

**LAW 8436  
FISHING AND AQUACULTURE LAW**

**GENERAL TABLE OF CONTENTS**

**TITLE I. GENERAL DISPOSITIONS**

CHAPTER I. Guiding Principles and definitions  
CHAPTER II. Executive Authority  
CHAPTER III. Research  
CHAPTER IV. Training of the fisheries and aquaculture sector  
CHAPTER V: Conservation, protection and management of living marine resources.

**TITLE II. TYPES OF FISHING**

CHAPTER I. Definition and classes  
CHAPTER II. Commercial Fishing  
CHAPTER III: Shrimp Fishing  
CHAPTER IV: Tuna Fishing  
CHAPTER V. Pelagic Fishing  
CHAPTER VI. Sardines Fishing  
CHAPTER VII. Sport Fishing  
CHAPTER VIII. Fishing for Domestic Consumption  
CHAPTER IX Tourist Fishing

**TITULO III. AQUACULTURE**

CHAPTER I. Aquaculture Promotion  
CHAPTER II. Use, sanitation, development and improvement of aquaculture species

**TITLE IV. COMMERCIALIZATION & INDUSTRIALIZATION OF MARINE FISHING AND AQUACULTURE PRODUCTS**

ONLY CHAPTER

**TITLE V. LICENCES, PERMITS, CONCESSIONS AND AUTHORIZATIONS**

CHAPTER I. Licences or Permits  
CHAPTER II. Authorizations  
CHAPTER III. Extinction of licences, concessions, permits and authorizations

**TITLE VI. OUTFITTER, SKIPPER OR CAPTAIN**

ONLY CHAPTER

**TITLE VII. SANITATION OF HYDROBIOLOGICAL RESOURCES**

ONLY CHAPTER

**TITLE VIII. INFRASTRUCTURE AND FISHING FLEET**

ONLY CHAPTER

**TITLE IX. FISHING STATISTICS**

ONLY CHAPTER

**TITLE X. OFFENCES, VIOLATIONS, SANCTIONS AND RESOURCES**

CHAPTER I. Offences and sanctions  
CHAPTER II. Administrative Resources

**TITLES XI. FINAL DISPOSITIONS**

**TITULO XII. TRANSITORY DISPOSITIONS**

# LAW N° 8436

## THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA

### DECREES:

## FISHING AND AQUACULTURE LAW

### TITLE I

#### **General Dispositions**

##### CHAPTER I

#### **Guiding Principles**

Article 1<sup>o</sup>— The present Law has the objective of promoting and regulating the fishing and aquaculture activity in the different stages; corresponding to the capture, extraction, processing, transport, commercialization and sustainable utilization of aquatic species. The conservation, protection and sustainable development of the hydrobiological resources are guaranteed, by means of adequate and suitable methods that assure their permanence for the use of the present and future generations and the relationship between the diverse subjects or agents related to the activity.

##### CHAPTER II

#### **Definitions**

Article 2<sup>o</sup>—For the purposes of the present Law, the following terms are defined:

1. **Aquaculture activity:** Harvest and production of aquatic organisms, be they flora or fauna, employing the methods and techniques for its controlled development; it includes the complete or partial biological cycle, in natural or controlled hydrological environments, in waters both marine as continental.
2. **Fishing activity:** Series of acts related to scientific, commercial, sport or aquaculture fishing, as well as the utilization, extraction, transport, commercialization and industrialization processes and the protection of aquatic fishing resources.
3. **Aquaculture:** Commercial production in captivity of aquatic animals and plants in controlled conditions. The commercial aquaculture implies the individual or collective property of the harvested organisms, as well as the transport, industrialization and commercialization processes of those organisms.
4. **Aquaculture worker:** Physical and legal person that normally dedicates to the production of flora and fauna organisms in an aquatic environment, under controlled conditions.

5. **Continental and insular waters:** Are the waters forming the lakes, the lagoons, the dams or rivers, within the national territory, continental or insular.
6. **Jurisdictional or patrimonial waters:** All the bodies of water where the Costa Rican State exerts its sovereignty, control, administration and vigilance, which also exerts the jurisdiction at sea up until 200 maritime miles.
7. **Internal marine waters:** Marine waters located within the baseline of the territorial waters and where marine waters may come in, such as inner harbors (docks), mangroves, estuaries, coastal lagoons, gulfs, bays, mouths or deltas communicated permanently or intermitently with the sea, provided that they are accesible or navigable for vessels of maritime navigation.
8. **Outfitter:** That one person realizing on his own account the preparation of a vessel for its navigation in its provision of food and the recruiting of fishermen. He may or not be the vessel's owner.
9. **Sustainable utilization of fishing and aquaculture:** Protection, utilization and rational use of the fisheries and aquaculture resources, exerted under scientific criteria, with the aim that the sweet and salt water species may remain over time.
10. **Authorization:** Administrative act by which the Costa Rican Fishing and Aquaculture Institute (INCOPECA) enables physical or legal persons to carry out the aquaculture and fishing activity under the terms indicated in this Law.
11. **Executive authority:** Costa Rican Fishing and Aquaculture Institute (INCOPECA).
12. **Fisheries Biomass:** Total matter of the living beings in a definite place of the sea or ocaan, expressed in weight per unit of area or of volume.
13. **Concession:** Juridical act by which the MINAE grants physical and legal persons a limited right for the sustainable utilization over the waters for the development of aquaculture activities for the production and utilization of certain species, under the terms and conditions expressly established in such contract.
14. **Mouth:** Site or place where a river, estuary or lagoon flows into the sea or ocean and with an area of aquatic influence that extends to a half-circle with a radius of one kilometer, counting from the center of such mouth.
15. **Exotic species:** Flora, fauna or microorganism species, whose natural area of geographic dispersion does not correspond to the national territory and has been introduced to the country as a product of human activities, voluntary or not, as well as by the activity of the species itself.
16. **Environmental Impact Assessment:** Scientific-technical procedure that permits identifying and predicting the effects that an action or specific

project will exert on the environment carried out by human beings. It includes the specific effects to the project's site and its areas of influence; its global evaluation, the alternatives of greatest environmental benefit, a program of control and minimization of the negative effects, a monitoring program, a recuperation program, as well as the warranty of environmental compliance.

17. **National fishing fleet:** Group of national vessels inscribed in the Real Estate Public Registry Office and used for the types of fishing established in this Law.
18. **Wetlands:** Ecosystems dependent on aquatic regimes, permanent or temporary, lentic or lotic, sweet, brackish or salty, including the marine extensions until the posterior limits of marine phanerogames or coral reefs, or in its absence, up to a depth of six meters on low tide.
19. **Fisheries Infrastructure:** Group of works and necessary facilities to carry out the fishing activity.
20. **Licence:** Administrative act by which INCOPECSA grants a physical or legal person the right to carry out in a definite vessel, under the terms and conditions established in such act, the extraction and the sustainable utilization of marine, fishing and hydrobiological resources on marine and continental waters.
21. **Territorial waters:** Width up to a limit not exceeding twelve marine miles measured by starting on the low tide lines, along the coasts, where the Costa Rican State exerts its complete and exclusive sovereignty.
22. **Mangrove:** Forest community, of flooded lands or wetlands, with plants and trees whose special habitat is the marsh swamp, located particularly on rivers whose mouth drains into the sea or ocean; regularly flooded by the effect of tides.
23. **Marsh:** Low terrain, overflowed, with sandy mud, located by the sea side and of estuaries, with very characteristic and productive plant communities.
24. **Skipper or captain:** Person on board of a vessel who is responsible of directing the fishing and navigation tasks.
25. **Permit:** Special administrative act, by means of which physical or legal persons, public or private, are authorized to carry out fishing and aquaculture activities, with promotional, educational and research aims, in the terms indicated by this Law.
26. **Artisanal fishing:** Fishing activity realized in artisanal way by physical persons, with the use of a vessel, in the continental waters or coastal zone and with autonomy to work, up to a maximum of five nautical miles from the littoral which is done with commercial purposes.
27. **Commercial fishing:** Commercial fishing is realized to obtain economic benefits and is classified as:
  - a) **Small-scale:** Fishing realized in artisanal way by physical persons,

without the use of a vessel, on the continental waters or the coastal zone, or the one practised on board of a vessel with autonomy to work up to a maximum of three nautical miles from the Costa Rican territorial waters.

- b) **Medium-scale:** Fishing realized by physical or legal persons, on board of a vessel with autonomy to work up to a maximum of forty nautical miles
  - c) **Advanced:** Fishing realized, by mechanical devices, physical or legal persons, on board of a vessel with autonomy to work higher than forty nautical miles, oriented to the capture of pelagic species with pelagic longline (line with several fishhooks), and other species of commercial importance.
  - d) **Semi-industrial:** Fishing realized by physical or legal persons, on board of vessels oriented to the extraction of shrimp with driftnetting (with driftnet), and of sardines and tuna with purse seines.
  - e) **Industrial:** Fishing and industrialization carried out by physical or legal persons, with vessels trained to realize fishing tasks, freezing, packing and industrialization of their captures on board.
28. **Scientific Fishing:** Fishing activity with purposes of scientific investigation, protection of aquatic species, experimentation, exploration, prospection, development, utilization and sustainable management.
29. **Educational Fishing:** Fishing activity realized by officially renowned educational or research institutions, to impart a teaching and training program on fishing or aquaculture.
30. **Sport Fishing:** Sport fishing is a fishing activity realized by physical persons, national or foreign, with the aim of capturing, with a personal fishing gear suited to that effect, aquatic species in the continental, jurisdictional waters or in the exclusive economic zone, not for profit and with the purpose of sport, distraction, pleasure, recreation, tourism or as a hobby.
31. **Promotional Fishing:** Fishing whose purpose is the study, the scientific research, experimentation, exploration, prospection, development, and the capture of living samples for the investigation, repopulation or the conservation of aquatic fishing resources and for experimentation with equipments and methods destined for such activity.
32. **Pelagic Fishing:** Fishing activity carried out by employing a selective fishing gear that uses a mother line, where hemp cords are placed with duly baited hooks, to capture pelagic and demersal species.
33. **Fishing:** Act which consists of the capture, hunting and extraction of aquatic animales by methods or procedures approved by the competent authority.
34. **Fisherman:** Physical or legal person dedicated to the fishing activity.

35. **Management plan in a wild area:** Group of technical and scientific norms that regulate the activities to develop in wild areas and their surroundings.
36. **Fisheries products:** Derivative products coming from the capture of marine flora and fauna, or well, the harvest of aquaculture.
37. **Hydrobiological resource:** Resource equivalent to the fisheries' biomass.
38. **Marine fishing resources:** All the living organisms whose environment and total life cycle, partially or temporarily develop inside the marine aquatic environment, and which constitute aquatic flora and fauna susceptible of being extracted sustainably.
39. **Marine coastal resources:** marine coastal resources are the sea waters, the beaches, large shore beaches and the littoral strip of land, the bays, the coastal lagoons, the mangroves, the coral reefs, the marine pastures, that is, the marine phanerogames prairies, the estuaries, the scenic beauties, the living beings and their surroundings, contained in the sea water or territorial and patrimonial ocean, the exclusive economic zone and its insular shelf.
40. **Fisheries sector:** The fisheries sector is the group of physical or legal persons dedicated to fishing and aquaculture as a sustainable development activity, economic and productive.
41. **TED:** turtles excluding device.
42. **Prohibition:** Period established by a competent authority during which it is forbidden to extract marine resources or a particular species, in a given space, area, zone and time.
43. **Exclusive Economic Zone (ZEE):** Special jurisdiction that the Costa Rican state exerts over adjacent seas to its territory, in an extension not exceeding two hundred marine miles counting from the baselines from which the width of territorial waters is measured. Likewise, as established by the United Nations Convention on the Law of the Sea, corresponds to the area located beyond territorial waters and adjacent to it; it is subject to a specific legal regime, according to which the rights and jurisdiction of the coastal State, as well as the rights and liberties of the other States are ruled by the pertinent dispositions of this Convention. In this zone the international law and the Political Constitution acknowledge and give the Costa Rican State a special jurisdiction, to protect, conserve and sustainably use all the resources and natural richness existing in the waters, the soil and the sub soil.
44. **Insular shelf:** Base constituted by the Costa Rican islands.

