) or pursuant to a license issued under paragraph (3).
2. A person may for his own use fish for, buy and keep reasonable quantities of aquarium fish in proportion to his personal aquarium facilities.
3. A licensing officer may issue a license permitting the holder to fish for, buy, keep, sell or export such aquarium fish, subject to such conditions, as may be specified in the license.

#### **Art. 16. Import of Live Fish**

1. No person shall import any live fish or other aquatic organism into Somalia except pursuant to a license issued under this Article.
2. A licensing officer may issue a license for the import of live fish or other aquatic organisms if he/she finds that the import poses no threat to the natural environment of Somalia.

**PART V**

**SCIENTIFIC RESEARCH**

**Art. 17. Conditions**

An authorization under Article 10 of the Law shall be subject to the following conditions-

- a. no operations may take place until a research plan has been approved by the Ministry;
- b. copies of all data derived from the research and any analysis, report or other result of the research shall be communicated in full to the Ministry as soon as they are produced;
- c. at the request of the Ministry, the research vessel shall take on board Somali researchers and facilitate their participation in the research program.

**PART VI**

**MANAGEMENT MEASURES**

**Art. 18. Spear Guns**

- 1. No person shall use a spear gun for fishing except with the permission in writing of the Ministry and in accordance with such conditions as it may specify.
- 2. Any person who uses a spear gun in contravention of paragraph (1) shall be guilty of an offence and liable to a fine of [\$ \_\_\_\_\_].

**FIRST SCHEDULE**

(Under Art. 3)

**APPLICATION FOR A FOREIGN FISHING VESSEL LICENSE**

INSTRUCTIONS - Underline surnames.

For "address" provide complete mailing address.

If not applicable, write NA - leave no blanks.

Specify units of measurement if not metric.

ADDRESS TO – Minister of Fisheries and Marine Resources

Federal Republic of Somalia

P.O. Box xxx, Mogadishu, Somalia

I hereby apply for a license to fish in Somali waters.

- 1. Name of Vessel: \_\_\_\_\_
- 2. Name of Owner: \_\_\_\_\_
- 3. Address of Owner: \_\_\_\_\_
- 4. Name of Charterer: \_\_\_\_\_
- 5. Country of Registration: \_\_\_\_\_

6. Country of Registration Number: \_\_\_\_\_
7. Details of Radio: \_\_\_\_\_/Frequency: \_\_\_\_\_  
Number of Channels: \_\_\_\_\_ Radio Call Sign: \_\_\_\_\_
8. Operational Base or Bases (port/country): \_\_\_\_\_
9. Name of Vessel Master: \_\_\_\_\_
10. Address of Vessel Master: \_\_\_\_\_
11. Type of fishing Operations: \_\_\_\_\_
12. Proposed fishing areas: \_\_\_\_\_
13. Period of license requested: \_\_\_\_\_
14. Proposed commencement date of fishing operations:  
\_\_\_\_\_
15. If previously licensed in Somalia:
  - state the number of the last license held \_\_\_\_\_
  - specify any changes to information previously provided \_\_\_\_\_
16. Current fishing licenses held elsewhere in the region (state the number of each license and the name of each licensing country): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

QUESTIONS 17–27 TO BE COMPLETED ONLY IF APPLYING FOR A FISHING LICENSE FOR THE FIRST TIME.

17. Normal total number of crew: \_\_\_\_\_
18. Hull materials: \_\_\_\_\_
19. Year built: \_\_\_\_\_
20. Place of construction: \_\_\_\_\_
21. Gross tonnage: \_\_\_\_\_
22. Overall length: \_\_\_\_\_
23. Main engine power: \_\_\_\_\_
24. Fuel capacity: \_\_\_\_\_
25. Daily freezing capacity for each freezing method: \_\_\_\_\_
26. Storage capacity for each storage method: \_\_\_\_\_
27. Type and quantity of fishing gear to be used \_\_\_\_\_

ATTACH A RECENT SIDE-ON PHOTOGRAPH OF THE VESSEL IF APPLYING FOR A FISHING LICENSE FOR THE FIRST TIME.

