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**PROCLAMATION NO. 176/2014  
THE FISHERIES PROCLAMATION**

# PROCLAMATION NO 176/2014 THE FISHERIES PROCLAMATION

**WHEREAS**, the Government of Eritrea is aware of the potential for developing the fishery resources of Eritrea and of its obligation to manage them for the benefit of the country; and

**WHEREAS**, the powers of the competent bodies to ensure compliance and enforce the requirements of the law have to take into consideration the lessons learned so far and be updated to cope up with newly emerging challenges;

**NOW, THEREFORE**, it is hereby proclaimed as follows:

## PART I PRELIMINARY

### Article 1. Short Title

This Proclamation may be cited as “the Fisheries Proclamation No. 176/2014”.

### Article 2. Repeal

The Fisheries Proclamation No. 104/1998 is hereby repealed and replaced by this Proclamation. The Regulations issued under the Fisheries Proclamation No. 104/1998 shall, however, remain in full force until and unless they are replaced by other Regulations to be issued under this Proclamation.

### Article 3. Definition

In this Proclamation, unless the context otherwise requires:

- a) **“aquaculture”** means the rearing or cultivation of aquatic organisms using techniques designed to increase the production of the organisms in question beyond the natural capacity of the environment;
- b) **“aquatic organism”** means any-species living in water belonging to the animalia, plantae and protista kingdoms, including any part, gametes, seeds, eggs or propagules of their individuals that might survive and subsequently reproduce;
- c) **“artisanal fishing vessel”** means any vessel which is below 18 metres in length overall (LOA) and which is not fitted with any fixed operating gear which is powered by means of hydraulic, mechanical or electrical power;
- d) **“authorised officer”** means any authorised officer appointed under Article 5 hereof, any police officer not below the rank of sergeant and any member of the armed forces not below the rank of lieutenant;
- e) **“buy”** or **“buying”** includes:
  - i. bartering;
  - ii. attempting to buy;
  - iii. receiving on account or consignment;
  - iv. receiving in order to send, forward or deliver for sale;
  - v. brokering a sale;
  - vi. buying future goods; or
  - vii. buying as an agent for another person;
- f) **“Director-General”** means the Director-General responsible for the Regulatory Services Department of the Ministry of Marine Resources in the State of Eritrea;

- g) **“document”** means a logbook, declaration or document or any record or required information under this Proclamation including, in addition to a logbook, declaration or document or any record or required information in writing, and includes:
- i. any map, plan, graph or drawing;
  - ii. any photograph;
  - iii. any disk, tape, sound track or other device in which sounds or other data (not being visual aids) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced from such document;
  - iv. any film (including microfilm), negative, tape, disk or other device in which one or more visual images are recorded so as to be capable of being reproduced from such document; and
  - v. any data, howsoever reproduced, communicated via a satellite-based Vessel Monitoring System established under this Proclamation.
- h) **“Eritrean waters”** means inland water, marine internal waters, the territorial sea and any waters or the seabed over which Eritrea exercises sovereign rights in respect of living resources;
- i) **“fishing”** means fishing for, catching, taking or killing fish or other aquatic organisms by any method;
- j) **“Fishing licence”** means a licence issued under Articles 16, 17 or 18 hereof;
- k) **“Fishing vessel”** means any vessel used for fishing;
- l) **“Foreign fishing vessel”** means a foreign fishing vessel as provided for in Article 14 hereof;
- m) **“high seas”** means the waters beyond areas under the jurisdiction of any State;
- n) **“international conservation and management measures”** means measures prescribed by any international, regional or bilateral agreement or body to which the State of Eritrea is a signatory or a member of;
- o) **“Illegal fishing”** means activities:
- i. conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state, or in contravention of its laws and regulations;
  - ii. conducted by vessels flying the flag of states that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the states are bound, or relevant provisions of the applicable international law; or
  - iii. in violation of national laws or international obligations, including those undertaken by cooperating states to a relevant regional fisheries management organization.
- p) **“industrial fishing vessel”** means any vessel over 18 metres in length overall (LOA) which is both fitted with fixed operating gear and powered by means of hydraulic, mechanical or electrical power;
- q) **“IUU fishing”** means illegal, unreported and unregulated fishing or fishing activities;
- r) **“Licensing officer”** means, in respect of a licence issued under Article 17 hereof, the Minister and, in respect of any other licence under this Proclamation, the officer appointed by the Minister to issue a licence.
- s) **“Minister”** or **“Ministry”** means the Minister or Ministry of Marine Resources of the State of Eritrea respectively;
- t) **“National fishing vessel”** means a national fishing vessel as provided for in Article 14 hereof;

- u) **“Operator”** in relation to a fishing vessel means any owner, charterer, sub-charterer, lessee or sub-lessee of the vessel or any other person who controls or directs the operation or movements of the vessel or who is legally entitled to do so, whether exclusively, jointly, directly or indirectly, and any other person to whom a licence relating to the vessel has been issued under this Proclamation;
- v) **“Person”** means a natural or juridical person;
- w) **“precautionary approach to fisheries management”** means that the absence of adequate scientific information should not be used as a reason for postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment;
- x) **“Protected Species”** means marine mammals and other aquatic organisms the fishing of which is prohibited.;
- y) **“related activities”** in relation to fishing includes:
  - i. transshipping fish or other aquatic organisms to or from any vessel;
  - ii. buying, storing or processing fish or other aquatic organisms;
  - iii. transporting fish or other aquatic organisms taken from Eritrean waters until they are first landed (other than in the vessel which caught them); and
  - iv. refunding or supplying fishing vessels or performing other activities in support of fishing operations;
- z) **“satellite-tracking device”** means a device which sends the required information by way of satellite and land earth station to a Fisheries Monitoring Centre;
- aa) **“semi-industrial fishing vessel”** means any vessel under 18 metres in length overall (LOA) which is both powered and which is fitted with fixed operating gear which is powered by means of hydraulic, mechanical or electrical power;
- bb) **“Unreported fishing”** means fishing activities:
  - i. which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
  - ii. undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.
- cc) **“Unregulated fishing”** means fishing activities:
  - (i) in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a state not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or
  - (ii) in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with state responsibilities for the conservation of living marine resources under international law.

## PART II ADMINISTRATION

### **Article 4. The Ministry**

The Ministry shall be responsible for the management and development of the fisheries resource in Eritrea and for the administration of this Proclamation.