Article 3<sup>o</sup>—The State shall elaborate the Fisheries and Aquaculture Development Plan, based on the following dispositions:

- a) The effective protection of the national interests related to fishing.

- b) The responsible utilization of the aquatic fishing resources that optimizes the economic benefits in harmony with the preservation of the environment and the health of people and the conservation of biodiversity.
- c) Promotion of the development of industrial processes, that risk no harm to sanitation, are environmentally adequate, promote the obtention of a maximum added value and the highest employment of Costa Rican work force.
- d) The establishment of conditions that foster the development of the national fishing fleet, prior a technical, scientific and economic study.
- e) The promotion of a management regime of the fishing resources that avoids monopolic concentrations and stimulates free competition, without detriment to what is disposed by the article 46 of the Political Constitution.
- f) The promotion of fishing and aquaculture producers' organizations for the production and commercialization of the marine and aquaculture resource.
- g) The strengthening of commercialization instruments and channels for the promotion of competition by the fisheries and aquaculture sector's markets.
- h) The development of communication and information channels.
- i) The promotion of technological investigation for the utilization of aquatic resources.
- j) The establishment of reserve zones for sport fishing.
- k) The creation of the fisheries infrastructure necessary for development of the sector.
- l) The promotion of research, information and training programs for the development and strengthening of fishing and aquaculture.
- m) The promotion of exception zones in the coastal zones of the country to carry out the activities of food provision, repairing and construction of all types of vessels.
- n) The promotion of a legislation for fisheries that contributes to the labour and regulation areas of the maritime terrestrial zone and benefits its development; the above to the extent of not impairing the right to a healthy and ecologically balanced environment, as disposed in the second paragraph of article 50 of the Political Constitution, nor the dominion the State has over the national territory and water by constitutional and legal dispositions.
- o) The promotion of programs in the areas of training, development and support that improve the living and working conditions of fishermen and their families, by public institutions.
- p) The protection of the marine national interests in the area of the Pacific Ocean included in the marine upwelling denominated "as Costa Rica dome."
- q) The protection of the fisheries biomass, to determine the use, the sustainable utilization, the disposition, management and the protection of

the aquatic species of fauna and flora, as well as the marine waters.

Article 4<sup>o</sup>—The National Banking System is authorized to implement the establishment of a differential credit, or well, of complementary banking services that imply an easy access to credit, for the Costa Rican fisheries and aquaculture sector, according to the availability of the fishing resource and the periods of prohibition. The activities of capture, conservation, processing, transport and commercialization of marine fishing and aquaculture products may receive financing, as well as the cultivation and fattening of aquaculture species. The banking entities may receive the respective vessels and the ships' equipment, as a guarantee of the above mentioned credit lines when they are duly insured before the National Insurance Institute (Instituto Nacional de Seguros -INS) and count with the respective valid fishing permit, issued by a competent authority.

Article 5<sup>o</sup>— The fishing activity is declared of public utility and social interest, and the promotion and development of this activity and the industries related are declared of national interest. By fishing activity is understood the one practiced with scientific, academic, commercial or aquaculture purposes, as well as the processes of extraction, transport and commercialization of the aquatic fishing resources; by related industry is understood the industrialization processes of such resource. This activity will be subject to the international treaties and agreements that the country has ratified about fishing, aquaculture, hydrological resources and ecological matters, as well as national laws on the same matters, to the present Law and its regulatory dispositions.

Article 6<sup>o</sup>—The Costa Rican State will exert dominion and exclusive jurisdiction over the marine resources and natural richness existing in the continental waters, the territorial waters, the exclusive economic zone and adjacent areas to the latter, where there exist or may exist national jurisdiction, according to the national laws and international treaties.

Article 7<sup>o</sup>—The fishing activity of tuna seining by foreign vessels within the exclusive economic zone, but outside of territorial waters, will be subject to the treaties and international agreements of which Costa Rica is a part, as well to the special laws created for such purposes. Any other fishing activity by foreign vessels is forbidden, which is not tuna seining. For the exercise of this activity, such vessels will require a licence, whose granting will be ruled by what's disposed in the present Law.

Article 8<sup>o</sup>—Fishing and aquaculture shall be practiced without producing any irreparable damages to the ecosystems, without obstructing navigation, and the utilization and natural course of the waters. Likewise, it shall be realized respecting the rights of third parties which are legitimately acquired, in such a way that in case of injuries for security reasons, police related or for any other cause, the titleholder is duly indemnified.

Article 9<sup>o</sup>—The exercise of the fishing activity with commercial purposes



and sport fishing in national parks, natural monuments and biological reserves is forbidden.

The exercise of the fishing activity on the continental and insular parts, in forest reserves, protected zones, national wildlife refuges and wetlands, will be restricted in conformity with the management plans, that the Ministry of the Environment and Energy determines for each zone (Ministry of the Environment and Energy - MINAE), in the scope of its attributions. To create or enlarge the protected zones covering marine areas, save for the ones approved by the Legislative Assembly in conformity with valid laws, the Ministry shall consult the opinion of INCOPECSA, about the sustainable use of biological resources on these zones.

INCOPECSA's externalized opinion shall be founded on technical, social and economic, scientific and ecological criteria, and be issued within the term of thirty natural days, counting from the date the consultation is received.

Surveillance of fishing in the protected wildlife areas indicated on this article will correspond to MINAE, who may coordinate operations with the National Guardcoasts Service.

Vessels will be allowed to remain in the protected areas with a marine portion or without it, in the assumptions of unexpected circumstances and superior force, while such situations prevail.

MINAE and INCOPECSA may authorize, jointly, the transit or anchoring of vessels in protected areas, when the natural conditions strictly so require.

Article 10.—The executive authority of this Law, duly based on technical, scientific, economic, social or environmental criteria, may limit the fishing extraction on areas and determined fishing species within the national jurisdiction, for reasons of national interest on the conservation of the species or the aquatic resource.

Every physical or legal person shall respect the periods, the areas and species of prohibition fixed by the competent body.

Article 11.—Permit holders will be obliged to communicate to INCOPECSA about the vessels with a licence that cease laboring, for unexpected circumstances or superior force. Once the event is communicated, the terms and established conditions established by the executive authority shall be complied with.

### CHAPTER III

#### **Executive Authority**

Article 12.—INCOPECSA will be the executive authority for this Law and of the Fishing and Aquaculture Development Plan dictated by the Executive Power, without prejudice of the attributions granted by law, to other State institutions, which shall by necessity coordinate with this Institute everything referring to the fisheries and aquaculture sector.

Article 13.—INCOPECA shall exert the control of the fishing and aquaculture activity realized in marine and internal waters and will give technical assistance to the aquaculture activity in continental and marine waters. In continental waters; the protection of aquatic resources will correspond to MINAE. Within the latter will be included the rivers and their mouths, the lagoons, lakes and dams, including the areas declared as forest reserve, protection zones, national parks, mangroves, wetlands, biological reserves, national wildlife refuges and natural monuments, adhering to the valid legislation and what is disposed on ratified international treaties, especially the RAMSAR.

MINAE and INCOPECA have the faculty to, in mutual agreement, establish and approve, joint management plans of the marine resources of the wetlands for the rational utilization of aquatic resources, except those included in national parks and biological reserves.

Article 14.— INCOPECA's attributions besides those ordered in the Law N° 7384, Creation of the Costa Rican Fishing and Aquaculture Institute, shall be the following:

- a) Execute the policies related to scientific and technical investigations of the fishing and aquaculture resources, according to the national needs.
- b) Establish and implement the necessary control systems, enough to truthfully determine, the capture data, fishing effort, capture per unit of effort and their landing on national ports.
- c) Realize campaigns for the dissemination and information of the development programs in execution for the fisheries sector.
- d) Coordinate with the Ministry of Foreign Relations and the Ministry of Foreign Commerce to promote the commercialization of the products of the national fishing industry.
- e) Apply the administrative sanctions established in the present Law respecting the legal proceedings.

#### CHAPTER IV

##### **Research**

Article 15.—Promotion of fishing has as goals: the study, scientific research, experimentation, exploration, prospection, development, and the capture of living samples for research, repopulation or the conservation of the fishing aquatic resources and the experimentation with equipments and methods for such activity.

Article 16.—Promotion of fishing carried out by physical or legal persons, Costa Rican or foreign, or by international organisms with vessels of national or foreign flag, shall require a permit extended by the executive authority.

The executive authority shall designate a representative, with the quality of observer, for foreign flag ships and, discretionally, for national flag ships to

supervise the research work and to verify that it adjusts to the conditions and limits fixed by INCOPECSA.

Article 17.—INCOPECSA shall further the promotional fishing and may facilitate it to scientists, technicians and scientific research institutions, both national and foreign, duly credited as such. To that end, they shall present a plan of activities to this Institution, in conformity to regulatory dispositions of the present Law.

Article 18.—The permit for this type of fishing does not include the commercialization of the captures obtained, save in the case of the permits granted to the universities and university high schools, both national statal and the Instituto Nacional de Aprendizaje (INA), institutions which are allowed to commercialize captures only to cover some of the costs of research, with limits and conditions established in the permit, provided the program's objectives are complied with and INCOPECSA receives the final reports. In case that the product is commercialized or given away, it shall be done through INCOPECSA and surplusses produced by commercialization will be passed on to a fund.

The other entities or companies, national or foreign which receive the fishing permit with exploratory purposes will have to present enough economic guarantees in conformity with the Regulations to this Law; likewise, they shall present a final report to INCOPECSA. Should there be a capture, it will be delivered to the executive authority so that it's commercialized or donated and the funds produced by the sale will be the patrimony of said authority.

If the fishing permit's dispositions are not complied with or a final report is not presented, INCOPECSA, as respects the legal proceedings, will execute the guarantee rendered.

Foreign academic institutions requesting a fishing permit for scientific research and that are duly credited as such before the national competent authority, shall present a final report of their research to INCOPECSA. In conformity with the study of the plan of activities indicated in the preceding article, duly grounded, it may require these institutions to render the economic guarantee mentioned in this article.

The atributions here granted to INCOPECSA, will be without detriment to the autonomy they have by constitutional mandate of state universities.

Article 19.—When national universities or university high schools, both statal, and the INA, develop the promotion of fishing, these institutions may dispose of the fishing products obtained during the development of such activity, on the conditions determined by the executive authority.

Article 20.—To develop the activities of scientific and technological research, the INCOPECSA will count with the support of public and private institutions, national or foreign, that voluntarily offer and have the capacity to develop scientific-technologic investigations or of the fishing aquatic resources and the fisheries and aquaculture communities.

Article 21.—INCOPECSA shall define the objectives, the policies and requirements of the scientific and technical investigations referred to the marine and aquaculture living resources, that shall include the aquatic flora and fauna, the evaluation of impacts of terrestrial origin on the coastal zones, the marine aquatic fishing technology, the coastal ecosystems and any other important resources in the area of investigation. To such purpose it will coordinate with the university institutions, university high schools and other instances having the aquatic fishing experience, knowledge and technology necessary to realize these investigations.

Article 22.—INCOPECSA shall require any physical or legal person dedicated to promotional fishing, to supply the required information as regards the execution of the research of aquatic resources before doing the actual investigation.

## CHAPTER V

### **Training of the fisheries and aquaculture sector**

Article 23.—The executive authority shall coordinate with the INA, the development, design and planning of formative actions for the fisheries and aquaculture sector, be it during the initial formation, the qualification, the learning, the completion, or consultancy and assistance on fishing matters to physical or legal persons.

Article 24.—As didactic fishing we understand the fishing activity realized by educational or research institutions, officially recognized, to provide teaching and training programs in fishing or aquaculture. To exercise this type of fishing, the interested parties shall endorse the permit granted by the executive authority.