I understand that I am required to report any changes in the information contained in this form to the Ministry within 7 days of the change.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Specify whether owner, charterer or agent \_\_\_\_\_

Print name of Applicant: \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

NOTE: Any license issued based on this application form is liable to cancellation if any of the information given in this application form is incorrect.

**SECOND SCHEDULE**

(Under Art. 4)

LICENSE NUMBER - \_\_\_\_\_

**FOREIGN FISHING VESSEL LICENSE**

FISHERIES PROCLAMATION, \_\_\_\_\_ year)

The person named as the license holder below is hereby licensed in accordance with Article 15 of the Fisheries Proclamation, \_\_\_\_\_, to use the vessel described below for fishing in Somali waters at the times and in the areas specified in this license and in accordance with the conditions set out in this license and prescribed from time to time in the Fisheries Regulations.

Name of vessel:

Name of license holder:

License period: From \_\_\_\_\_ To \_\_\_\_\_

Vessel registration number:

Radio call sign:

Authorized fishing areas:

Authorized fishing times:

Authorized target species/quota (where applicable):

Permitted transshipment operations (where applicable):

Special conditions:

-

\_\_\_\_\_  
Signature of the Minister or his Delegate

\_\_\_\_\_

Date

**THIRD SCHEDULE**

(Under Art. 5)

**FOREIGN FISHING VESSEL FEES**

per gross registered per year

- (i) licensed for shrimp [\$\_\_\_\_\_]
- (ii) other [\$\_\_\_\_\_]

**FOURTH SCHEDULE**

(Under Art. 10)

**APPLICATION FOR NATIONAL FISHING VESSEL LICENSE**

INSTRUCTIONS - Underline surnames.

For "address" provide complete mailing address.

If not applicable, write NA - leave no blanks.

Specify units of measurement, if not metric.

ADDRESS TO Minister of Fisheries and Marine Resources  
Federal Republic of Somalia  
P.O. Box xxx, Mogadishu, Somalia

I hereby apply for a national fishing vessel license for the vessel described below:

1. Name of vessel: \_\_\_\_\_
2. Name and address of owner: \_\_\_\_\_
3. Name and address of charterer: \_\_\_\_\_
4. Name and address of any other person having an interest in the vessel: \_\_\_\_\_
5. Registration No.: \_\_\_\_\_
6. International radio call sign (if any): \_\_\_\_\_
7. Name and address of master: \_\_\_\_\_
8. Nature of fishing operation to be undertaken (X as appropriate):
  - a. Trolling
  - b. Trapping
  - c. Long lining
  - d. Seining

- e. Gillnetting
  - f. Trawling
  - g. Hand lining
  - h. Any Other
9. Nature of vessel (attach full description, including hull construction, main engine type and power, where and when built, history of use)
10. Number of crew expected: \_\_\_\_\_
11. Fish storage capacity for each storage method: \_\_\_\_\_
- \_\_\_\_\_
12. Operational base: \_\_\_\_\_
13. Fishing area: \_\_\_\_\_

I declare that the vessel described above is a national fishing vessel within the meaning of the Fisheries Proclamation, \_\_\_\_\_.

If the vessel is in part owned by or chartered from foreign persons, the Minister of Fisheries and Marine Resources has approved it as a national vessel by letter of \_\_\_\_\_

I understand that I am required to report any changes in the information contained in this form to the Ministry of Fisheries and Marine Resources within 7 days of the change.

Signature of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

Specify whether owner, charterer or agent: \_\_\_\_\_

Print name of Applicant: \_\_\_\_\_

NOTE: Any license issued based on this application is liable to cancellation if any of the information given in this application form is incorrect.

**FIFTH SCHEDULE**

(Under Art. 11)

LICENSE NUMBER \_\_\_\_\_

**NATIONAL FISHING VESSEL LICENSE**

FISHERIES PROCLAMATION, \_\_\_\_\_

The person named as the license holder below is hereby licensed in accordance with Article 17 of the Fisheries Proclamation, \_\_\_\_\_, to use the vessel described below for fishing in accordance with the conditions set out in this license and prescribed from time to time in the Fisheries Regulations.

