

Fisheries Law Of The People's Republic Of China (2004 Revision)

(Adopted at the 14th Session of the Standing Committee of the National People's Congress and promulgated by Order No. 34 of the President of the People's Republic of China on January 20th, 1986; amended for the first time according to the "Decision of the Standing Committee of the National People's Congress on the Amendment of the Fishery Law of the People's Republic of China" at the Eighteenth Session of the Standing Committee of the Ninth National People's Congress on October 31st, 2000; amended for the second time according to the "Decision of the Standing Committee of the National People's Congress on the Amendment of the Fishery Law of the People's Republic of China" at the Eleventh Session of the Standing Committee of the Tenth National People's Congress on August 28th, 2004)

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Chapter I General Provisions

Article 1 This Law is formulated with a view to strengthening the protection, growth, development and rational utilization of fishery resources, developing artificial cultivation, protecting fishery workers' lawful rights and interests and boosting fishery production, so as to fulfill the requirements of socialist construction and the needs of the people.

Article 2 All productive activities of fisheries, such as engaging in aquaculture and catching or harvesting of aquatic animals and plants in the inland waters, tidal flats and territorial waters of the People's Republic of China, or in other sea areas under the jurisdiction of the People's Republic of China, must abide by this Law.

Article 3 Regarding fishery production, the state shall adopt a policy that calls for simultaneous development of aquaculture, fishing and processing, with special emphasis on aquaculture and with priority given to different pursuits in line with local conditions.

People's governments at various levels shall cover fishery production into their economic development plans and take measures to enhance the overall planning and comprehensive utilization of water areas.

Article 4 The state shall encourage research in fishery science and technology as well as popularization of advanced technology so as to improve the level of the country's fishery science and technology.

Article 5 People's governments at various levels shall give moral encouragement or material awards to entities and individuals who make outstanding contributions to the increase and protection of fishery resources, to development of fishery production, or to research in fishery science and technology.

Article 6 The department of fishery administration under the State Council

shall be in charge of the administration of fisheries throughout the country. Departments of fishery administration under people's governments at the county level or above shall be in charge of fisheries in their respective areas. These departments shall be authorized to set up fishery superintendency agencies in important fishing areas and fishing ports. Departments of fishery administration under people's governments at or above the county level and their fishery superintendency agencies may appoint fishery inspectors who will implement assignments entrusted thereto by those departments and agencies.

Article 7 Supervision over and administration of fisheries shall adhere to the principle of unified leadership and decentralized administration.

Marine fishery shall be under the superintendence of departments of fishery administration under the people's governments of provinces, autonomous regions and centrally-administered municipalities contiguous to the sea, with the exception of those sea areas and fishing grounds with specially designated fishery resources that the State Council has placed under direct administration of its fishery department and subordinate fishery superintendency agencies.

Fishery in rivers and lakes shall be subject to the superintendence of the departments of fishery administration under the relevant people's governments at or above the county level in conformity with administrative divisions. Fishery administration for water areas that straddle several administrative divisions shall be decided by the relevant people's governments at or above the county level through consultation or placed under the superintendence and management by the departments of fishery administration of people's governments at the next higher level and their subordinate fishery superintendency agencies.

Article 8 Foreigners and foreign fishing vessels must obtain permission from the relevant department under the State Council prior to entering the territorial waters of the People's Republic of China to carry out fishery production or investigations of fishery resources, and must observe this Law and other relevant laws and regulations of the People's Republic of China. If those persons and vessels belong to countries that have entered into relevant accords or agreements with the People's Republic of China, their activities shall be conducted in conformity with those accords or agreements.

State fishery administration and fishing port superintendency agencies shall conduct administrative and supervisory authority over external relations relating to fisheries and fishing ports.

Article 9 Neither the department in charge of fishery administration as well as its institutions for the supervision over and administration of fishery nor their staff shall participate or be engaged in the activities of fishery production and operation.

Chapter II Aquiculture

Article 10 The state shall encourage entities under ownership by the whole people, entities under collective ownership and individuals to make the best use of suitable water surfaces and tidal flats to develop aquaculture.