Article 25.—Training in the fisheries and aquaculture sector shall be vinculated with the extraction, the commercialization and the processing of fishing resources, and the production, particularly of foods of aquatic origin for human consumption. The essential purpose is to increase the capacity to identify, quantify, use, manage, transform, conserve, protect and increase the aquatic flora and fauna in any state it is.

Article 26.—It shall correspond to INCOPECSA the recommendation of the general policies for training and research to the Fisheries and Aquaculture National Development Plan and of the training priorities for the fishing and aquaculture subsectors.

The Fisheries and Aquaculture National Development Plan shall contemplate the formation of professionals in the field of fishing.

Article 27.—INCOPECSA shall coordinate what refers to training and teaching in the fishing and aquaculture areas with the institutions of the public and private sectors.

Article 28.—INCOPECSA's budget shall include, annually, the necessary

economic resources to develop the fisheries and aquaculture research and training, in accordance to the yearly operational plan, and to implement the scope of its competence by this Law.

Article 29.—To promote and collect economic resources for the scientific and technological development of the fishing and aquaculture activity, INCOPECA may receive donations or celebrate cooperation agreements with physical or legal persons, and with national and international institutions.

Article 30.—Teaching or research institutions that develop educational programs related to the fishing and aquaculture activity, should present an annual operations plan of activities to INCOPECA, in order to articulate the actions to be followed.

Article 31.—The didactic fishing permit may include the commercialization of the captures obtained, with the limits and conditions disposed in the permit and the regulating laws from the institution dedicated to educational fishing.

## CHAPTER VI

### **Conservation, protection and management of living marine resources**

Article 32.—Fishing is the act of extracting, capturing and collecting fishing aquatic resources, in any stage of its development, in its natural living environment, be it continental or marine, as well as the prior acts or posterior ones related to it.

The act of fishing should be done in a responsible way to ensure the conservation and effective management of living aquatic resources, with the purpose of avoiding an excessive exploitation and prevent harmful effects on the environment and the ecological system.

Article 33.— The commercial fishing of any type with any fishing artifacts, on the mouths of rivers and estuaries of the country is prohibited, without detriment to the restrictions established by this Law on its article 9. These fishing zones will be defined by INCOPECA, who shall coordinate with the National Geographical Institute, the geographical determination and the marking of such zones.

Article 34.—INCOPECA shall establish, in conformity with the technical, scientific, economic and social criteria, the zones or seasons of prohibition, be it by area or by definite species. The information relative to the prohibitions to be established for the different hydrobiological species and for any type of fishing artifacts determined, as well as quotas, the fishing zones and fishing gear

permitted to exploit the aquatic flora and fauna, will be object of ample dissemination. It will be communicated, with due anticipation, to the fishermen, the permit holders, concessionaries, and the competent authorities to exercise the control and inspection.

Article 35.—When a prohibition is established, its temporary or non-definitive character will be precised, as well as the common and scientific denomination of the prohibited species and any other relevant information to identify the prohibition. During this period, INCOPECA will exercise a monitoring of prohibited species, be it on its own or by means of the state universities.

Article 36.—The Executive Power may authorize destination of funds from the National Budget to the benefit of INCOPECA, for the realization of studies about prohibitions, and to the benefit of the Mixed Social Assistance Institute (Instituto Mixto de Ayuda Social-IMAS), with the purpose of developing programs for socioeconomical assistance especially designed to that end, to the benefit of fishermen who are affected during the prohibition periods, whenever it's proven they don't have other sources of income and they are in conditions of poverty. These programs imply communal work services by the beneficiaries, in conformity to the corresponding regulations or for the realization of studies on the subject.

Article 37.—The prohibited species and areas may not be the object of fishing, except in the volumes authorized by INCOPECA, by means of specific or temporary permits or authorizations, for scientific and research purposes and for the fishing activity.

Article 38.—The executive authority of the present Law shall determine the methods, the techniques, the equipment and fishing gear that are prohibited. In the jurisdictional waters of the Costa Rican State; the following is forbidden:

- a) Use or have on board of a vessel fishing gear not authorized by the executive authority.
- b) Use explosives of any nature, directed to the fishing activity.
- c) The employment of acoustic equipment and toxic substances on the vessels as fishing gear.
- d) Impede the displacement of fish in their natural migration.
- e) Intercept fish in the water courses by installations, interceptions and other procedures that put the aquatic flora and fauna at risk.
- f) Introduce living species declared as harmful for the fishing resources by the State.
- g) Empty the superficial, subterranean and maritime territorial waters, directly or indirectly, residues or wastes, liquid, solid, gas, radioactive or not, sewage, fuels in any state, hydrocarbons, toxic waste, biological waste products of the utilization of plant extracts to blind fish and other aquatic organisms, chemical substances or substances of any nature, that alter the

physical, chemical and biological characteristic of water and, consequently make it harmful to people's health, terrestrial and aquatic fauna and flora, or make it useless to domestic, agricultural, industrial or recreational use.

- h) Capture samples of species of a lesser dimension than the one authorized.
- i) Use non-authorized dimensions and materials for the nets, the hooks, the seines and fishing gear in general, that depending on the type of ship, fishing manoeuvres or species, are not the ones established for their captures.
- j) Use of gillnetting and pelagic standing driftnets.
- k) Realize any practice that attempts against the sustainability of the fishing resource.
- l) Use vessels without the corresponding valid fishing licence and that are not duly identified by name, flag and licence number on both sides of the bow.

Article 39.—The maritime hunting, the capture of cetaceans, pinnipedians and chelonians is forbidden, as well as the utilization of their spawning grounds, save for what is established on duly ratified international treaties and agreements by Costa Rica.

Article 40.—INCOPECA will exercise the control of national and foreign vessels that dedicate themselves to shark fishing and may coordinate with the competent authorities the performance of such operations.

Shark fishing will be allowed only when the species are landed in the landing sites with the respective fins adhered to the stem.

INCOPECA will supervise the in situ landing. The authorities from the Ministry of Public Security, the National Guardcoasts Service and MINAE may be present on the landing area. Entrance to these landing sites or places will be done attending the legal principle of public funds or patrimonial goods. Likewise, INCOPECA shall exert control of the territorial waters and the exclusive economic zone, over those national or foreign vessels, for the purpose of determining that the captured sharks conserve their respective fins.

The executive power, in coordination with INCOPECA shall determine, by means of the Regulation to this Law, which shark species have no commercial value and establish its utilization for other ends of the fishing activity.

Article 41.—All physical or legal persons dedicated to fishing, maritime hunting, aquaculture, transport, conservation, processing or commercialization of its products, must be inscribed on INCOPECA registries.

The inscribed persons must obey the following:

- a) Keep and exhibit the books and documents determined by the respective regulations related to fishing and aquaculture.
- b) Supply the information required by fishing authorities within the outreach of its competences, fixed by this Law and its Regulations.
- c) Facilitate the access of authorized functionaries for compliance with their tasks of supervision and control, in conformity to the valid code of law.

- d) When the activity takes place in public domains' goods, obtain a permit or authorization, as corresponds, granted by INCOPESCA , and in the case of aquaculture, get a concession to perform the activities of water use granted by MINAE.

Article 42.—Due to the importance of the Costa Rica dome on the Pacific Ocean for the sustainable development of the fishing activity, the State shall veil for the protection, the utilization and sustainable management of marine resources in the territorial waters, which may include the outcrop of the Costa Rica dome.

The State shall promote the importance of managing the marine resources of the Costa Rica dome internationally, as a vital resource for humankind.

## TITLE II

### Types of Fishing

#### CHAPTER I

##### Definition and Classes

Article 43.— Commercial fishing will be done to obtain economic benefits and will be classified in:

- a) **Small-scale:** Fishing realized in an artisanal way by physical persons, without the use of a vessel, on the continental waters or on the coastal zone, or fishing practiced on board of a vessel with autonomy to work up to a maximum of three nautical miles of Costa Rica's territorial waters.
- b) **Medium scale:** Fishing realized by physical or legal persons on board of a vessel with autonomy to work up to a maximum of forty nautical miles, inclusive.
- c) **Advanced:** Fishing realized by physical or legal persons, on board of a vessel with autonomy to work exceeding forty nautical miles, oriented to the capture of pelagic species with pelagic longline (line with several fishhooks), and other species of commercial importance, realized by mechanical means.
- d) **Semi-industrial:** Fishing realized by physical or legal persons, using vessels oriented to the extraction of shrimp with a driftnet, sardines and tuna fish with purse seines.
- e) **Industrial:** Fishing and industrialization carried out by physical or legal persons, on vessels adequate to carry out on board the labours of fishing, freezing, packing and industrialization of their captures.

The operation in territorial waters and the exclusive economic zone is forbidden to ships qualifying as manufacturers or factories.

#### CHAPTER II

##### Commercial Fishing



Article 44.—The crew as well as the persons, Costa Rican or foreign, doing commercial fishing on board a vessel, including those doing submarine commercial fishing, should carry the respective commercial fishing identity.

### CHAPTER III

#### **Shrimp Fishing**

Article 45.—INCOPESCA may authorize the capture and comercialization of white shrimp (*Litopenaeus stylirostris*, *Litopenaeus vannamei*, *Litopenaeus occidentalis*), brown shrimp (*californiensis*) with commercial purposes, “pink” shrimp (*Penaeus brevis*), fidel shrimp (*Solenocera agassizi*), titi shrimp, camel shrimp and deep sea shrimp (*Heterocarpus* sp), as well as the other species whose commercial utilization is determined by the executive authority prior a technical-scientific study. The proportional size and weight of each species of shrimp to be captured shall be established in the Regulations of this Law.

Article 46.—Shrimp fishing is forbidden inside the estuaries of the country in any of its biological states.

Article 47.—The licences to capture shrimp with commercial purposes on the Pacific Ocean, will only be granted to vessels of national flag and registry; similarly, to Costa Rican physical or legal persons, which are classified in three categories:

- a) **Category A:** Vessels with shrimp fishing licences or permits using as fishing gear, demersal driftnets; these may capture shrimp resources only on the Pacific littoral, with the condition that they are not in restricted areas during the prohibition seasons.
- b) **Category B:** Vessels with licences or fishing permits, for the capture of fidel shrimp or kolibrior (*Solenocera agassizi*), nylon shrimp (*Heterocarpus* sp) and other species of this resource, fished at waters of depth equal to or greater than the above species, using as fishing gear, demersal driftnets, only on the Pacific littoral.  
The fidel shrimp may only be captured on areas where it is not found mixed with species belonging to a lesser depth, such as the white, brown, pink and titi shrimp.
- c) **Category C:** Permits holders with fishing licence or permit for small-scale, artisanal vessels, authorized only to capture shrimp with driftnets.

Article 48.—Licences to capture shrimp with comercial purposes on the Caribbean shall be allowed in conformity to technical and scientific criteria issued by the executive authority. No licences will be given to capture in national parks and other protected areas.

### CHAPTER IV

#### **Tuna Fishing**

Article 49.— INCOPESCA will establish the canons for the concept of fishing registry and licences of foreign flag tuna ships using purse seines, taking into consideration the canons established by riparian (coastal) countries for this type of fleet; the net tonnage, as verified by the corresponding department of the Ministry of Public Works and Transport, verification to be renewed annually; the total length of the ship; the motor's power; the type and number of fishing gear on board; the navigation equipments; the fishing modalities foreseen; the fishing zone where operations will take place and the species to capture; the needs for raw materials of national processing plants, as well as the conservation and preservation policies for the resource.

Article 50.—Any tuna ship of national or foreign flag, must be registered with INCOPESCA and comply with the requirements ordered in this Law.