### **Article 5. Authorised Officers**

The Minister may appoint any public officer to serve as an authorised officer for the purposes of this Proclamation.

### **Article 6. Fisheries Advisory Council**

- 1) There shall be a Fisheries Advisory Council (hereinafter the "Council") to advise on the management and development of fisheries and discharge such responsibilities as are conferred on it under this Proclamation.
- 2) The Council shall comprise the following persons;
  - (a) an officer of the Ministry who is responsible for administering and enforcing this Proclamation;
  - (b) a representative of the department responsible for ports and maritime transport;
  - (c) a representative of the Eritrean Navy;
  - (d) a representative of the department responsible for economic development and/or investment;
  - (e) a representative of the Research and Training Division of the Ministry;
  - (f) an elected representative of persons engaged in artisanal fishing;
  - (g) an elected representative of operators of foreign fishing vessels fishing in Eritrean waters; and
  - (h) an elected representative of operators of national commercial fishing vessels (if any).
- 3) The Council may invite other persons to participate in its meetings and shall, whenever it considers matters particularly affecting an area of Eritrea or a government department, invite one or more persons engaged in fisheries in that area, or a representative from that department respectively, to participate in its meetings.
- 4) The Council shall elect one of its members as chairperson and shall issue its own rules of procedure.

## PART III FISHERIES MANAGEMENT

### **Article 7. Fisheries Management Plan**

- 1) The Minister may, in furtherance of the need to ensure the sustainable use of the marine fisheries, by decision, declare that
  - (a) any fishery or fisheries, or
  - (b) species of fish, or group of species, or
  - (c) any area within the Eritrean waters

shall be managed in accordance with a multi-annual Fishery Management Plan which shall set harvesting rules consisting of a predetermined set of biological parameters to govern catch limits at biologically sustainable levels.

- 2) A plan of management shall set out:

- a) a description of the fishery by reference to area, fish species, fishery characteristics, fishing methods and the state of exploitation;
  - b) an analysis of the fish stocks including their biological characteristics and conservation status;
  - c) the objectives to be achieved in the plan of management;
  - d) the targets to be achieved by the plan;
  - e) the specific technical measures to be implemented, including conservation reference points;
  - f) the means by which these objectives are to be achieved by outlining the management or development strategy to be followed;
  - g) the economic impact of the measures on the fishery;
  - h) performance criteria or other means of evaluating the effectiveness of the plan; and
  - i) the date of review of performance of the plan by the responsible authority, notwithstanding the duty of the fishery managers to maintain a constant review;
- 3) In addition to the requirements set out in sub-article (2) hereof, a plan of management may also specify:
- a) any scheme of licensing or registration which may include but is not limited to boats, gear, fishermen or any other means of controlling the capture or taking of fish;
  - b) the issue of special permits allowing exemptions for the purpose of scientific fishing;
  - c) the issue of special permits allowing exemptions for specified types of vessel.
  - d) any scheme for reducing discards;
  - e) any scheme for extending the use of compulsory vessel monitoring schemes to any class of vessel which may be specified by the Minister;
  - f) any scheme of licensing or issuing of permits for sport-fishing or diving;
  - g) allowance for temporary derogations from the plan including technical measures or any restrictions to zones including gears or vessels;
  - h) the limitations, if any, to be applied to fishing operations; or
  - i) the means of fixing of licence or permit fees, resource rent, catch or other benefit accruing from the use of the fishery.
- 4) In the preparation or review of a plan of management, the competent authority responsible for its preparation or review shall consult with all those who may be directly affected including local authorities, fishermen or leaders of fishermen's associations, beneficiaries or any government authority with a direct interest in the management of the fishery.
- 5) Each plan of management, and each review, shall be submitted to the Minister for approval, and shall be implemented upon receipt of such approval in writing.

#### **Article 8. Objectives and Principles for the Sustainable Management of the Marine Aquatic Resources and Marine Environment of the State of Eritrea**

- (1) The main objective of this Proclamation is to ensure that exploitation of living marine aquatic resources is consistent with sustainable economic, environmental and social conditions.**
- (2) The Minister in administering this Proclamation, shall:**
  - a) apply the precautionary approach in taking measures designed to protect and conserve living aquatic resources while maintaining biological diversity;

- b) provide for the sustainable exploitation of living marine aquatic resources and undertake measures aimed at minimising the impact of fishing activities on marine eco-systems;
  - c) aim to contribute to efficient fishing activities within an economically-viable and competitive fisheries sector, providing a fair standard of living for those who depend on fishing activities and also taking into account the interests of consumers; and
  - d) in respect of the region, have due regard of the interests of other states in shared, straddling and migratory stocks and recommended international minimum standards when considering the development needs of Eritrea.
- (3) The Minister shall be guided by the following principles of good governance:
- a) clear definitions of responsibilities at national and local levels;
  - b) a decision-making process based on sound scientific advice which delivers timely results;
  - c) broad involvement of stakeholders at all stages of the policy from conception to implementation; and
  - d) consistency with regional, national and local environmental policies.

#### **Article 9. Fisheries Management Measures**

- 1) The Minister may issue regulations prescribing measures for the proper management of fisheries.
- 2) Prescribed management measures may include but shall not be limited to:
  - (a) closed seasons and closed areas;
  - (b) prohibited fishing method and gear and specification of gear that may be used, including the mesh size of nets;
  - (c) the species, sizes and other characteristics of fish and other aquatic organisms permitted or forbidden to catch; and
  - (d) schemes for the limitation of entry into all or any specified fisheries.
- 3) A regulation prescribing management measures may also prohibit the possession, purchase, sale, import or export of any gear, fish or other aquatic organism.

#### **Article 10. Fisheries Information**

- 1) The Ministry shall collect, analyse and publish statistical and other information on fisheries.
- 2) Every person engaged in fishing, related activities or aquaculture shall supply such information regarding those activities, in such form, as an authorised officer may require.
- 3) The Minister may consult with fisheries management authorities of other states or with any international, regional or bilateral body to which the State of Eritrea is a member with a view to the harmonisation and/or coordination of management measures and the exchange of information on fisheries, and may exchange such information as the Minister deems necessary for the purposes of the proper management of fisheries.
- 4) The Minister may, by notice, require that
  - a) any record of information required under sub-Article (2) hereof may be entered or recorded by electronic means, and

b) such information shall be transmitted to the Director-General or other competent authority by radio signal or such other means as may be prescribed.