Article 11 The State shall make united programming on utilization of water areas, and determine which water areas and beaches may be utilized for aquatic breeding industry. Where an entities or an individual uses a water area or beach with ownership by the whole people which is determined by the State programming to be used for aquatic breeding industry, the user shall apply to the department in charge of fishery administration of the local people's

government at or above the county level for the aquatic breeding certificate which shall be examined and issued by the people's government at the same level. With this certificate, the user is permitted to undertake aquatic breeding production in the aforesaid water area or beach. Specific measures for the examination and issuance of aquatic breeding certificates shall be provided for by the State Council.

Water areas and beaches with collective ownership or with ownership by the whole people but used by the agricultural collective business organization may be individually or collectively contracted for aquatic breeding production.

Article 12 The local people's government at the county level or above shall give precedence to the local fishery producers while checking and issuing aquatic breeding certificates.

Article 13 Where any dispute arises between the parties due to the aquatic breeding production with a water area or beach determined by the State programming to be used for aquatic breeding industry, it shall be handled in line with the procedures prescribed in relevant laws. Before the dispute is settled, neither party shall destroy the aquatic breeding production.

Article 14 Where a water area or beach with collective ownership is requisitioned for use for State construction, it shall be handled in conformity with the provisions pertaining to the requisition of land in the Law of the People's Republic of China on Administration of Land.

Article 15 The local people's government at the county level or above shall take measures to enhance its protection on the production bases of commercial fish and the key water areas for aquatic breeding in the suburban areas of the city.

Article 16 The state shall encourage and support the breeding, cultivation and popularization of good aquatics. No new aquatic may be popularized unless it has been examined and approved by the National Committee for Examination and Approval of Original Breeding and Good Breeding and has been announced by the fishery administrative department of the State Council.

The import and export of aquatic fingerlings shall be examined and approved by the department in charge of fishery administration of the State Council or of the provincial, autonomous regional, municipal people's governments. The production of aquatic fingerlings shall be examined and approved by the department in charge of fishery administration of the local people's government at the county level or above, with an exception of the aquatic fingerlings cultivated or used by the fishery producers themselves.

Article 17 Quarantine must be executed for the import and export of aquatic fingerlings so as to prevent disease from passing into or out of the territory. Specific quarantine work shall be carried out in conformity with the provisions in the laws and administrative regulations on the quarantine of animals and plants imported and exported.

The safety for imported transgenosis aquatic fingerlings must be evaluated. Specific administration shall be carried out in conformity with relevant provisions of the State Council.

Article 18 The department in charge of fishery administration of the local people's government at the county level or above shall enhance technical guidance and disease prevention for the aquatic breeding production.

Article 19 Baits or feedstuff containing poisonous or harmful substances shall not be used in the aquatic breeding production.

Article 20 In the aquatic breeding production, the ecological environment of water areas shall be protected, and the aquatic breeding density shall be

scientifically determined, baits be rationally cast, fertilizer be reasonably thrown, and medicament be sensibly used. The water areas shall not be polluted.

Chapter III Fishing

Article 21 The State shall take measures in finance, credit and taxation to encourage and support the development of ocean fishery industry, and arranges continental-river and inshore fishing pursuant to the fishable amount of the fishery resources.

Article 22 The State shall determine the total fishable amount of the fishery resources and implements fishing quota system in conformity with the principle that the fishing amount shall be lower than the growth amount of the fishery resources. The department in charge of fishery administration of the State Council shall be responsible for organizing the investigation and evaluation of fishery resources, and provide scientific basis for the implementation of the fishing quota system. The total amount of the fishing quota for inland seas, territorial seas, exclusive economic zones and other jurisdictional seas of the People's Republic of China shall be determined by the department in charge of fishery administration of the State Council, and shall be distributed and reported to the governments level by level after it is submitted to and approved by the State Council. The total amount of the fishing quota for important rivers and pools determined by the State shall be determined by relevant provincial, autonomous regional, municipal people's governments or determined through consultation, and shall be distributed and reported level by level. The distribution of the total amount of the fishing quota shall embody the principle of fairness and justness. The distribution methods and distribution results must be open to the society and be supervised.

The department in charge of fishery administration of the State Council and of the provincial, autonomous regional, municipal people's governments shall strengthen its supervision and inspection over the implementation of the fishing quota system. As regarding the amount which exceed the fishing quota target required by the upper level, the aforesaid department shall check and reduce its fishing quota of the next year.