Article 51.—From the product obtained by the canons for the concept of fishing registry and licence of tuna fishing ships with foreign flag, as well as the fines and seizures generated by fishing realized by those ships on waters of Costa Rican jurisdiction, will correspond:

- a) Twenty-five per cent (25%) to the University of Costa Rica (UCR), to finance the functioning, teaching, social action and research at the Regional University Center located in Puntarenas.
- b) Twenty-five per cent (25%) to the National University (UNA), to finance the functioning of the career of Marine Biology of its School of Biological Sciences, whose headquarters will be in the city of Puntarenas or its surroundings; also for the establishment, development and protection of a system of scientific, marine and terrestrial reserves in the Gulf of Nicoya and its adjacent zones.
- c) Ten per cent (10%) for the National Guardcoasts Service.
- d) Twenty per cent (20%) for INCOPESCA.
- e) Ten per cent (10%) to distribute, in equal parts, among the university high schools and UCR's headquarters to finance teaching, social action, research for the development of fishing, aquaculture and the industrialization of those products in the province of Limón.
- f) Ten per cent (10%) to distribute, in equal parts, among the university high schools and UCR's headquarters to finance teaching, social action, research for the development of fishing, aquaculture and industrialization of those products in the province of Guanacaste.

Article 52.—The money obtained by the fines, seizures and any other income to the benefit of INCOPESCA foreseen by the present Law, shall constitute a special fund, managed by that Institution. The Comptrollership General of the Republic shall control the management of the funds and annually approve the investment programs.

Similarly, INCOPESCA may grant the funds coming from the collection of the fines established in article 151, for incurring on the prohibition established

on clause g) of article 38, to municipalities, for the development of programs of environmental education and the cleaning of the seas, rivers, lakes and shores; the above, with no detriment to what's disposed in article 136 of this Law.

Article 53.—Tuna ships of foreign flag equipped with purse seines, counting with the respective annual registry and desiring to fish within the country's exclusive economic zone and the areas adjacent to the latter on which there exists or may come to exist a national jurisdiction according to the laws and international treaties, as determined by the Law, shall obtain a fishing licence for a trip of up to sixty natural days. By fishing trip will be considered, from the date of obtention of the licence to the discharge in any country, of any amount of product obtained during or after expiration of the sixty days.

Article 54.—The tuna vessels that for unexpected circumstances or superior force, must make an unavoidable arrival to a Costa Rican port before the expiration of the term stipulated in the fishing licence or permit, must communicate it to INCOPECSA if possible before arrival or within the twenty-four hours following and should justify the reasons for the arrival, that shall be studied and assessed in conformity to the Regulations of this Law.

If, for unexpected circumstances or superior force, the tuna vessel should arrive to another port of the Eastern Pacific, it should communicate it to INCOPECSA, if possible before arrival or within the twenty-four hours following. Likewise, it shall present the executive authority the probatory documents, duly authenticated by Costa Rica's consul certified in the country of the port of arrival, verifying the motives driving it to arrive to another port; these shall be analyzed and assessed in conformity to the Regulations to this Law.

Article 55.—Tuna ships fishing with purse seines who count with the annual registry and valid fishing licence granted by INCOPECSA, that discharge the totality of their capture for national canning or processing companies, will have the right to consecutive extensions for a new fishing licence for sixty natural days with no additional payment, provided the quantity is not under three hundred metric tons, and the discharge is done in such term.

Similarly, the tuna ships fishing with purse seines that have their annual registry and valid fishing licence, granted by INCOPECSA, whose carrying capacity is lower than three hundred metric tons, will have the benefits mentioned on the above paragraph, whenever they discharge the totality of the capture within sixty natural days, and it's not below fifty metric tons.

A foreign flag tuna ship fishing with purse seines that has a valid annual registry that delivers the totality of its capture to national canning or processing companies, whenever the quantity is not under three hundred tons of tuna fish captured outside of Costa Rica jurisdictional waters, may enjoy a free fishing licence for sixty natural days during the calendar year for which the registry was granted.

The free licences shall be used only within the calendar year for which the

registry was granted.

To enjoy from the benefits regulated in this article, foreign tuna vessels interested, must be up to date in the payment of the fines, the corresponding canons for the the registry and licences, as well as the other obligations contracted with the Costa Rican State.

It will correspond to INCOPECA to veil for the compliance with this disposition, as well as to the applicable laws and regulations in general.

Article 56.—For all purposes, the capture of national origin is considered as the product of captures in the exclusive economic zone of the Republic and in areas adjacent to the latter, realized by national flag ships and by foreign flag vessels, over which there exists or may come to exist national jurisdiction, according to the laws and international treaties, fishing duly protected under the licences and registries mentioned in the present Law. Likewise, the processing of raw materials, national or not, will consign the norm of origin, provided that the final product implies a change in the schedule of fees.

Article 57.—The tuna ships of foreign flag using purse seines, chartered or leased by a Costa Rican company, which have been granted temporary national flag must comply with all the requirements disposed by this Law for the granting of licences to foreign ships. For all purposes, it is understood that the ships with temporary national flag must comply and obey the Costa Rican legislation.

Similarly, for such purposes the ships shall count with a contract previously signed between the ship's owner and the Costa Rican company, expressing that all of the product fished during the term of the contract will be used to supply the national industry.

Article 58.—The tuna ships fishing with purse seines, national and foreign, are forbidden to discharge, under any title, other fishing products different than the authorized in the corresponding fishing licence, to supply the needs of the tuna processing plants, except when said products are to be donated to social welfare institutions, prior authorization by INCOPECA. The non-observance of this disposition will imply the immediate suspension of the fishing licence or permit, prior a legal proceeding, during the year of validity of the annual fishing registry. If reinciding against this normative, the granting of the fishing licence will be suspended for two calendar years, in conformity with the legal proceeding.

Article 59.—INCOPECA will establish a satellite sensing system, to survey and control the exercise of the fishing activity by tuna vessels with purse seines. In order to develop such activity, these tuna vessels must carry the sensing devices required and authorized by INCOPECA and keep them in good functioning. The fishing licence of any physical or legal person holding or conceded a licence that does not comply with what is established in this article will be cancelled, without any indemnization.

The determination of such a satellite system may not be designed in such way that there are arbitrary discriminations, as to the suppliers or the brands of the equipment required.

Article 60.—The seining tuna ships of national or foreign flag may not exercise fishing activities within twelve miles of the territorial waters; the above, without damage to what's established in the valid national laws and on international treaties.

Article 61.—The ships of foreign flag and registry using purse seines as their fishing gear, and dedicating to the capture of tuna, or the national flag ships with the same characteristics, wishing to fish on the exclusive economic zone of the Republic and the areas adjacent to the latter, over which there exists or may come to exist national jurisdiction, according to the laws and international treaties or those wishing to discharge tuna captured in the areas mentioned before, but outside of Costa Rica's jurisdictional waters in the Republic must accept and comply with the dispositions, national and international, about the protection of the fishing resources, subscribed and ratified by Costa Rica. No discharge of other species may be allowed by these vessels besides tuna, without damage to the exceptions foreseen on article 58 and in clause b) of article 112 of this Law.

## CHAPTER V

### **Pelagic Fishing**

Article 62.—INCOPECA may authorize fishing with pelagic longline only to vessels of national flag and registry. Pelagic longline is defined as the art of selective fishing using a mother line where duly baited hooks are placed on the hermp cord, to capture pelagic and demersal (bottom) species.

The regulation of the present Law shall establish the substitution, construction and import requirements of these (palangreras) trawling vessels, as to their dimensions and systems or fishing gear.

Article 63.—The fishing of pelagic species with standing driftnet is prohibited.

Article 64.— Gill netting or standing driftnets may be authorized for fishing only to vessels of national flag and registry.

Article 65.—INCOPECA may authorize squid fishing using pots with bait, only for artisanal vessels of small and medium scale, as well as those catalogued as Costa Rican (**palangre**) trawl fishing.

In the case of squid fishing for human consumption it may only be done with a prior permit from INCOPECA to the vessel requesting it. For such purposes, INCOPECA shall carry out technical studies to determine in which biological cycles there is abundance or scarcity of such resources.

## CHAPTER VI

### **Sardines' Fishing**

Article 66.—INCOPECA may authorize sardine fishing only to be used for human consumption or as bait. Sardine discards, product of the industrialization for human consumption, may be utilized for other ends.

Article 67.—The holder of the licence of sardine vessels fishing with purse seines who, for unexpected circumstances or superior force, stops working, is compelled to communicate it to INCOPECA, within a maximum term of thirty natural days, counting from the occurrence of the event and justifying the reasons before this Institute, which will be studied and assessed in conformity to the Regulation of this Law. Likewise, in the term of one hundred eighty natural days following, shall formalize the definitive request for the substitution or repair of the vessel, as is the case, in conformity with the requirements and conditions fixed by INCOPECA.

INCOPECA will grant an eighteen-month term for the vessel to be substituted. Based on a technical study presented by the interested party, INCOPECA may grant a unique extension for a similar period. This time lapsed the licence or respective fishing permit will be definitively cancelled, without any responsibility to the administration.

## CHAPTER VII

### **Sport Fishing**

Article 68.—Sport fishing is the fishing activity realized by physical persons, national or foreign, with the purpose of capturing, with a personal fishing apparel adequate for it, the aquatic fishing resources in continental waters, jurisdictional or in the exclusive economic zone, not for profit and with the purpose of sport, recreation, tourism or as a hobby.

INCOPECA will promote the practice and the development of sport fishing in coordination with the other competent authorities and the interested sectors, and impulse the practice of liberating the species captured alive.

Article 69.—INCOPECA shall regulate national and international sport fishing tournaments held in Costa Rican waters, in coordination with the Costa Rican Tourist Board (ICT) or the sport fishing associations duly inscribed in the National Registry. Similarly, it will propitiate the celebration of agreements with organizations and service lenders, so that sport fishermen protect the species.

Article 70.—Sport fishing may be carried out:

- a) From land.
- b) On board of some vessel.
- c) Subaquatically.

Article 71.—The owner or permit holders of vessels used for sport fishing, besides the duties imposed on them by other laws or regulations, must comply with the following obligations:

- a) Have a valid sport fishing licence.
- b) Comply with the minimum sizes, the limits in capture and the prohibitions

determined by INCOPECSA.

- c) Verify that the persons to whom they lend services comply with the legal dispositions in the matter.
- d) Instruct about the way in which sport fishing must be developed.
- e) Support the repopulation and improvement programs of the places where they carry out their activity and participate in them; likewise, contribute to the maintenance and the conservation of the species and their habitat.

Article 72.—The executive authority of this Law shall impulse the conservation of species of sporting interest, realizing technical and scientific studies and promoting sustainable management policies.

Article 73.—INCOPECSA shall establish the canons, the seasons, the zones and minimum sizes, as well as the maximum number of samples that a sport fisherman may capture, according to the conditions of the resource it deals with and the particular characteristics of the place where the activity is developed.

Article 74.—The captures obtained by sport fishing, depending on the authorized quantity of specimens, shall be destined to taxidermy or consumption of those doing them, under the terms and conditions determined by INCOPECSA.

Article 75.—The crew as well as those practicing sport fishing on board of a vessel or subaquatically, must carry the respective sport fishing card extended by INCOPECSA.

Article 76.—Sailfish (*Istiophorus albidus*), blue marlin (*Makaira nigricans*), black marlin (*Makaira indica*), striped marlin (*Tetrapturus audax*) and tarpon (*Melampus atlanticus*), are declared as species of tourist-sport interest.

## CHAPTER VIII

### **Fishing for domestic consumption**

Article 77.—Fishing for domestic consumption is understood as the one carried out from land or on small vessels, only with the use of fishing poles and rods, hand cords, with no purpose of profit and with the sole object of consuming the product for their own or own family subsistence.

Article 78.—The fishing for domestic consumption does not require authorization; but the interested should respect the prohibitions, the maximum quotas of capture and the other norms issued by INCOPECSA.

## CHAPTER IX

### **Tourist Fishing**

Article 79.—As tourist fishing is understood the fishing activity realized by physical persons, national or foreign, with the purpose of capturing, with the proper personal fishing gear for that effect, the aquatic fishing resources on continental, jurisdictional waters or in the exclusive economic zone, with

commercial and exclusively tourist purposes, carried out in a permanent way. Likewise, to tourist fishing by analogy will apply the dispositions established on the articles 69 to 76 of the present Law.