Name of vessel:

Name of license holder:

License period: From To

Vessel registration number:

Radio call sign:

Permitted transshipment operations (where applicable):

Special conditions:

-  
-

---

Signature of the Minister or his Delegate

---

Date

## **SIXTH SCHEDULE**

(Under Art. 12)

### **NATIONAL FISHING VESSEL FEES**

A. without foreign ownership:

(i) not over 10 gross registered tonnes [\$\_\_\_\_\_ per year]

(ii) over 10 gross registered tonnes [\$\_\_\_\_\_ per gross registered tonne per year]

B. with partial foreign ownership

the proportion of the fee in the Third Schedule equal to the proportion of foreign ownership

C. chartered vessel

the proportion of the fee in the Third Schedule equal to the proportion of foreign ownership of the Somali operating company chartering the vessel

## **SEVENTH SCHEDULE**

### **SPECIFICATIONS FOR THE MARKING OF FISHING VESSELS**



## 1. CONTENT OF IDENTIFICATION MARKS

- a. Any vessel that has been assigned an International Telecommunications Union Radio Call Sign shall display that Radio Call Sign as its identification mark.
- b. Any vessel that has not been assigned an International Telecommunications Union Radio Call Sign, other than a vessel referred to in paragraph 1(c) of this Schedule, shall display an identification mark consisting of the characters allocated by the International Telecommunications Union to the flag state of the vessel, followed by a hyphen and the license or registration number assigned to that vessel by its flag state.
- c. Any vessel that has not been assigned an International Telecommunications Union Radio Call Sign, but is normally carried on board another vessel for use in fishing operations shall display the identification mark assigned to that other vessel.

## 2. LOCATION OF MARKING

- a. Identification marks shall be prominently displayed:
  - i. on the vessel's port and starboard side or superstructure, high above the waterline, but not on the flare of the bow or on the stern, in such a way as to be clearly visible both from the sea and from the air; and
  - ii. for vessels other than undecked vessels, on a horizontal surface of the vessel, athwart ships, with the top of the letters and numbers towards the bow of the vessel: where an awning or other temporary cover is placed so as to obscure the marking, the awning or other cover shall bear the same identification mark.
- b. Identification marks shall be so placed that they:
  - i. are not obscured at any time by fishing gear whether stowed or in use;
  - ii. are clear of flow from scuppers or overboard discharges and of areas that might be prone to damage or discoloration occurring during or as a result of catching operations; and
  - iii. do not extend below the waterline.

## 3. TECHNICAL SPECIFICATIONS

- a. Block lettering and numbering shall be used throughout.
- b. The width of the letters and numbers shall be in proportion to the height as set out in the annex to this schedule.
- c. The height of the letters and numbers shall be in proportion to the size of the vessel in accordance with the following criteria:
  - i. for identification marks on the side or superstructure of the vessel:

| Length overall of Vessel in meters<br>(m) | Minimum height of let and numbers in<br>meters |
|---|--|
| 25 m and over                             | 1.0 m  |
| At least 20 m but less than 25 m          | 0.8 m  |
| At least 15 m but less than 20 m          | 0.6 m  |
| At least 12 m but less than 15 m          | 0.4 m  |
| At least 5 m but less than 12 m           | 0.3 m  |

Under 5 m

0.1 m

- ii. For identification marks to be displayed on horizontal surfaces on vessels of 5 meters length overall and over, the height of the letters and numbers shall be not less than 0.3 meters.
- d. The length of the hyphen shall be half the height of the letters and numbers.
- e. The width of the stroke for all letters, numbers and the hyphen shall be one sixth of the height of the letters and numbers.
- f. The space between letters and/or numbers, except in the case referred to in paragraph (g), shall not exceed one quarter of the height of the letters and numbers nor be less than one sixth of that height.
- g. The space between adjacent letters having sloping sides shall not exceed one eighth of the height of the letters nor be less than one tenth of that height.
- h. Identification marks shall be white on a black background or black on a white background: the background shall extend to provide a border around the letters and numbers of not less than one sixth of the height of the letters and numbers.
- i. Good quality marine paints shall be used in the marking of vessels in accordance with these specifications: retro reflective or heat-generating substances may also be used.