Article 23 The State shall implement fishing license system on fishery industry.

The fishing licenses for large scale dragnet and pursue net operation on the sea and the fishing operation on the mutually administered fishing areas determined by the agreement concluded between the People's Republic of China and a relevant country or the fishing operation on the high seas shall be approved and issued by the department in charge of fishery administration of the State Council. The fishing licenses for other operations shall be approved and issued by the department in charge of fishery administration of the local people's government at the county level or above. However, the fishing licenses approved and issued for operations on the sea shall not exceed the target required by the State on the control of vessel and net facilities. Specific measures shall be prescribed by the provincial, autonomous regional, municipal people's governments.

Fishing licences may not be sold, leased or transferred by other illegal means, nor they may be altered.

Fishing operations on jurisdictional seas of other countries shall be approved by the department in charge of fishery administration of the State

Council, and observe relevant treaties and agreements concluded or acceded to by the People's Republic of China and the laws of relevant countries.

Article 24 A fishing license may be issued to the applicant only if he satisfies the following conditions:

- (1) he has the fishing vessel inspection certificate;
- (2) he has the fishing vessel registration certificate;
- (3) he satisfies other conditions prescribed by the department in charge of fishery administration of the State Council.

The fishing certificates approved and issued by the department in charge of fishery administration of the local people's government at the county level or above shall accord with the fishing quota target required by the department in charge of fishery administration of the people's government at the upper level.

Article 25 The entity or individual engaged in fishing operation must abide by the provisions in the fishing license on type of operation, location, time limit, quantity of fishing facilities and fishing quota, and observe relevant provisions of the State on the protection of fishery resources. Large scale fishing vessels shall keep fishing logs.

Article 26 Vessels that are produced, rebuilt, purchased and imported for shipping operation must be checked and proved qualified by the fishing vessel inspection department before it is launched for operation. Specific measures shall be prescribed by the State Council.

Article 27 The construction of fishing harbors shall comply with the State's united programming, and the principle of benefiting the investors shall be implemented. The local people's government at the county level or above shall strengthen its supervision and administration over the fishing harbors located in its own administrative region, and maintain the normal order of these fishing harbors.

Chapter IV Increase and Protection of Fishing Resources

Article 28 Departments of fishery administration under the people's governments at and above the county level shall work out overall plans and take measures to increase fishery resources in the fishery waters under their jurisdiction. These departments may collect fees from the entities and individuals profited by the use of such waters and devote the money thus collected to the growth and protection of fishery resources. The procedures for collecting such fees shall be stipulated by the department of fishery administration and the department of finance under the State Council, and must be approved by the State Council before coming into force.

Article 29 The State shall protect germ plasm resources of aquatic products and their surviving environment, and establish preservation areas for germ plasm resources of aquatic products in the main regions where germ plasm resources of aquatic products with high economic value and heredity and breeding value can increase and breed. No entity or individual shall be engaged in fishing activities in the preservation areas for germ plasm resources of aquatic products without the approval by the department in charge of fishery administration of the State Council.

Article 30 Such methods of destroying fishery resources as killing fish by explosion, with poison or with electricity, etc. are banned for fishing. It is banned to produce, sell or use prohibited fishing facilities. It is banned to go fishing in the prohibited fishing areas or within the prohibited fishing periods. It is banned to go fishing with nets smaller than the smallest size

of mesh. The undersized fish among the fishing gains shall not exceed the stipulated proportion. It is banned to sell illegally fished fishing gains in the prohibited fishing areas or within the prohibited fishing periods.

The varieties of fishery resources under key protection as well as their fishable standards, the prohibited fishing areas and the prohibited fishing periods, fishing facilities and fishing methods banned to be used, the smallest size of mesh, and other measures to protect fishery resources shall be prescribed by the department in charge of fishery administration of the State Council or of the provincial, autonomous regional, municipal people's governments.

Article 31 Catching fry of aquatic animals of important economic value shall be prohibited. Catching fry of aquatic animals of important economic value or spawning aquatic animals under protection for artificial breeding or for other special purposes must be approved by the department of fishery administration under the State Council or by departments of fishery administration under the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government, and it must be conducted in the designated areas and times and strictly in conformity with the quotas assigned.