The vessels dedicated to this activity, should be registered at the ICT and count with a special licence granted by INCOPECSA for this purpose. Such a licence may be extended by means of an authorization of the INCOPECSA, prior a study and an annual revision, to determine that the vessel is being used to that end.

INCOPECSA shall also establish different types of tourist fishing cards, which will be used in all of the national territory, taking into consideration the time of its use.

INCOPECSA shall promote the practice and development of tourist fishing, in coordination with ICT and other interested sectors. It shall also veil that its staff receives the necessary training so it can comply with the proposed ends; it shall impulse the practice of liberating the species captured alive and establish the guidelines and norms that guarantee the sustainability of the priority species for this activity.

### TITLE III

## **Aquaculture**

### CHAPTER I

#### **Promotion of Aquaculture**

Article 80.—The State shall impulse the diversification of the fishing efforts to strengthen the development of the aquaculture activity and granting of incentives and special benefits foreseen on this or other laws of incentives to non traditional activities, except to fuels.

Article 81.—The activity of aquaculture consists on the harvest and production of aquatic organisms, be they flora or fauna, by means of employing the methods and techniques for its controlled development; it includes the complete or partial biological cycle, on natural or artificial hydrological environments, both in marine as continental waters.

Article 82.—To develop aquaculture projects, the physical or legal person should obtain:

- a) An authorization granted by INCOPECSA for the harvest of aquatic organisms in marine or continental waters.
- b) A concession for the use and utilization of the waters, granted by MINAE.

The above without prejudice of the other requirements established in other laws.

The use and utilization of the fishing aquatic resources directly related to the activity in a temporary way. The term of the concession will be in conformity with what is disposed in article 19 of the Law of the Sea and the term of the



authorization will be of up to ten years prolongable by express act.

On the respective contract will be defined the rights and duties, the annual canons, the guarantees and the limitations, related to the authorizations and concessions for the development of aquaculture.

The extension will be ruled by the regulation to this Law.

Article 83.—To request aquaculture authorization and concession for the use of waters, those interested shall submit the respective aquaculture projects, along with an environmental impact assessment.

The environmental impact assessment will be resolved by the National Environmental Technical Secretariat (SETENA) of MINAE, within the term of sixty natural days. The concession may not be approved without such criteria, which will be compulsory for the parties. SETENA is obliged to pronounce within the mentioned term; in the contrary case, the corresponding functionary will incur in disciplinary or civil responsibility.

The dispositions contained in this norm do not apply to aquaculture activities for domestic consumption; or to small-scale aquaculture activities dedicated to recreation. In these cases, the interested must present a letter of environmental commitment, in conformity to what SETENA establishes.

The non-compliance with this legal requirement or its commitments will imply the closing of the activity and the repairment of the damage occasioned.

Article 84.—Concessions may be granted for the use of waters in aquaculture projects at sea, portions of water and the bottom, rocks, inside and out of the bays or gulfs, and aquaculture authorizations to develop the activity in continental, natural or artificial waters.

The concessions over the utilization of the waters and the aquaculture projects on marine waters may not impede or restrict the free access to the beaches; the dumping of wastes in any way contaminating, limiting, restricting or impossibilitating the access will not be permitted.

It will correspond to MINAE to rule the form, the way, the requirements and the applicable procedures for its respective granting, in prior consultation and with the pertinent considerations from the National Irrigation and Drainage Service (SENARA) or any other organism in charge of the alternative uses of those terrains or waters.

The criteria issued by MINAE will be mandatory for the parties and for INCOPECSA.

Article 85.—When the holder of an aquaculture project wishes to introduce one or more species different than the ones initially conceded, or enlarge or modify the area authorized, it shall present a request of authorization before INCOPECSA by means of the proceedings disposed in the regulation of the present Law. For such purposes, the interested shall present the corresponding environmental impact study, duly approved by SETENA.

Article 86.—The grantees may carry out all the material works, investments

and facilities on the concession area, with a previous evaluation and authorization from the competent organisms, provided they comply with what is established in article 45 of the Environmental Organic Law, N° 7554, and in the second paragraph of article 1 of the Forestry Law, N° 7575. The introduced improvements in the State goods, that can't be withdrawn without detriment to them at the expiration of the concession, will remain to the benefit of the State; the rest shall be removed at the term of ninety natural days following the date of expiration. In addition, the existing improvements will remain as a guarantee of payment against possible credits from the National Banking System, debts from patents, rents, tariffs, indemnizations, interests or any other right established in this Law and its Regulation. If the infrastructure built is of no interest for the Institute, it shall be demolished or removed by the concessionary.

Article 87.—If the title holder of an aquaculture authorization or concession right dies, those claiming this right on behalf of being heirs may be assigned as title holders for the rest of the valid term of the concession or authorization. To such purpose, they shall prove their qualifications as legitimate heirs of the predecessor. Once this quality is truthfully proven the right of concession or authorization, as corresponds, will be transferred until the expiration of the corresponding term. Once the period expires, those interested shall request the granting of the concession or authorization right to their name.

Article 88.—The concessions and authorizations for aquaculture are terminated by the following reasons:

- a) The expiration of the term.
- b) The impossibility to realize the object as a consequence of the measures adopted by a public authority.
- c) The mutual agreement of the granting Administration and the beneficiary.
- d) The non-compliance with the terms of the contract.

Article 89.—Any activity of harvest and management, independently of the level and state of development of the aquatic species of flora and fauna, for productive purposes, or of research by public or private institutions, should comply with the guidelines of the present Law and its Regulation.

Article 90.—The cultivation activity requiring the use of marine waters or use of continental waters, besides counting with a concession granted by MINAE, must also count with INCOPESCA's authorization. Likewise, the activity of harvest on rivers, lakes or the like, should count with the corresponding concessions or autorizations, prior an affirmative decision from the competent institutions.

Article 91.—INCOPESCA, in coordination with the other competent authorities, will watch over the quality of the waters coming from the productive systems to the natural bodies of water. MINAE may annul a concession, in case that the aquaculture producer does not fulfil the requirements of the present Law and its Regulation, prior a legal proceeding.

## CHAPTER II

### **Use, sanitation, development and improvement of aquaculture species**

Article 92.—INCOPECSA may grant authorizations for the collection of reproducers, of larvae, postlarvae, young, eggs, seed or young fish from the natural environment, only to owners of laboratories and investigators. The executive authority shall determine the canon to be payed for the respective authorization.

Article 93.—When INCOPECSA requires a laboratory analysis from the aquaculture facilities, it may indorse sanitary certifications from aquaculture organisms issued by duly credited laboratories and registered before the Institute.

Article 94.—INCOPECSA, in coordination with the competent national authorities, shall determine the medicines, hormones and raw materials prohibited for use in the aquaculture activity.

Article 95.—To introduce foreign aquatic species of flora and fauna destined for cultivation in any stage of their biological cycle, an authorization from the Ministry of Agriculture and Cattle Ranching is required (MAG). Such authorization will only be granted with a prior technical analysis performed by public or private authorities who are competent in their specialty. The biological and technical feasibility for the introduction of exotic species should be justified, so they don't effect in any way, nor damage the development or the surroundings of the national species of wild flora and fauna, or pose any public health problems.

The imports of those wild species of flora and fauna will only be permitted that are not contained in the appendixes I, II and III of the Convention about the International Commerce of Threatened Species of Wild Fauna and Flora, Law N° 5605, of October 22 of 1974.

Article 96.—Effusion of products, species or nourishment required for the management and sustainable utilization of species of the aquaculture project under harvest in marine and continental waters outside the development area is forbidden.

On the aquaculture project area only those products, species or nourishment expressly authorized by INCOPECSA may be used.

The producers shall maintain controls and apply effective measures so that the animals, species or their sexual products or in any stage of their life cycle, may not escape from the cultivation facilities, especially if it deals with exotic species.

Article 97.—The requirements and conditions for the transfer of aquatic species, native or exotic, from one body of water to another inside the country, will be ruled by the regulation to this Law.

## TITLE IV

### **Commercialization and industrialization of Marine Fishing and Aquaculture Products**

#### ONLY CHAPTER

Article 98.—The commercialization is the phase of fishing activity that consists of the purchase, sale and transport of the marine and aquaculture resources, with the end of taking them to the internal and external markets. The industrialization is a phase of the fishing activity that consists of the processing or transformation of the marine and aquaculture resources from its natural state into products with different characteristics, with the purpose of making them adequate for consumption.

Article 99.—Those who commercialize or industrialize the fishing and aquaculture marine resources, will have to adhere to the norms for commercialization, sanity, quality and inspection fixed on that matters by the competent authorities.

Article 100.—To achieve competitiveness in the market, INCOPECSA shall:

- a) Foster fishermen and aquaculture organizations.
- b) Establish, promote or incentivate the creation of channels of commercialization, adequate warehouses and storage centers, which guarantee control on all stages of commercialization, from the extraction up to the sale to consumers.
- c) Coordinate the training of fishing producers with INA, to transform them into producers-commercializers.
- d) Promote and realize dissemination campaigns that permit the improvement of the processes of manipulation, consumption and commercialization of fishing and aquaculture marine resources.

## TITLE V

### **Licences, permits, concessions and authorizations**

#### CHAPTER I

##### **Licences or permits**

Article 101.—For the effects of this Law the following terms are defined:

**Authorization:** Administrative act by which INCOPECSA qualifies physical or legal persons to develop the aquaculture and fishing activity, in the terms indicated by this Law.

**Concession:** Legal act by which MINAE confers a limited right for the sustainable utilization of the waters, for the development of aquaculture activities for production and utilization of a definite species to physical and legal persons, in the terms and conditions expressly established in such contract.

**Licence:** Administrative act by which INCOPECSA confers a physical or

legal person the right to realize, on a determined vessel, the extraction and sustainable utilization of marine, fishing and hydrobiological resources in marine and continental waters in the terms and conditions established in such act.

**Permit:** Special administrative act by which physical or legal persons, public or private, are authorized to exercise the fishing and aquaculture activities with promotional, educational and research ends, on the terms indicated by this Law.

Article 102.—Any physical or legal person, Costa Rican or foreign, that is dedicated to the fishing activity depending of the modalities authorized in this Law, shall require a fishing licence for each vessel.

To exercise the aquaculture activity on goods of public dominion, a concession for the use of waters, granted by MINAE will be required.

Article 103.—The granting of a licence, authorization or permit will be conditioned by the availability and conservation of the hydrobiological resource it deals with and of the needs for development and sustainability of the fisheries sector, which should be duly founded upon the results of scientific, technical, economic or social studies.

The fishing licences classified as small-scale, only will be granted to one per physical person, save in the case of persons in duly proven poverty conditions, or when it refers to legally constituted fishermen associations or fishermen cooperatives. In such cases, INCOPECA, by a resolution which is grounded, may grant a higher number. When it refers to associations and/or cooperatives, such assignment will be done in a proportional way between them.

Article 104.—The permits and authorizations referred in this Law, are not negotiable and have an unalienable character. The fishing licences and aquaculture authorizations will be transferable, with a previous study and authorization by INCOPECA, requiring for it the same requirements established in the present Law for its original granting.

The licences will be granted for six years and will be prolongable for equal terms to the originally conceded.

The authorizations will be granted for a term of ten years and will be prolongable for equal terms to the originally conceded, unless the authorization requires a lesser term.

The permits will be granted for five years and will be prolongable for equal terms to the originally conceded.

The concessions will be granted in conformity to what is disposed in article 19 of the Law of Seas. Such concessions may be transferred, prior an authorization by MINAE; for that, the requirements fixed in that Law must be complied with.

The licences, the authorizations, the permits and the concessions, as well

as their extensions, will be granted in conformity to a prior study by INCOPECSA or MINAE, as corresponds, for each particular case.