5) The Minister shall, by directive, determine:

(a) the form and manner of reporting;

(b) the procedure to be followed;

(c) the means which may be used; and

(d) the reporting interval or such reporting schedule as may be required.

6) Notwithstanding any publication made by the Minister under sub-Article (1) above, ownership of all information required to be reported, notified or otherwise given to the Ministry or the Minister under this Proclamation is vested in the Ministry.

7) Ownership of all information generated by a satellite tracking device required by and operating under Article 13 is vested in the Ministry.

8) The Minister may exchange and provide information, including evidentiary material, related to non-compliance with any provision of this Proclamation or with any international conservation and management measure, to the appropriate authorities of:

(a) the flag state of any foreign fishing vessel suspected of such non-compliance;

(b) in terms of any international, regional or bilateral agreement of which the State of Eritrea is a signatory; or

(c) any international, regional or bilateral body of which the State of Eritrea is a member.

9) The Minister may instruct the Director General to maintain a list of IUU vessels established in accordance with the terms laid down by any international, regional or bilateral body of which the State of Eritrea is a member.

#### **Article 11. Scientific Research**

1) No vessel may be used in Eritrean waters for research related to living resources, except with the authority of the Minister under sub-Article (2) hereof or in accordance with a fishing licence.

2) The Minister may in writing authorise any person or vessel to fish for the purpose of scientific research, subject to such conditions as the Minister may prescribe by regulations or otherwise specify.

3) An authorisation under sub-Article (2) hereof may exempt any persons or vessel from any provision of this Proclamation.

#### **Article 12. Protected Species and Protected Areas**

1) No person may fish for any marine mammal or other protected species in Eritrean waters.

2) Any marine mammal or other protected species caught accidentally shall be released immediately and returned with the least possible injury to the waters from which it was taken.



- 3) Except with the written permission of the Minister, no person shall take or destroy any coral or take any shell.
- 4) The Minister may, after consultation with the occupiers of adjoining land, the authorities responsible for other uses of the area, the appropriate local government councils and the Council, declare any area of Eritrean waters and adjoining coast to be a protected area.
- 5) A declaration of a protected area may prohibit or restrict fishing within such area.
- 6) Except with the written permission of the Minister, no person shall within any protected area:
  - (a) dredge or take any sand or gravel;
  - (b) destroy, disturb or alter the natural habitat;
  - (c) fish contrary to any prohibition or restriction under sub-Article (2) hereof.;
  - (d) take or destroy any fauna or flora other than fish;
  - (d) discharge or deposit waste or any other polluting matter;
  - (e) construct or erect any building or other structure on or over any land or water; or
  - (f) carry on any activity which may adversely impact on the ecosystems of that area.
- 7) The Minister may give permission in writing that any activity prohibited in this section may be undertaken where such activity is required for the proper management of the marine protected area.

**Article 13. Vessel Monitoring Systems**

- (1) The Minister may:
  - a) require that a satellite-based Vessel Monitoring System (VMS) for fishing vessels be established in the State of Eritrea,
  - b) prescribe the means and type of system to be installed on board fishing vessels to enable tracking by satellite, and
  - c) determine which class of vessel shall be required to install such a system.
- (2) The Director-General shall:
  - a) be responsible for the management and operation of a Vessel Monitoring System established under sub-Article (1) above, and
  - b) establish a Fisheries Monitoring Centre to carry out this function.
- (3) Every fishing vessel required under sub-Article (1) (c) to have installed on board a satellite tracking system shall be fitted with satellite tracking equipment of a type which allows detection and identification of that vessel by the remote monitoring system.
- (4) The operator of a foreign fishing vessel licensed under this Proclamation or any international, regional or bilateral agreement shall install, maintain and operate in accordance with such conditions as may be prescribed a satellite-tracking device functioning at all times while in the Eritrean waters or such other area as may be agreed or designated.

- (5) The Minister may, by notice,
- a) prescribe the operational requirements and responsibilities for vessels which have satellite-tracking device installed on them, and
  - b) determine the scale of charges related to inspection, control and the release of non-confidential information obtained from such a device.

#### **PART IV FISHING LICENCES**

##### **Article 14. Nationality of Fishing Vessels**

- 1) For the purposes of this Proclamation a national fishing vessel is a fishing vessel which:
  - (a) is wholly owned by one or more citizens of Eritrea, the State of Eritrea, its bodies or enterprises; or
  - (b) is wholly owned by a business organisation established under the Commercial Code of Eritrea, which is wholly owned by one or more citizens of Eritrea, the State of Eritrea, its bodies or enterprises; or
  - (c) has been determined by the Minister to be a national fishing vessel under sub-Article (2) hereof.
- 2) The Minister may in writing determine that any vessel shall be a national fishing vessel for the purposes of this Proclamation for so long as:
  - (a) the vessel is wholly owned or chartered by a business organisation established under the Commercial Code; and
  - (b) Eritrean citizens, the state, its bodies or enterprises, together hold the majority of voting shares in the business organisation or are otherwise legally entitled to exercise control of the management of the business organisation.
- 3) Any fishing vessel which is not a national fishing vessel in accordance with the provisions of this Article shall be a foreign fishing vessel for the purposes of this Proclamation.

##### **Article 15. Fisheries Access Agreements**

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

**Article 16. Foreign Fishing Vessel Licence**

- 1) No foreign fishing vessel, except a vessel used exclusively for recreational fishing, shall be used for fishing or conducting related activities in Eritrean waters except under the authority of a valid licence issued under this Article or an authorisation under Article 11 hereof.
- 2) Subject to this Proclamation and to the applicable fisheries management and development plan, the Minister may issue a licence in respect of any foreign fishing vessel authorising the vessel to be used in Eritrean waters for such fishing or related activities as may be specified in the licence.
- 3) No licence shall be granted under sub-Article (2) hereof unless:
  - (a) there is in force with the Government of the flag state of the vessel, with an intergovernmental organisation to which the flag state has delegated the power to negotiate fishing agreements or with an association of which the operator is a member, an agreement entered into under Article 15 hereof to which Eritrea is a Party; or
  - (b) the Minister determines that an agreement under Article 15 hereof is not feasible and the applicant provides sufficient financial and other guarantees for the fulfilment of all obligations under this Proclamation.

**Article 17. Stowage of Gear**

Any foreign fishing vessel, except a vessel used exclusively for recreational fishing, that is not licensed in accordance with Article 16 hereof or authorised under Article 11 hereof shall at all times that it is in Eritrean waters keep its fishing gear stowed in such manner as may be prescribed by regulations.