Measures shall be adopted to protect fry of aquatic animals when channeling or using water from water areas that specialize in producing such fry.

Article 32 When building sluices and dams which will have serious impact on fishery resources on the migration routes of fish, shrimp and crabs, the construction entities must build fish passages or adopt other remedial measures.

Article 33 With respect to water bodies that are used for fisheries and also serve the purposes of water storage and regulation and irrigation, the departments concerned shall fix the lowest water level required for fishery.

Article 34 It shall be banned to reclaim land from lakes. Without approval from a people's government at or above the county level, it shall be prohibited to enclose tidal flats for cultivation and no one shall be allowed to reclaim land from water areas that are used as major seedling producing centres and aquatic breeding grounds.

Article 35 With respect to conducting underwater explosions, exploration and construction that may have serious impact on fishery resources, the construction entities shall consult in advance with the department of fishery administration under the relevant people's government at or above the county level and take measures to prevent or minimize the damage to fishery resources. In case any damages to fishery resources occur therefrom, the relevant people's government at the county level or above shall order the responsible party to bear compensation.

Article 36 The people's governments at all levels shall take measures to safeguard and improve the ecological environment of fishery water areas, prevent and cure pollution.

The supervision over and administration of the ecological environment of fishery water areas as well as the investigation and treatment of fishery pollution accidents shall be implemented in conformity with relevant provisions in the Law of the People's Republic of China on the Protection of Sea Environment and the Law of the People's Republic of China on the Prevention and Cure of Water Pollution.

Article 37 The State shall conduct key protection on aquatic wild animals which are valuable or in severe danger such as white-flag dolphins, etc. in order to

prevent them from extinction. It is banned to fish and kill, or hurt the aquatic wild animals under the State's key protection. Where it is needed to fish the aquatic wild animals under the State's key protection due to scientific research, domestication and breeding, exhibition or other special circumstances, it shall be carried out in line with the provisions in the Law of the People's Republic of China on the Protection of Wild Animals.

Chapter V Legal Liability

Article 38 Where the methods of destroying fishery resources such as killing fish by explosion, with poison or with electricity, etc. are used for fishing, the provisions on banned fishing areas or banned fishing periods are violated in fishing, or banned fishing facilities, fishing methods or nets smaller than the smallest size of mesh are used for fishing, or the undersized fish among the fishing gains exceeds the stipulated proportion, the fishing gains and illegal proceeds shall be confiscated, and a fine of not more than 50,000 yuan shall be imposed; if the case is gross, the fishing facilities shall be confiscated and the fishing license shall be rescinded; if the case is particularly serious, the fishing vessel may be confiscated; if such acts commit a crime, criminal liabilities shall be prosecuted pursuant to the law.

The department in charge of fishery administration of the local people's government at the county level or above shall in time investigate and dispose of the acts of selling illegally fished fishing gains in the banned fishing areas or within the banned fishing periods.

In case fishing facilities prohibited to be used are produced or sold, the illegally produced or sold fishing facilities and the illegal proceeds shall be confiscated, and a fine of not more than 10,000 yuan shall be imposed.

Article 39 With respect to anyone who steals or loots the aquatic products bred by others or destroy the breeding water or breeding facilities of others, he shall be ordered to remedy his acts, and may be imposed a fine of not more than 20,000 yuan; if such acts cause any damage to others, he shall bear the compensation liability pursuant to the law; if such acts commit a crime, criminal liabilities shall be prosecuted pursuant to the law.

Article 40 Where a water area or beach with ownership by the whole people used for aquatic breeding production lies waste for one year or longer without any justifiable reason, the authority which issues the aquatic breeding certificate shall order the user to develop and utilize it within a time limit; in case the user fail to develop and utilize it within the time limit, his aquatic breeding certificate shall be rescinded, and a fine of not more than 10,000 may also be imposed.

With respect to anyone who is engaged in aquatic breeding production in a water area with ownership by the whole people without permission before obtaining the aquatic breeding certificate according to the law, he shall be ordered to remedy his acts, and re-apply for the aquatic breeding certificate or dismantle the aquatic breeding facilities within a time limit.