The payment of the licences, permits and concessions will be done annually. All of the above will apply without damage to what's established in article 82 of the present Law.

Article 105.—Those in possession of a licence, authorization, permit or concession, shall carry a logbook of the operations of their activity, as is stipulated on the regulation of this Law.

Article 106.—The licences issued by INCOPECSA will be granted to a specific vessel, as is defined for each species, group of species or zones.

To such effects, it will require that the vessels be inscribed in the National Property Registry.

Article 107.—Other than the requirements established in the present Law or in other regulatory dispositions, to comply with the request's objective those requesting fishing licences should be able to prove their legal possession of the necessary goods.

Article 108.—The sale of a fishing vessel does not include the transfer of the licence nor the permits granted to its benefit.

In the cases of selling a vessel, the transfer of the licence will only be possible with INCOPECSA's prior and express authorization. To such purpose, the interested shall request an authorization of provisional transfer with enough anticipation to the date foreseen for the subscription of the sales contract. A written evidence of the authorization of the provisional transfer should appear in this document.

Once the transfer is inscribed before the National Registry, the new owner of the fishing vessel should credit this act by means of a certification from the registry. INCOPECSA once the above is adequately complied with, by an express act, shall declare the transfer of the fishing licence as authorized to the vessel, hereon registered to the name of its new owner.

The transfer of the fishing licence will be done for the rest of the valid term originally granted or for the respective extension term.

Any event affecting a fishing vessel, such as a shipwreck or a significant destruction that implies the definitive cease of its operations, its relocation or substitution, should be made to INCOPECSA's knowledge, immediately after its occurrence.

Article 109.—For the credit contract celebrated among the banks of the National Banking System and owners of vessels counting with fishing licences duly granted by INCOPECSA, in which the vessel is the partial or total guarantee over which is authorized the use of the licence, INCOPECSA may give its authorization for the corresponding licence be transferred to whoever results its grantee, in cases of auctions of the vessels, on equal conditions and for the remaining term to the one originally granted.

The Institute may similarly give its authorization for, in the assumption foreseen in clause d) of article 113 of this Law, when the cancelation of the licence happens before the expiration of the obligation, such a licence may be transferred in favor of whom results grantee if the vessel is auctioned; the above, under the same conditions and for the remaining term granted originally.

For the effects of what's contained in the above paragraphs, INCOPESCA's representative, duly authorized by its Board of Directors, may appear before a Notary Public to formalize the credit, to declare the Institute's consent.

INCOPESCA will rule the procedure to grant the authorizations contemplated in the present article.

Article 110.—INCOPESCA will keep a public registry of the vessels and the physical or legal persons having obtained a licence, a permit, a concession or an authorization.

Article 111.—INCOPESCA may grant, with inalienable character, permits for the following activities:

- a) Exercise promotional and educational fishing.
- b) The exercise of fishing in zones of prohibition or capture of forbidden species with scientific purposes and of research, in conformity to article 37 of this law.
- c) Any other established by this Law.

## CHAPTER II

### **Authorizations**

Article 112.—INCOPESCA may authorize the realization of the following activities:

- a) Utilization of fishing gear different from the authorized, that do not effect the the sustainability of the resource.
- b) The landing of fishing products on Costa Rican territory by foreign vessels, attending the criteria of offer and demand, consumer protection and the national fisheries sector, as it may pertain.
- c) Transfer of a licence.
- d) Construction, substitution and enlargement of fishing vessels.
- e) Landing of fisheries' products by national vessels.
- f) Modification of the area of the aquaculture concession and change or substitution of the species authorized for harvest at the aquaculture project.
- g) Development of the aquaculture activity in marine and continental waters.
- h) The construction, the remodelling or enlargement of the aquaculture project.
- i) Any other activity mentioned in the present Law.

## CHAPTER III

## **Expiration of licences, permits and authorizations**

Article 113.—The licences, permits and authorizations expire due to the following causes:

- a) By expiration of the term, without any request for extension in a legal way.
- b) The impossibility of realizing the object.
- c) The express renunciation or the abandonment done by the interested.
- d) The cancelation of the licences, permits or authorizations by the competent authorities, respecting the legal proceeding.

Article 114.— The executive authority shall proceed to cancel the licences, the concessions, the permits or the authorizations, respecting the legal proceeding, when its title holders:

- a) Place the ecosystem at impending risk.
- b) Proportion the information in other terms and periods than those requested by INCOPECA or incur in any falsehood when doing so.
- c) Deny access for the inspection of the facilities to that authority.
- d) Do not comply, without a justified cause, to the general conditions indicated by INCOPECA, of technical order, for fishing and aquaculture.
- e) When transferring those rights without the due authorization or in those cases when they are non-transferable.
- f) Do not comply with the investment and management plans already foreseen in the aquaculture concession.
- g) Incur in the state of bankruptcy, insolvency, competitive bidding, disolution or liquidation of the patrimony.
- h) Do not adequately install the terminal equipments and the sensors forming the satellite remote sensing system in tuna vessels using purse seines, in the terms established in this Law.

Article 115.—The expiration and the annulment will be declared according to the procedure established in the Regulation to this Law. Those interested will be granted the guarantee of legal proceeding.

## **TITLE VI**

### **Outfitter, Skipper or Captain**

#### **ONLY CHAPTER**

Article 116.—Outfitter is he who by his own account realizes the preparation of a ship for navigation in its provision of food and hiring of fishermen. He may be the owner of the vessel or not.

Skipper or captain is who is on board of the vessel and is responsible of directing the fishing labors and of the navigation.

For all purposes, the captain will be considered as the maximum authority on board and responsible for the strict compliance with the valid fishing legislation, under penalty of civil, penal and administrative responsibilities



happening during the performance of his position.

In administrative and civil matters, the outfitter, the skipper and the captain will be jointly responsible for the non-compliance of the fishing legislation, when an effective damage is caused.

Article 117.—To perform the fishing activity, every vessel shall count with a skipper in its crew, with accreditation of competence that identifies him as such, extended by a training entity duly authorized before INCOPECSA.

Likewise the captain, who may also be at the same time skipper under the conditions mentioned before, requires, in his condition and quality of captain, to exhibit and accredit knowledge and experience with enough qualifications in relation to the government, the administration and the navigation of a fishing ship.

When it deals with vessels dedicated to small-scale fishing, he who directs or captains the vessel in the fishing labors or work is entitled as skipper. INCOPECSA with no further formality will credit him as so.

Article 118.—INCOPECSA shall rule, via the regulation, the requirements and necessary conditions to be complied with by the fishing skipper or captain of the fishing vessel. It will equally establish a registry in relation to those operating as outfitters, be they owners or not of the fishing ships. For the purposes of this Law, the owner and the outfitter will be jointly responsible when they correspond to different legal persons or physical persons.

## TITLE VII

### **Sanitation of the hydrobiological resources**

#### ONLY CHAPTER

Article 119.—INCOPECSA shall coordinate the establishment of sanitary measures in matters of fishing and aquaculture with the MAG, relative to the prevention, the diagnosis and control of illnesses that may affect the hydrobiological resources.

Article 120.—On such matters, INCOPECSA may take the following actions:

- a) Recommend the medicines, the foodstuffs, the hormones and other raw materials that may not be used in the fishing and aquaculture activity to the corresponding authorities.
- b) Promote the exchange and the homologation of information with institutions, national and international, participating in matters of transfer and sanitation of aquatic living species.
- c) Recommend the norms relative to quarantines, sanitary control campaigns and measures tending to protect the hydrobiological resources.

Article 121.—The imports of hydrobiological resources is forbidden, when it puts at risk the survival of the native flora and fauna or there is a risk of introducing parasites or potentially dangerous illnesses for the species existing

in the country. Likewise, any import of hydrobiological resources shall be authorized by the MAG, prior a presentation of the respective sanitary certificates issued by the competent authorities of the country of origin, in conformity with valid international regulations and what's disposed in this Law.

## TITLE VIII

### **Infrastructure and Fishing Fleet**

#### ONLY CHAPTER

Article 122.—By fisheries infrastructure is understood the group of works and facilities temporary or permanent, necessary to develop the fishing activity.

By fishing fleet is understood the group of vessels that are used for the types of fishing established by this Law.

Article 123.—The national fishing fleet is exonerated, except the ones dedicated to sport fishing, of all types of national taxes for the import of vessels, spare parts, motors, navigation and fishing and its respective accesories.

In compliance with what's disposed in article 45 of the Law N° 7384, of March 16 of 1994, RECOPE will sell fuel (gasoline, regular and diesel) to the national fishing fleet, except for the activity of sport fishing, at a competitive price as to international prices.

Article 124.—The port facilities and marinas used for the landing and the cleaning of the captures, shall comply with the technical, sanitary requirements and of any other type that is considered pertinent. The regulation to this Law shall establish the minimum requirements to be complied with for these purposes, according to the valid legislation.

Article 125.—The owner, the responsible persons, the employees, operators and workers in general, shall comply to the norms related to the disposition and location of the fishing and aquaculture industrial facilities, as well as the management, the conservation and the industrialization of products, sanitary materials, machinery, equipment, accesories and safety equipments.

Article 126.—On these matters, INCOPECA may:

- a) Propose the projects of fisheries and aquaculture port zones and indicate the use of maritime and terrestrial areas and promote, before the competent authority, their integration to the master plans that are authorized.
- b) Propitiate the evaluation of the fishing and aquaculture infrastructure, in the ports and in other sites, backed up by the results obtained; propose the location and dimension of the works and services required by the authorized national and foreign fishing fleet, as well as the aquaculture activity; promote the construction and maintenance of the available infrastructure.
- c) Participate, jointly with the competent authorities, in the study of the operation and administration problems of the fisheries' infrastructure.

d) Foster the construction and functioning of fishing warehouses and other storage centers, with the purpose of achieving proper conditions related to the quality, the sanitation, the commercialization and transport of the fishing and aquaculture products, that entail a better economic profitability for fishermen and aquaculture harvesters.

Article 127.—INCOPESCA shall keep a record of the fisheries and aquaculture sector that will be of public character and include:

- a) The research centers and of fishing and aquaculture production, whose purpose is the study, analysis and experimentation with fishing and aquaculture resources.
- b) The general data of fishing, commercial, scientific, educational and sport vessels.
- c) The physical or legal persons, Costa Rican or foreign, dedicated to the fishing and aquaculture activity, having a licence, permit or authorization issued by INCOPESCA.
- d) The educational institutions dedicated to the teaching and dissemination of fishing and aquaculture knowledge.
- e) The name and other qualities of the persons dedicated to the activity of extracting fishing resources.
- f) The shipyards dedicated to building and repairing fishing vessels, plants industrializing fishing products, storage centers of fishing products and the aquariums dedicated to the commercialization of aquatic fishing resources.
- g) The physical or legal persons dedicated to the activities of transport, commercialization, industry and post-capture conservation of aquatic fishing resources.
- h) The names and the qualities of the skippers and captains that are credited as such.
- i) The number of the licences, the permits and authorizations granted.
- j) Any other information of interest, to INCOPESCA's criteria.

Article 128.—Any change originated on the data supplied to the registry must be made of INCOPESCA's knowledge, to update it or proceed to cancel it as corresponds.

## TITLE IX

### **Fisheries' statistics**

#### ONLY CHAPTER

Article 129.—INCOPESCA will be in charge of Fisheries and Aquaculture Statistics System that will include the processes of recollection, ordering, typing, analysis and dissemination of statistical information, which will be of a public character and whose main objective is to serve as a basis for the planning of the fishing and aquaculture activity at a national level.

Article 130.—All those subjects to which this Law confers a right or benefit, shall present reports about the statistical data required by INCOPECA for compliance with its ends and objectives.

## TITLE X

### **Offences, violations, sanctions and resources**

#### CHAPTER I

##### **Offences and sanctions**

Article 131.—INCOPECA will be in charge of applying the administrative sanctions of fines and collection proceeding contemplated in this Law, in conformity with its Regulation and with the procedure established in the General Law of the Public Administration.