**Article 18. National Fishing Vessel Licence**

- 1) No national fishing vessel may, unless it has been exempted under sub-Article (2) hereof be used for fishing or conducting related activities except under the authority of a valid fishing licence issued under this Article or of an authorisation under Article 11 hereof.
- 2) The Minister may, issue a national fishing vessel licence in accordance with Article 14 to an applicant or applicants who satisfy the requirements of Article 14 in respect of a national fishing vessel, authorising such activities, subject to such conditions and valid for such period, as the Minister may determine and state in the licence.
  - a) The Minister may make regulations for the issue of industrial, semi-industrial or artisanal fishing licences and determine any other category of national fishing licence in addition to those already stated.
  - b) The Minister may, by notice, exempt any category of national fishing vessel from the requirements of this Article, subject to such terms as the Minister may prescribe.
- 3) A licensing officer shall, upon proper application in accordance with Article 20 hereof, grant a licence in respect of a national fishing vessel if the licensing officer is reasonably satisfied that:
  - (a) the issue of the licence is consistent with the applicable fisheries management and development plan; and
  - (b) the applicant is able and willing to comply with the conditions of the licence.

**Article 19. Other Licences**

- 1) The Minister may make regulations requiring a licence for:
  - (a) any kind of fishing, with or without the use of a vessel; and/or
  - (b) the use of a vessel for any related activity.
- 2) A licensing officer may, upon application in accordance with Article 20 hereof, issue a licence authorising the applicant to conduct any kind of fishing or related activity for which the licence is required by regulation under sub-Article (1) hereof.
- 3) No national fishing vessel may be used for fishing or related activities on the high seas except under the authority of a valid fishing licence issued under this Article.
- (4) Subject to this Proclamation, any applicable fisheries management and development plan and applicable international conservation and management measures, the Minister may issue a license in respect of a national fishing vessel authorising the vessel to be used on the high seas for such fishing or related activities as may be specified in the licence.
- (5) The Minister may make regulations regarding the licensing and use of any national vessel on the high seas for fishing or related activities.

**Article 20. Applications for Licence**

Any application for a licence under this Proclamation shall be made in the form and manner prescribed by regulation.

**Article 21. Conditions of Fishing Licences**

- 1) Every fishing licence shall be subject to such general conditions, as the Minister may prescribe, to the conditions made applicable to the licence by any agreement under Article 15 hereof, and to any special conditions which may be endorsed on the licence by the licensing officer, including conditions related to:
  - a) the type and method of fishing or related activity authorised;
  - b) the areas within which such fishing or related activity is authorised;
  - c) the target species and amount of fish or other aquatic organisms authorised to be taken, including any restrictions on them;
  - d) the period during which fishing or a related activity is authorised;
  - e) measures to facilitate enforcement of this Proclamation.; and
  - f) the tagging and marking of gear.
- 2) The Minister may vary any special condition attached to any fishing licence if the Minister is satisfied that it is expedient for the proper management of fisheries.
- 3) The Minister shall notify the licensee as soon as practicable of any variation or special condition attached to a fishing licence.

**Article 22. Fees and Other Payments**

There shall be payable in respect of every fishing licence such fees and other payments as may be prescribed by regulation or as may be provided for by an agreement under Article 15 hereof.

**Article 23. Validity of Fishing Licences**

- 1) A fishing licence issued under this Proclamation shall be valid for such period not exceeding three years as may be prescribed by regulation or specified in the licence.
- 2) Where a vessel licensed as a national fishing vessel ceases to be a national fishing vessel, the licence in respect thereof shall automatically terminate.

- 3) The term of a licence issued under Article 16 hereof shall not extend beyond the term of any applicable agreement under Article 15 hereof, or if there is no such agreement, beyond one year.
- 4) No fishing licence shall be transferable except to a vessel which does not have a greater catching capacity and with the written permission of a licensing officer or as may be prescribed by regulation for the limitation of entry into any fishery.
- 5) A license or authorisation issued under this Proclamation shall at all times be kept on the vessel or at the place specified in the license or authorisation.
- 6) A fishing licence or authorisation shall be presented to an authorised officer upon his request; provided that the operator of a vessel or facility is unable to produce a licence or certified copy of such licence or authorisation, the vessel or facility shall be deemed to be unlicensed.

**Article 24. Suspension and Cancellation of Licence**

- 1) Where there is reasonable ground to believe that this Proclamation or any licence condition has been contravened, the Director-General may suspend any licence which is related to a vessel or equipment suspected of having been used in the commission of the alleged offence.
- 2) A licensing officer may suspend and the Director-General may cancel any fishing licence where such action is necessary or expedient for the proper management of fisheries.
- 3) In the event of the suspension or cancellation of any fishing licence for the reasons set out in sub-Article (2) hereof any fees paid with respect to the period of time during which the licence is suspended or cancelled shall be refunded to the licensee.
- 4) Any person aggrieved by a decision of the Director-General under sub-article (1) or (2) above, may appeal against such suspension or cancellation in terms of the procedure set out in Article 48.

**PART V  
AQUACULTURE**

**Article 25. Culture, Introduction and Transfer of Aquatic Organisms**

- 1) For the purposes of this Article, Eritrean internal waters include any pond, dam, tank or any other natural or artificial water-body.
- 2) No person may keep, grow, breed or otherwise culture fish in Eritrean waters or within Eritrea without a valid authorisation or licence issued under Article 26 except where such fish is kept in a private pond or aquarium for private non-commercial purposes.
- 3) A person may not, without the written authorisation of the Director-General, introduce or cause to be introduced into the internal waters or the fishery waters of Eritrea any species of aquatic organism or any genetically modified aquatic organism or transfer any species of aquatic organisms from one aquaculture facility in Eritrea to another or from any place in Eritrea to another place.
- 4) The Minister may not issue any approval under this section unless the impact of any introduction or transfer of any aquatic species or genetically modified aquatic organism has been assessed, if so required, in accordance with the legislation or policy dealing with environmental assessments.