With respect to anyone who is engaged in aquatic breeding production in a water area with ownership by the whole people prior to obtaining the aquatic breeding certificate according to the law or who exceeds the permitted fishing scope in the aquatic breeding certificate, thus hinders water carriage or flood drainage, he shall be ordered to dismantle the aquatic breeding facilities within a time limit, and may be imposed a fine of not more than 10,000 yuan.

Article 41 With respect to anyone who goes fishing without permission prior to obtaining the fishing license pursuant to the law, the fishing gains and illegal proceeds shall be confiscated, and a fine of not more than 100,000 yuan shall be imposed; if the case is gross, the fishing facilities and the fishing vessel may also be confiscated.

Article 42 With respect to anyone who goes fishing in violation of the provisions in the fishing license on type of operation, location, time limit, quantity of fishing facilities, the fishing gains and illegal proceeds shall be confiscated, and a fine of not more than 50,000 yuan may also be imposed; if the case is serious, the fishing facilities may also be confiscated and the fishing license be rescinded.

Article 43 Where the fishing license is altered, bought, sold, leased or otherwise transferred, the illegal proceeds shall be confiscated, and the fishing license be revoked, and a fine of not more than 50,000 yuan may also be imposed; where the acts of forging, mutilating, buying or selling the fishing license commit a crime, criminal liabilities shall be prosecuted pursuant to the law.

Article 44 Where the aquatic fingerlings are illegally produced, imported or exported, the fingerlings and illegal proceeds shall be confiscated, and a fine of not more than 50,000 yuan shall be imposed. With respect to anyone who is engaged in feeding aquatic fingerlings without being examined, determined and approved, he shall be ordered to cease the operation immediately, the illegal proceeds shall be confiscated, and a fine of not more than 50,000 yuan may also be imposed.

Article 45 With respect to anyone who is engaged in fishing activities in a preservation area for germ plasm resources of aquatic products without permission, he shall be ordered to cease fishing immediately, the fishing gains and fishing facilities shall be confiscated, and a fine of not more than 10,000 yuan may also be imposed.

Article 46 Where a foreigner or a foreign fishing vessel violates the provisions in this Law by entering the jurisdictional water areas of the People's Republic of China to be engaged in fishery production or activities for investigation of fishery resources, he/it shall be ordered to leave or be banished, the fishing gains and fishing facilities may be confiscated, and a fine of not more than 500,000 yuan may also be imposed; if the case is serious, the fishing vessel may be confiscated; if such acts commit a crime, criminal liabilities shall be prosecuted pursuant to the law.

Article 47 With respect to anyone who destroys the ecological environment of fishery water areas or causes any fishery pollution accident, his legal liabilities shall be prosecuted pursuant to the provisions in the Law of the People's Republic of China on the Protection of Sea Environment and the Law of the People's Republic of China on the Prevention and Cure of Water Pollution.

Article 48 The administrative penalties stipulated in this Law shall be decided by the department in charge of fishery administration of the people's government at the county level or above as well as its institutions for the supervision and administration of fishery, unless that this Law has already stipulated the penalty authority.

Where, in the execution of law on the sea, there are clear facts and sufficient evidence for the acts of fishing by violating the provisions on banned fishing areas or banned fishing periods or by using banned fishing facilities, fishing methods, and the acts of fishing without obtaining the fishing license, but the administrative penalty decision cannot be made or enforced in presence in conformity with legal procedures, the fishing license,

fishing facilities or fishing vessel may be temporarily distrained in advance, and the administrative penalty decision shall be made and enforced in the harbor pursuant to the law.

Article 49 Where the department in charge of fishery administration and its institutions for the supervision over and administration of fishery as well as their staff violate the provisions in this Law in checking and issuing licenses, distributing fishing quota or in the activities of fishery production and operation, or conduct other acts of neglecting their duty and not performing the legal obligations, abusing the administrative power, practicing fraudulence for personal interests, they shall be subject to administrative sanctions pursuant to the law; if such acts commit a crime, criminal liabilities shall be prosecuted pursuant to the law.

Chapter VI Supplementary Provisions

Article 50 This Law shall be implemented as of July 1st, 1986.