Article 132.—The authorities of the administrative police will collaborate with the INCOPECA in compliance with the present Law.

Article 133.—It will correspond to the authorities of the National Guardcoast Services to perform the operations tending to arrest and confiscate goods, equipment, fishing gear or fisheries' products used to commit crimes and violations against the fishing legislation or obtained as product of such deeds. Both the vessels as the other goods will be immediately placed to the orders of the respective legal authority for what rightfully corresponds.

These authorities should draw up the corresponding records in the presence of two witnesses chosen by the interested, which will be designated by the authority only in the case of a negative. If it deals with flagrancy, the respective record will be drawn at the place of the events and this circumstance will be precisely recorded.

The National Guardcoast Services shall act officially or as petitioned by the INCOPECA authorized inspectors or of third ones.

For a better compliance with the ends of this Law, INCOPECA shall establish the agreements or necessary mechanisms for coordination with the National Guardcoast Services. For such purposes, INCOPECA may pledge the budgetary resources needed.

Article 134.—Every punishable deed, sanctioned in conformity to the present Law, will have as a consequence the loss, to INCOPECA's benefit, of the fishing gear that has been used to commit the crime.

Article 135.—In case of seizure of perishable products, will be as disposed by article 37 of the Law N<sup>o</sup> 8000, of May 5 of the year 2000.

Article 136.—He who, at the command of a fishing vessel with national or foreign registry and flag, realizes fishing labours on internal waters, on the territorial waters or in the exclusive economic zone, without counting with the licence or the registries granted by the Costa Rican authorities or with more than two months overdue licence, permit or respective registry, will be sanctioned with a fine of one to sixty minimum wages, defined in article 2 of the Law N° 7337, of May 5 of 1993.

In the case of the vessels defined in the above paragraph, dedicated to the fishing of tuna, the applicable fine will be of twenty-five per cent (25%) of the vessel's value. The deposit of the fine may be in dollars, United States of America currency, or in colones, according to the valid exchange rate at the date of effective payment.

Seventy per cent (70%) of what's collected for the concept of this fine will be drawn to the National Guardcoast Services, for the operational expenses of surveillance and patrolling of illegal fishing and rescue of fishermen in national and international waters, and the remaining thirty per cent (30%) to INCOPECA. Both the National Guardcoast Services as INCOPECA, trying to guarantee the transparency in the adequate management of the public funds, shall render an annual report to the Comptrollership General of the Republic, in which the exact amount received due to collection of any fines should be included, as well as the amount destined exclusively to the execution of its own functions.

Article 137.—He who, at the command of a fishing vessel with national or foreign registry and flag, realizes fishing labours on internal waters, on the territorial waters or in the exclusive economic zone, with the licence, permit, the concession or the authorization expired, lapsed, suspended or annulled provided that the expiration, the lapsing, the suspension or the annulment have been produced within the immediately preceding two months, will be sanctioned with a fine of five to forty minimum wages, defined in the article 2 of the Law N° 7337, of May 5 of 1993. Otherwise, what is disposed in article 136 of this Law will apply.

The holder of the licence, permit or concession will be punished with an equivalent sanction.

Article 138.— He who is at the command and the holder of the right of licence, permit or concession will be sanctioned with the penalty of a fine of thirty to sixty minimum wages, defined in article 2 of the Law N° 7337, of May 5 of 1993, when, in the exercise of fishing acts, occasion the intentional damage to the populations of benthic resources, coral reef or rocky ecosystems and banks of weeds.

Article 139.—A penalty of six months to two years in prison will be imposed on whomever permits, orders or authorizes the landing of shark fins, without the respective body or stem, in those sites where such resource is discharged, with

the finality of selling or commercializing such fins.

When the violations are committed by the responsible or owner of a foreign vessel on the exclusive economic zone or territorial waters, he will be sanctioned with a fine of forty to sixty minimum wages, in conformity to the article 2 of the Law N° 7337, and the cancellation of the fishing licence. Operations may also be realized on the tuna vessels with purse seines to ensure that they carry and have in good functioning condition the satellite sensing equipment. INCOPESCA may coordinate such operations with the Ministry of Public Security and the National Guardcoasts Services.

Article 140.—He who chases, captures, injures, kills, transacts with or trades with chelonians, marine mammals or aquatic species declared in danger of extinction protected by international treaties applicable to Costa Rica, in the territorial waters will be imposed with a penalty of prison of one to three years. If the conduct is perpetrated on the exclusive economic zone by national or foreign vessels, the infractor will be imposed a fine of forty to sixty minimum wages, in conformity with article 2 of the Law N° 7337, without prejudice to what's established in article 6 of the Law N° 8325.

The penalty will be of three months to two years in prison for who retains, , the species mentioned in the above paragraph, or commercializes its products or derivatives with commercial purposes.

Article 141.— He who fishes in seasons and zones of prohibition or fishes forbidden species, with a permit, licence or fishing authorization or without them, in internal waters, in territorial waters or in the exclusive economic zone will be sanctioned with the penalty of a fine of ten to forty minimum wages, defined in article 2 of the Law N° 7337, of May 5 of 1993.

Article 142.— He who with a permit, licence or fishing authorization or without it, uses prohibited or illegal gear when realizing the fishing labours on the internal waters, continental, in the territorial waters or in the exclusive economic zone, will be sanctioned with the penalty of a fine of twenty to sixty minimum wages, defined in article 2 of the Law N° 7337, of May 5 of 1993.

Article 143.— He who realizes fishing labours in the exclusive economic zone employing poisonous, dangerous, toxic substances or of any nature, explosive or poisonous materials that injure or endanger the marine or aquatic ecosystems, or human life will be sanctioned with penalty of a fine of sixty to eighty minimum wages, defined in the article 2 of the Law N° 7337, of May 5 of 1993, and the cancellation of the respective licence, without prejudice of the sanctions established in the code of law.

If the fault is perpetrated in marine internal waters, continental or territorial waters, the penalty of prison of two to ten years will be imposed.

Article 144.— He who for the development of aquaculture activities, causes the felling of the mangrove, poisoning of waters by its incidental use or for illegal emptying of waters contaminated with chemical waste, antibiotics and other

substances, products or nourishments non-authorized by INCOPESCA for the development of aquaculture projects, caretaking and harvest of the species, will receive the penalty of a fine of thirty to fifty minimum wages, defined in article 2 of the Law N° 7337, of May 5 of 1993, and cancellation of the respective authorization or concession whenever it does not configure a more serious offence.

Article 145.— He who illegally manages, discards or introduces in internal, in territorial waters, in the exclusive economic zone or in continental waters, species or materials for the biological or chemical control that put at risk the conservation of aquatic and marine resources will be sanctioned with the penalty of a fine of thirty to sixty minimum wages, defined in article 2 of the Law N° 7337, of May 5 of 1993, and the cancellation of the respective permit, licence, concession or authorization, if counting with them.

If damage is caused to the aquatic or marine resources, the penalty will increase by one third and the responsible will be obliged to compensate the environmental damage.

Article 146.— He who illegitimately appropriates the fishing gear, machinery, tools, equipment, seeds, raw materials or products destined and originated from fishing or which are being used for the development of the aquaculture activity will be imposed with prison of two months to two years, if the value of what is stolen does not exceed in five times the minimum wage, and with four months to four years, if exceeding that amount.

Article 147.— He who in relation with the type of licence, concession, permit or authorization, violates the dispositions relative to the protection, extraction, capture or commercialization of continental or marine fishing resources, as concerns the fishing or aquaculture sizes, quantities, species and zones authorized will be restrained with fifteen to ninety days fine.

Article 148.— He who violates the dispositions or regulations of a technical nature to realize the fishing or aquaculture works or labours in marine jurisdictional waters, as demanded by each type of licence, permit, authorization or concession, will be restrained with twenty-five to sixty minimum wages.

Article 149.— He who incurs in the following conducts will be imposed a fine of five to fifteen minimum wages, who:

- a) Does a transshipment or landing of fishing products in the national territory, depending on its jurisdictional capacity, without counting with INCOPESCA's authorization, or on a site non-authorized by that institution expressly, save for unexpected circumstances or major force, duly proven; the above without prejudice to what establishes article 58 of this Law.
- b) Destroys the nests of marine turtles.
- c) Uses fishing gear that impedes the navigation.
- d) Realize the fishing activity without using the turtle excluding devices (TED), in those cases when required, in conformity to the legislation and valid

international agreements.

In these cases, the skipper and the owner or permit holder of the vessel shall also have a civil responsibility.

Article 150.— He who incurs in the following conducts will be imposed with a fine of five to fifteen minimum wages:

- a) Possesses, stores, cultivates, transports, commercializes or industrializes, in illegal way, aquatic flora and fauna products.
- b) Practices fishing on internal or jurisdictional waters with vessels or gears different than the authorized and registered before INCOPECA.
- c) Simulates scientific and sport fishing acts to make a profit with the products obtained from the captures. In this case, it will be proceeded with the cancellation of the respective permit.
- d) Discharges on Costa Rican ports or introduces by the borders, commercial fishing products, without the corresponding authorization by INCOPECA.
- e) Does not comply with the order of demolition or retiring the infrastructure built on the aquaculture concession area.

Article 151.— He who incurs in the conducts established in clauses a), b), c), d), e), f), g), i), j), k) and l) of article 38 of this Law will be imposed a fine of five to fifteen minimum wages, in conformity with article 2 of the Law N° 7337,.

Article 152.— INCOPECA will impose a fine of three to ten minimum wages, in conformity to article 2 of the Law N° 7337, of May 5 of 1993, to who realizes the following actions:

- a) Omits warning INCOPECA of the arrival or the information about the extractions, the harvest or the collections realized, notwithstanding being obliged to do it, according to the corresponding rules.
- b) Does not carry on board of the vessels the document or the certified copies that accredit the licence, the permit or the authorization to exercise the fishing.
- c) Does not accredit, on the place where the aquaculture project is developed, the documents of the concession or authorization that permit the exercise of the activity.
- d) Does not carry the fishing logbook or does not register on it the truthful information as respects the operation activities.
- e) Does not report or hides from INCOPECA and the corresponding authorities, within a term of twenty-four hours from the happening of the event, faults or damages impeding the adequate functioning of the equipments of the satellite sensor system, during the permanence on port, sailing or the fishing labours, of seining tuna vessels.

Article 153.— He who authorizes or exercises the commercial or sport fishing activity on protected wild areas indicated on the first paragraph of article 9 of this Law, will be sanctioned with fine of twenty to sixty minimum wages and



the cancellation of the respective licence. If it corresponds to a public functionary that authorized the exercise of fishing on these areas, the respective disciplinary, administrative and penal sanctions will apply, regarding the legal proceeding.

Article 154.—

- a) The money coming from the fines generated by the application of the present Law, with the exception of what is established on its articles 51 and 136, will be destined to:
  1. Fifty per cent (50%) to the National Guardcoast Services for the Special Fund indicated in article 34 of the Law N° 8000, of May 5 of the year 2000.
  2. Fifty per cent (50%) to INCOPESCA, for the Fund indicated in article 52 of this Law.
- b) The money coming from confiscations from the application of the present Law, except for what is established on articles 51 and 136, will be destined to:
  1. Seventy per cent (70%) to the National Guardcoast Services for the Special Fund indicated in article 34 of the Law N° 8000, of May 5 of year 2000.
  2. Thirty per cent (30%) to INCOPESCA for the fund indicated on article 52 of this Law.

Article 155.—The ships or vessels used for the perpetration of the illegal acts typified in the present Law, will respond with the payment of the fines imposed to its occupants or owners for the transgression to the present Law. To such purposes, the court of law who hears the corresponding cause, shall order to the Register of Movable Property of the Ministry of Justice, the entry of a juridical mortgage on the vessel involved in those illegal acts. Likewise, the court of law will immediately communicate of this circumstance to the respective port authorities, so they make the corresponding estimates in matters of sailing and other purposes.