## **Article 26. Application for an Aquaculture Licence**

- 1) A person who makes an initial application to the Director-General for an aquaculture licence shall in his application attach the following documentation:
  - (a) the name and full contact details of the applicant;
  - (b) a map or chart showing the location and extent of the site of the proposed aquaculture site;
  - (c) a brief outline of the proposed scheme, including:
    - (i) the species to be farmed;
    - (ii) the annual scale of production in tonnes (deadweight);
    - (iii) the biomass capacity of the proposed development;
    - (iv) the equipment to be installed on site; and
    - (v) the possible impacts of the proposed development on the environment;
  - (d) a statement of the proposed operating procedures which shall include details for limiting or obviating environmental and disease risks;
  - (e) any intended associated development; and
  - (f) any other information or representations which may be relevant to the technical or environmental aspects of the proposed facility.
- (2) When considering an application submitted under paragraph (1) the Director-general may have regard to:
  - a) the technical and financial ability of the applicant to exercise the rights sought in the application satisfactorily;
  - b) the species of aquatic organisms that the applicant proposes to farm and the method of aquaculture that the applicant proposes to employ; and
  - c) any other matters applicable to the licence that, in the opinion of the Minister, are relevant;and shall, having consulted such authorities, bodies or persons as he/she considers appropriate, notify the applicant in writing if he/she requires further information, and shall itemise those matters and such detail as he/she may require.
- (3) In addition to or in conjunction with a notification made under sub-Article (2) hereof, the Director-General may require the applicant submits an Environmental Impact Assessment (EIA) of the proposed development which shall be performed by a suitably-qualified person.
- (4) An aquaculture licence that may be issued under this Article is not transferable from the holder to any other person, except where authorisation has been given by the Minister under the provisions of this Article.

## **Article 27. Content of aquaculture licences**

- (1) A licence shall be issued in the name of the applicant and shall state the registered address of the applicant.
- (2) A licence shall only be issued for the site defined in the licence and shall specify the species of aquatic organisms that may be farmed and harvested there.
- (3) A licence shall confer upon the licensee an exclusive right to farm and harvest aquaculture products within the site defined in the licence.

- (4) A licence issued for sea-ranching purposes shall confer upon the licensee an exclusive right to release and harvest aquaculture products within the site defined in the licence.
- (5) The Minister may issue a licence subject to any conditions the Minister considers appropriate, including but without limitation to conditions related to:
  - (a) a specification, by means of a map or otherwise, of the boundaries or limits of the place or waters in relation to which the licence is granted;
  - (b) marking of the site;
  - (c) the quantities of aquatic organisms which may be introduced and retained at the site;
  - (d) the source and strain of all seed and stock to be cultivated;
  - (e) the structures and equipment which may be used and the maintenance practices to be followed at the site;
  - (f) water quality;
  - (g) the composition of the feed which may be used;
  - (h) the types of fertilizer which may be used;
  - (i) the use of hormones for controlling reproduction or promoting growth;
  - (j) the use of any drugs, antibiotics or other chemicals;
  - (k) the measures to be taken to prevent the escape of aquatic animals and the development and spread of disease and parasites and to minimise the risk of damage to the environment or other aquaculture facilities;
  - (l) good hygiene practice which shall include but be limited to the measures to be taken to minimise risk to other aquaculture facilities;
  - (m) the disposal of dead or diseased aquaculture products, material or waste resulting from aquaculture;
  - (n) the keeping of records;
  - (o) the duration of the licence; and
  - (p) such other conditions as the Minister may consider appropriate.
- (6) An aquaculture licence or a certified copy of that licence shall be:
  - (a) maintained at the registered premises of the licensee; and
  - (b) presented to an authorised officer upon request or, where this is not possible, a licensee or another person responsible for the aquaculture facility for which the request was made shall present the requested licence or certified copy to the authorised officer not later than 24 hours following the time when the request was made; provided that where an operator of an aquaculture facility is unable to produce a licence or certified copy it under paragraph (b) above of this sub-Article, the facility shall be deemed to be unlicensed.

**Article 28. Prevention and Reporting of Disease or Harmful Organism**

- 1) Any licensee or other person engaged in aquaculture shall immediately report to the Director-General or an authorised officer the presence of any disease or harmful organism in an aquaculture facility.
- 2) The Director General, may upon the advice of the Minister, where there is deemed to be a significant risk to any aquatic organism or to the environment:
  - a) order the isolation, quarantine or treatment of any aquatic organism infected or thought to be infected with a disease or harmful organism;
  - b) order the destruction or restriction of the movement of any aquatic organisms infected or thought to be infected with a disease or harmful organism;
  - c) order the quarantining of any aquaculture facility in which the Director-General reasonably suspects that a disease or harmful organism is present; or
  - d) order the closure of any aquaculture facility where such action is necessary to protect the environment or to prevent the spread of disease.

- 3) Any licensee or other person engaged in aquaculture shall take all possible measures to prevent the spread of disease or of any harmful organism in or from an aquaculture facility, including the destruction of aquatic organisms or aquaculture products and the disinfection of aquaculture facilities, and the licensee shall immediately undertake any measures that the Director General may direct for that purpose.
- 4) Where an order is made under sub-Article (2) hereof, the Minister may allow a reasonable time for the operator of the facility to rectify the conditions leading to the closure or suspension of operations, and if such conditions are not or cannot be rectified, the Minister may cancel the licence issued under Article 26 hereof.

## PART VI ENFORCEMENT

### Article 29. Power of Authorised Officers

- 1) For the purposes of enforcing this Proclamation, any authorised officer may, without a warrant:
  - a) stop, board, inspect and search any fishing vessel in Eritrean waters;
  - b) require to be produced, examine and take copies of any licence, logbooks, or other document required under this Proclamation;
  - c) require to be produced and examine any fish or other aquatic organisms, fishing net or other fishing gear whether at sea or on land;
  - d) enter any premises for the purpose of arresting a person who the officer has reasonable grounds to believe has committed an offence under this Proclamation;
  - e) enter, inspect and search any premises, other than premises used exclusively as a dwelling house:
    - i. where fish or other aquatic organisms are being cultivated or stored; or
    - ii. in which the officer has reasonable grounds to believe that evidence of an offence may be found;
  - f) stop, inspect and search any vehicle:
    - i. used to transport fish or other aquatic organisms;
    - ii. in or on which the officer has reasonable grounds to believe that evidence of an offence may be found; or
    - iii. that the officer has reasonable grounds to believe has been used to commit an offence under this Proclamation;
  - g) take samples of any fish or other aquatic organisms found in any fishing vessel, premises or vehicle searched under this Article;
  - h) seize any fish or other aquatic organisms which the officer has reasonable grounds to believe has been caught or produced in the commission of the offence, or is being possessed, imported or exported in contravention of this Proclamation;
  - i) seize any poison or explosive which the officer has reasonable grounds to believe is being possessed in contravention of this Proclamation;
  - j) seize any vessel (together with its gear, store and cargo), vehicle or fishing gear, which the officer has reasonable grounds to believe, has been used in the commission of an offence or in relation to which an offence has been committed;
  - k) Destroy or otherwise render harmless any fish or other aquatic organism, which he has reasonable grounds to believe is diseased or otherwise contaminated; and