Article 156.—In the foreseen cases of this section, the judge may also impose as attaching penalty:

- a) The cancellation of the licence, the permit, the concession or the authorization to exercise the activity in whose execution the offence was perpetrated.
- b) The temporary or definitive closure of the company in whose activities the offence was perpetrated.
- c) The non-compliance with the payment of the fine will imply the seizure of the respective vessel before the Public Registry.

Article 157.—To apply the sanctions for the violation of the norms of the

present Law, by the denomination minimum wage will be understood as the one contained in article 2 of the Law N° 7337, of May 5 of 1993.

Article 158.—INCOPESCA will be the interested party and will have procedural, penal and civil competency to intervene in the corresponding processes.

## CHAPTER II

### **Administrative Resources**

Article 159.— The resource of reversal with subsidiary appeal may be interposed before INCOPESCA's Board of Directors against the resolutions dictated by INCOPESCA's executive president, on the grounds of the present Law, within the term of five work days counting from the day following the notification of the resolution. What the Board of Directors resolves will terminate the administrative proceedings; all in conformity with the dispositions of the General Law of Public Administration.

Article 160.—The intervention of the resource will be in writing and shall express the name and address of the recurrent, the damages, the elements of proof considered necessary and the written proof that accredit the competency of the petitioner. The regulation of the present Law shall establish the other requirements for the intervention, procedures and substantiation of the resource.

## TITLE XI

### **Final Dispositions**

Article 161.—To guarantee compliance to this Law, the State will dispose of the necessary means, with the end of exercising the vigilance and control of the fishing resource; similarly, the vigilance and control of the revenues by canons, fines and fees, generated on the jurisdictional waters by application of this Law.

Article 162.—To guarantee the work and health safety of the vessel's crew, INCOPESCA, the Ministry of Health and the Caja Costarricense de Seguro Social (CCSS), will determine, by means of this Regulation, the necessary measures for compliance with these ends, among which necessarily a first aid cabinet should be included and the training in these matters of at least one of the crew.

Regarding the training, INCOPESCA shall coordinate with INA and the university high schools, the implementation of the necessary courses.

Article 163.—The licences or the permits, the concessions and the authorizations granted before the present Law comes into legal force, will remain valid according to the conditions and the terms established in the grant.

Article 164.—The permits, the concessions, the licences and the authorizations may be cancelled, denying indemnifications for the non-compliance of the contracts or non observance of this Law and its Regulation, without prejudice of the other responsibilities incurred in by the grantees.

Article 165.—Annulled is the following legislation:

- a) Maritime Fishing and Hunting Law, N° 190, of September 28 of 1948.
- b) The regulation of the Law N° 190, of September 28 of 1948, Decree Law N° 363, of January 11 of 1949.
- c) Law N° 4582, of May 4 of 1970.
- d) Law N° 5410, of November 14 of 1973.
- e) Article 35 of the Law N° 8000, Creation of the National Guardcoast Service, of May 5 of 2000.
- f) Law N° 5775 and its amends.
- g) Any other disposition that opposes it.

Article 166.— The CCSS is authorized to subscribe agreements with duly inscribed fishing organizations, so that, according to the fishing activity, parameters according to the quote are fixed, depending on the atypical working activity that it deals with.

Article 167.—INS may grant collective insurance policies to the fishing vessels, with the duly inscribed organizations.

Article 168.—In all of the text of the Law of Creation of the Fishing and Aquaculture Institute, N° 7384, “aquiculture” is substituted by the word “aquaculture”.

Article 169.—The Ministry of the Treasury is authorized to create fifteen positions for inspectors, to be assigned to INCOPESCA.

Article 170.—The State will offer support in matters of finances, health, security and social welfare to all the persons dedicated to the fishing and aquaculture activity. These measures should be contemplated on the National Fishing and Aquaculture Development Plan.

Article 171.—The Executive power shall veil so that the fisheries and aquaculture sectors are included, on equal conditions to the other sectors, in any international negotiation, trust, economic and financial aid that is realized for the benefit of the national productive activity, including the agriculture and cattle sector.

Article 172.—INCOPESCA is authorized to give scientific information rendered by the satellites, in coordination with the state universities, to the national fishing fleet, with the purpose of improving the exercise of the fishing activity. This Institute is also authorized to destine funds for the acquisition of information packages from the authorized suppliers.

Article 173.—Article 120 of the Work Code is reformed, to which is also added, a new article 120 bis. The texts shall say:

“Article 120.—Every fisherman shall sign an enrolment contract with the fishing ship’s outfitter or his authorized legal representative. as fisherman will be understood every person that is going to be employed or hired on board of any fishing ship, in any quality, that figures on the crew’s list.

The enrolment contract shall observe the formalities proper of its legal nature and will be written in comprehensible terms to guarantee that the fisherman will comprehend the meaning of the contract's clauses.

The enrolment contract shall indicate the name of fishing ship on board of which the fisherman will serve, as well as the trips or the trips he shall undertake, if such information may be determined when celebrating the contract or, in its defect, the estimate of the dates of departure and of returning to port, the routes of destination and the form of remuneration. If the fisherman is remunerated according to the part captured or by contract, the enrolment contract shall indicate the import of his participation and the method adopted to estimate it; if he is remunerated by a combination of salary and according to the part captured, the minimum remuneration in cash coin will be specified, which may not be below the minimum legal wage.

The Ministry of labour and Social Security shall be responsible of providing the printed models in the diverse modalities. Such contracts should be extended in three copies: one for each part and another for the employer to send to the National Employment Direction of the Ministry of Labour and Social Security, within the fifteen days following its celebration, modification, extension or renovation.

On the enrolment contract, the fishing ship's outfitter or his authorized legal representative shall declare under oath, of being up to date in his employee-employer obligations with the CCSS, which should be credited before the National Employment Department.

Likewise, it corresponds to the National Employment Department design and issue an identification document, to be known as the "identity document for sea people," that will contain the following data related to its title holder: a) complete name, b) place and date of birth, c) nationality, d) current place of domicile, e) photograph and f) signature and print of thumb finger. This document will be issued to whoever requests it, no matter his nationality, and will be the necessary condition to subscribe each enrolment contract. Of such contracts and of each identification document the National Employment Department will keep a record.

Article 120 bis.— The National Employment Department of the Ministry of Labour and Social Security, in coordination with the Occupational Health Council, the National Work Inspection Department, the Costa Rican Fishing and Aquaculture Institute, the Maritime and Ports Security Department from the Ministry of Public Works and Transport, shall foresee all the other formalities and guarantees concerning the celebration of the enrolment contract they consider necessary to protect the interests of the fisherman and the adequate compliance of the contractual by the fishing ship's outfitter, in relation to those contracts.

The National Work Inspection Department, in exercise of its powers of

supervision, is compelled to act officially or by denunciation of the interested party, in the strict application and faithful compliance of the mentioned regulation, proceeding to realize the corresponding inspections and preventions to the violators. When the violating event is verified, the term given by law will be granted, so that the employer ceases the forewarned act and restore the missing conditions of normality. In case of contempt, insinuation or reluctance to comply with what is demanded the corresponding action will be intervened before the competent work tribunals.

The fishing ship's outfitter or his legal representative, before subscribing the enrolment contract, shall demand the fisherman for the "identification document for sea people" and the medical certificate that credits his physical aptitude for the maritime labour for which he will be employed.

The port authority will keep a permanent record of the fishing ships and their licence number, as well as of the owners. It will similarly keep a record of the fishing permits and licences by ship and its respective validity.

To grant the sailing permit, besides the previous record it will also be necessary to have previously credited the complete list of the crew and the persons on board, in general, before the port authority, even the outfitter, and indicate their respective qualities, as well as annexing a copy of the identification documents of each one.

The employment of children under sixteen years of age to lend services of any nature on board of a fishing ship is forbidden; as such are understood all the vessels, the crafts and the ships, whatever their class or ownership, public or private, that are dedicated to the maritime fishing. Of such a prohibition are exempted the school-vessels duly accredited before the Costa Rican educational authorities and acknowledged in such condition."

Article 174.—Added to the Work Code the article 198 bis, whose text shall say:

"Article 198 bis.—It's the competence of the Occupational Security Council as technical organism of the Ministry of Work and Social Security, to establish the manuals, the catalogues, the lists of security devices, and of the equipment for protection and occupational health of the fisheries' activity in general.

With such purpose, the Occupational Security Council, on the scope of its attributions and competencies, will consider the conditions of security of the electricity installations and sources of emergency energy for the fishing vessels, depending of its physical characteristics, as well as regards the components of the traction mechanisms, of loading-landing and other related, as well as those related to the radio communication systems and equipments, of fire detection and fighting, and of the working place conditions, the lodging, sanitary services, kitchen and dinner table, places for the storage of the capture and refrigeration and ventilation systems, not excluding the

emergency exits, traffic passages and dangerous zones, quality of the floors, screens, roofs and doors, noise control and first aid, as well as all the other details contributing to the security and better work conditions on board of the fishing ships.

All outfitter or owner of fishing vessels will be compelled to adopt the measures that guarantee the occupational health of the workers in the work places, in conformity with the terms of the Work Code, the occupational health regulations in general and the specific ones enacted, and the recommendations formulated in this matter, by the Occupational Health Council and the inspection authorities of the Ministry of Work and Social Security, the Ministry of Health or the National Insurance Institute.

The owners and outfitters of the vessels dedicated to maritime fishing as profit, in Costa Rican territorial waters and over the adjacent waters to its territory, in an extension of two-hundred miles starting on the same line and on international waters, shall veil that the navigation and the fishing activity is developed without endangering the security and health of the fishermen.

For the navigation and for realizing the fishing activities, it will be imperative that the ships or vessels are kept in optimal conditions of security and operation, and be doted with the proper equipment for the purposes of destination and use.

The responsibility in matters of navigation and security corresponds to the Ministry of Public Works and Transport.

Prior to all procedure of initial request or of renewal of a fishing licence it will be INCOPECA's responsibility to verify that the national and international security norms have been certified by that Ministry."

Article 175.—The Executive Power will regulate this Law, in a term of ninety days from its publication in *La Gaceta*.

## TITLE XII

### **Transitory Dispositions**

Transitory I.—During the period included between the publication of this Law and the publication of its Regulation, the Decree N° 23943 MOPT-MAG, published in *La Gaceta* N° 10, of January 13 of 1995 will remain valid.

Transitory II.—The skippers and the captains of fishing vessels, will have a term of one year to comply with the requirements fixed by the regulation of this Law.

Transitory III.—In a term of eighteen months, starting the moment this Law is in force, INCOPECA shall install and put into proper functioning a satellite sensing system and compel the tuna vessels with purse seines that are registered or having a fishing licence, to install and have in good working conditions on that same term as indicated above, the equipment required for satellite sensing system, under its supervision.

Valid from its publication.

*Communicated to the Executive Power*

Legislative Assembly.—San José, at ten days of the month of February of two thousand five.—Gerardo González Esquivel, President.—Carlos Herrera, Calvo, First Secretary.—Mario Calderón Castillo, Second Secretary.

Given at the Presidency of the Republic.—San José, on the first day of the month of March of two thousand five.

*To be execute and published*

ABEL PACHECHO DE LA ESPRIELLA.—The Minister of Agriculture and Cattle, Rodolfo Coto Pacheco; the Minister of the Environment and Energy, Carlos Manuel Rodríguez Echandi; the Minister of Work and Social Security, Fernando Trejos Ballester; the Minister of the Treasury, Federico Carrillo Zürcher; the Minister of Health, María del Rocío Sáenz Madrigal; the Minister of Public Works and Transport, Randall Quirós Bustamante and the Minister of Public Security, Rogelio Ramos Martínez.—1st time.—(Request N° 18060).—C-798735.—(L8436-29597).

**Approved:** February 10 of 2005  
**Ratification:** March 01 of 2005  
**Publication:** April 25 of 2005, La Gaceta No. 78  
**In force:** April 25 of 2005