- 1) arrest any person who the officer has reasonable grounds to believe has committed an offence under this Proclamation.
- 2) The master of any fishing vessel ordered by an authorised officer to stop shall stop the vessel and take all necessary measures to facilitate its boarding.
- 3) An authorised officer in exercising any of the powers conferred on him by this Article shall, on demand, produce such means of identification as may be necessary to show that he is an authorised officer for the purposes of this Proclamation.
- 4) A written receipt shall be given for anything seized under sub-Article (1) hereof and the grounds for such seizure shall be stated in the receipt.
- 5) Any vessel seized under sub-Article (1) hereof and the crew thereof shall be taken to the nearest or most convenient Eritrean port, and any vessel or other thing seized shall be delivered into the custody of a court.
- 6) Any person arrested shall be taken as soon as practicable before a court to be dealt with according to the law.
- 7) In case of arrest or detention of foreign vessels, the flag state shall be promptly notified of the action taken and any penalties subsequently imposed.
- 8) The powers set out in sub-article (1)(a), (b), (c), (e) to (j) above, and the provisions as set out in sub-articles (2) to (7) above, shall also apply to any national vessel outside Eritrean waters and on the high seas.

**Article 30. Hot Pursuit**

Where, following the commission in Eritrean waters of an offence against this Proclamation with the use of a vessel, the vessel is pursued beyond the limits of Eritrean waters, the powers conferred on authorised officers under Article 29 shall be exercisable in respect of such vessel beyond the limits of such waters in circumstances and to the extent recognised by international law or by any applicable bilateral or regional agreements.

**Article 31. Protection of Authorised Officers from Liability**

- 1) An authorised officer who does, or purports to do, anything under this Proclamation or who omits to do anything required to be done by this Proclamation, shall not be subject to any criminal or civil liability, unless the officer acted in bad faith or without reasonable cause.
- 2) The state, including any state agencies, shall not be directly or indirectly liable for an act or omission of an authorised officer or observer unless the officer or observer would be liable.

**Article 32. Custody of Seized Goods**

Any vessel or other thing seized under Article 29 (1) hereof shall, except as provided in Articles 33 and 34 hereof, be held by the court and dealt with as provided in Article 37 hereof.

**Article 33. Disposal of Perishable Goods**

- 1) An Authorised officer or the court may, to avoid spoilage or decay of any fish or other aquatic organism or other thing of a perishable nature seized under this Proclamation, sell them or, if sale is impracticable, dispose of them in such manner as may appear suitable.
- 2) In case of sale or disposal under sub-Article (1) hereof, the authorised officer or court shall give to the person from whom the seizure was made a receipt stating:
  - (a) the date of the sale;

- (b) the quantity of fish or other aquatic organisms and other things of a perishable nature sold; and
  - (c) the amount realised from the sale.
- 3) The proceeds of any sale under sub-Article (1) hereof shall be paid to court and dealt with in the manner provided by Article 37 hereof for the fish or other things sold.

**Article 34. Release of Vessels, etc. on Bond**

- 1) The Minister may order the release of any fishing vessel (together with its gear, stores and cargo), vehicle, fish, other aquatic organism or fishing gear seized under this Proclamation on receipt of a reasonable bond or other form of security.
- 2) Any bond or other form of security received under sub-Article (1) hereof shall be delivered to a court and dealt with in the manner provided by Article 37 hereof for vessel or other thing released.

**Article 35. Offences**

- 1) The operator and master of a foreign vessel each commit a category 1 offence where the vessel:
  - (a) requires a licence to fish or to conduct related activities under Article 16 or 19(1) hereof or authority to conduct scientific research under Article 11 hereof, and is used for fishing or conducting related activities in Eritrean waters without the necessary licence or authorisation; or
  - (b) is used for fishing or conducting related activities in Eritrean waters in contravention of any international conservation and management measures.
- 2) The operator and master of a foreign vessel each commit a category 2 offence where the vessel:
  - (a) is used for fishing or conducting related activities in Eritrean waters in contravention of any condition of a license or authorization; or
  - (b) is required in terms of Article 13 to fit and install a satellite-tracking device but:
    - i. fails to do so within the time prescribed by the Minister; or
    - ii. fails to maintain, without good cause, a satellite-tracking device installed so that it is at all times fully functional and compliant with any requirement made by the Minister under Article 13;
  - (c) does not have a licence to fish under Article 16 or 19(1) hereof or an authorisation to conduct scientific research under Article 11 hereof and is in Eritrean waters without its fishing gear stowed in the prescribed manner.
- 3) The operator and master of a national vessel:
  - a) in the case of an industrial vessel, each commit a category 2 offence;
  - b) in the case of a semi-industrial vessel, each commit a category 3 offence;
  - c) in the case of an artisanal vessel, each commit a category 4 offence;
  - d) where the vessel:
    - i. requires a licence to fish or to conduct related activities under Article 18 or 19(1) hereof or an authorisation to conduct scientific research under Article 11 hereof but is used for fishing or conducting related activities in Eritrean waters without the necessary licence or authority;
    - ii. requires a license to fish or conduct related activities under article 19(3) but is used for fishing or conducting related activities on the high seas without the necessary licence or authority; or

- iii. is used for fishing or conducting related activities in Eritrean waters or on the high seas in contravention of any international conservation and management measures.

4) The operator and master of a national vessel:

- a) in the case of an industrial vessel, each commit a category 3 offence;
- b) in the case of a semi-industrial vessel, each commit a category 4 offence;
- c) in the case of an artisanal vessel, each commit a category 5 offence;
- d) where the vessel:
  - i. is used for fishing or conducting related activities in Eritrean waters or high seas in contravention of any condition of a license or authority; or
  - ii. in contravention of any provision of any applicable regulation issued in terms of Article 19(5);
  - iii. is required in terms of Article 13 to fit and install a satellite-tracking device but:
    - a. fails to do so within the time prescribed by the Minister; or
    - b. fails to maintain, without good cause, a satellite-tracking device so installed so that it is at all times fully functional and compliant with any requirement made by the Minister under Article 13
  - iv. navigates through an area of Eritrean waters in which it is not authorised to fish without its fishing gear stowed in the prescribed manner; or
  - v. is used to tranship, offload or land fish or other aquatic organisms caught in Eritrean waters outside of Eritrean waters.

5) A person commits a category 2 offence where that person uses, or attempts to use, any explosive, fire-arm, poison or other noxious substance, to catch, kill, stun or disable fish or other aquatic organisms or to in any way render fish to be caught more easily, or carry or have in his or her possession or control any explosive, fire-arm, poison or other noxious substance for such a purpose.

6) A person commits a category 4 offence where that person:

- (a) fishes in contravention of any management measure prescribed under Article 9 hereof;
- (b) destroys, damages, renders inoperative or otherwise interferes with a satellite-tracking device;
- (c) destroys or abandons any fish or other aquatic organisms, fishing gear, explosive, poison or any marine mammals or other thing with the intent to avoid their seizure or the detection of an offence against this Proclamation;
- (d) fishes for any marine mammals or other protected species or, having accidentally caught any marine mammal or other protected species, fails to release it immediately and return it with the least possible injury to the water from which it was taken;
- (e) takes or destroys any coral or takes any shell without the written permission of the Minister;
- (f) in a protected area, without the written permission of the Minister, undertakes any activity prohibited in Article 12(6);
- (g) dumps gear, moorings or any other object in the sea or leaves or abandons such objects in the sea or seabed;
- (h) fails to recover any gear, moorings or other object that have been deposited in the sea or seabed;

- (i) fails to supply information required under this Proclamation or supplies false or misleading information; or
  - (j) uses or discloses information received pursuant to this Proclamation for any purposes other than the purposes of this Proclamation.
- 7) A person commits a category 3 offence where that person takes, imports, exports, tranships, lands, transports, sells, receives, acquires or buys any fish or fish product taken, possessed, transported or sold in violation of any law or regulation of another state or of international conservation and management measures, or causes or permits a person acting on his or her behalf to do so, or uses or permits a vessel to engage in such an activity.
- 8) A person commits a category 4 offence where that person:
- a) keeps, grows, breeds or otherwise cultures fish in Eritrean waters or within Eritrea without a valid authorisation or licence as required by Article 25(2) and issued under Article 26 hereof, except where such fish is kept in a private pond or aquarium for private non-commercial purposes;
  - b) introduces or causes to be introduced into the internal waters or the fishery waters of Eritrea any species of aquatic organism or any genetically modified aquatic organism or transfer any species of aquatic organisms from one aquaculture facility in Eritrea to another or from any place in Eritrea to another place, without the written authorisation of the Director-General, as required by article 25(3).
- 9) A person commits a category 4 offence where that person:
- (a) prevents, hinders, assaults, obstructs, resists, delays, refuses the boarding of, intimidates, fails to take all reasonable measures to ensure the safety of, or otherwise interferes with an authorised officer in the performance of his or her duties or where the authorised officer is exercising a power conferred on him or her under Article 29 and 30 hereof;
  - (b) incites or encourages any other person to assault, resist or obstruct any authorised officer while exercising or performing his or her powers or duties;
  - (c) uses threatening language or behaves in a threatening or insulting manner or uses abusive language or insulting gestures towards any authorised officer while exercising or performing his or her powers or duties;
  - (d) fails to comply with the lawful requirements of any authorised officer;
  - (e) furnishes to any authorised officer any particulars which are false or misleading; or
  - (f) impersonates or falsely represents himself or herself as an authorised officer.
- (10) A person commits a category 5 offence where that person contravenes any other provision of this Proclamation.

#### **Article 36. Penalties**

- 1) Notwithstanding the provisions of the Penal Code of Eritrea or any other legislation to the contrary, a person who is convicted of a:
- (a) category 1 offence, is liable to a fine not exceeding One Million (1,000,000) Nakfa, and in the case of a second or subsequent conviction, to a fine not exceeding Two Million (2,000,000) Nakfa;
  - b) category 2 offence, is liable to a fine not exceeding Five Hundred Thousand (500,000) Nakfa, and in the case of a second or subsequent conviction, to a fine not exceeding One Million (1,000,000) Nakfa;

- c) category 3 offence, is liable to a fine not exceeding Two Hundred Thousand (200,000) Nakfa, and in the case of a second or subsequent conviction, to a fine not exceeding Four Hundred Thousand (400,000) Nakfa;
  - d) category 4 offence, is liable to a fine not exceeding One Hundred Thousand (100,000) Nakfa, and in the case of a second or subsequent conviction, to a fine not exceeding Two Hundred Thousand (200,000) Nakfa;
  - e) category 5 offence, is liable to a fine not exceeding Fifty Thousand (50,000) Nakfa, and in the case of a second or subsequent conviction, to a fine not exceeding One Hundred Thousand (100,000) Nakfa;
- 2) Where a court deems it appropriate based on the nature and seriousness of the offence, the court may, in addition to any other penalty imposed, issue a fine of up to three times the commercial value of the catch in respect of which the offence was committed.

**Article 37. Forfeiture**

- 1) Where any person is convicted of an offence under this Proclamation, the court, in addition to any other penalty imposed:
  - (a) may order that any vehicle or fishing gear used in the commission of the offence and, in the case of an offence under Article 35 (1) (a) (i) hereof, any fishing vessel (together with its gear, stores and cargo) used in the commission of the offence be forfeited; or
  - (b) shall order that any fish or other aquatic organisms caught in the commission of such offence and any explosive or poison possessed in the commission of such offence be forfeited.
- 2) Where in any prosecution under this Proclamation, all accused are acquitted of any offence, all things held shall be released to the persons entitled thereto and if no person is so entitled, shall be forfeited.
- 3) Where any thing in the custody of the court is not ordered to be forfeited, it shall be held until all fines imposed for any offences in commission of which the thing was used, caught or possessed have been paid, and if within thirty days following a conviction, any part of such fines remains unpaid, such things may be sold and the proceeds applied toward payment of the fines.
- 4) In the case of any administrative settlement under Article 46 hereof, all things ordered by the Director General to be released shall be released forthwith, and all other things held shall be forfeited.

**Article 38. Cancellation of Licence**

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

**Article 39. Strict Liability**

In any prosecution of an offence under this Proclamation the prosecution shall not be required to prove that the defendant intended to commit an offence.

**Article 40. Liability for Actions of Master and Crew**

An offence under this Proclamation which is committed by:

- (a) any person aboard or employed on a fishing vessel shall be deemed also to have been committed by the master and by every operator of that vessel;
- (b) the master of a fishing vessel shall be deemed also to have been committed by every operator of that vessel.

**Article 41. Liability of Corporate Directors And Managers**

If a body corporate is convicted of an offence under this Proclamation, every director or manager who authorised, permitted or consented to the offence: or who knew or ought to have known that the offence would or could be committed and failed to take reasonable steps to prevent it, shall be guilty of a like offence.

**Article 42. Admissible Evidence**

- 1) Subject to sub-Article (2) hereof, in any prosecution under this Proclamation the following documents shall be admissible in evidence and in the absence of evidence to the contrary, shall be sufficient proof of the facts stated in the document:
  - (a) a certificate purporting to be signed by the Minister relating to whether or not any administrative requirement of the Minister had been complied with or the status of any licence or authority issued by the Ministry;
  - (b) a certificate purporting to be signed by the person in charge of equipment used to determine the position of a vessel stating the position of the vessel at a particular date and time and certifying that the equipment used to determine the vessel's position was working properly and was accurate within the specification set out in the certificate.
- 2) Any document referred to in sub-Article (1) hereof shall only be admissible if a copy is served on the defendant at least 10 days before the hearing and the Court has not, on the application of the defendant brought before that trial, ruled it inadmissible on the basis that there are reasonable grounds for doubting its accuracy or validity.

**Article 43. Presumptions**

Unless the contrary is proved:

- 1) All fish and other aquatic organisms found on board any fishing vessel which:
  - a) is in Eritrean waters shall be presumed to have been caught in Eritrean waters;
  - b) has navigated through a protected or closed area without stowing its fishing gear in the manner prescribed by this Proclamation are presumed to have been caught in that area; or
  - c) has been used in the commission of an offence under this Proclamation shall be presumed to have been caught in the commission of that offence;
- 2) All fish, other aquatic organisms, coral, shells, sand and gravel found in the possession of a person within a protected area shall be presumed to have been taken within that protected area.

**Article 44. Burden of Proof**

- 1) In any proceeding under this Proclamation where the defendant is charged with having committed an offence under which a licence or the authorisation of any person is required for doing of any act, the burden shall be on the defendant to prove that at the time to which the charge relates, the requisite licence or authorisation was duly held.
- 2) In any proceeding under this Proclamation where an exception to any requirement is claimed on behalf of a vessel used exclusively for recreational fishing, the burden shall be on the defendant to prove that the vessel in question was used exclusively for recreational fishing.
- 3) In any proceeding under this Proclamation where a defendant is alleged to have been a crew member, the master or an operator of a vessel or an officer or director of a body

corporate, at the time to which the charge relates, the burden shall be on the defendant to disprove such allegation.

**Article 45. Jurisdiction of the Court**

The courts of Eritrea shall have jurisdiction in respect of any proceeding concerning an illegal offence under this Proclamation committed either within Eritrean waters or territory, or on board or in respect of a national fishing vessel.

**Article 46. Administrative Settlement**

- 1) Any offence under this Proclamation which the Director-General considers may be appropriately dealt with by way of administrative penalty may be subject to administrative settlement in accordance with the provisions of this Article.
- 2) If the Director-General has reason to believe that an offence referred to in sub-Article (1) hereof has been committed by any person, the Director-General may cause a written notice giving details of the alleged offence to be served on that person ('the defendant') and shall afford the defendant a reasonable opportunity to make representations in respect of the alleged offence.
- 3) Within 60 days of considering any representations made by the defendant, the Director-General shall cause a notice to be served on the defendant stating:
  - (a) that no further proceeding will be taken in respect of the alleged offence;
  - (b) that legal proceedings will be instituted to bring the matter before a court; or
  - (c) the penalty imposed.
- 4) In dealing with any matter under this Article, Director-General may:
  - (a) impose a fine not exceeding the maximum fine specified for the offence;
  - (b) Where the gravity of the offence so warrants, cancel any licence or authorisation issued under this Proclamation;
  - (c) Order the release of any vessel, gear or other thing seized in connection with the offence on payment of a sum of money not exceeding the value of the vessel or other thing; and
  - (d) order that any fish or other aquatic organisms caught in the commission of such offence, any gear used in the commission of the offence and any explosive or poison possessed or used in the commission of the offence be forfeited.
- 5) Any sum of money received under this Article shall be dealt with as though it were a fine imposed by court.
- 6) In any court proceeding brought against any person for an offence under this Proclamation, it shall be a good defence if the person proves that the offence has been dealt with under this Article and any fine imposed has been paid.

**PART VII  
GENERAL PROVISIONS**

**Article 47. Security for Sums Due to the State of Eritrea**

If any amount is due to the State of Eritrea by the master or any operator of a foreign fishing vessel and the court considers that the state has no or has insufficient security to insure payment, the court may order the detention of any vessel or equipment in respect of which the amount became due until the debt is paid in full or security to the satisfaction of the court is lodged.

**Article 48. Appeals**

- 1) Any person aggrieved by:
  - a) the refusal of a licensing officer to issue a licence in respect of national fishing vessel;
  - b) the suspension, cancellation or variation of a condition of any fishing licence;
  - c) the suspension of operations or closure of an aquaculture facility or the cancellation or variation of a condition of an authorisation under Article 25 hereof; or
  - d) a decision of the Director-General under Article 46 hereof;may, within thirty days, appeal, in writing, to the Minister.
- 2) An appeal under sub- Article (1) shall be dealt with in the manner and in accordance with the procedure prescribed by the Minister.
- 3) The Minister shall consider any matter submitted to him or her on appeal, after giving every person with an interest in the matter an opportunity to state his or her case.
- 4) Any person aggrieved by a decision of the Minister may, within thirty days, further appeal to the high Court.

**Article 49. Regulations**

- 1) The Minister may issue regulations for the implementation of this Proclamation, including regulations:
  - a) delimiting areas of Eritrean waters in which fishing shall be reserved to Eritrean citizens and national vessels;
  - b) prescribing the manner in which fishing gear is to be stowed and requiring any fishing vessel to stow its gear at any time that it is in an area of Eritrean waters where it is not authorised to fish;
  - c) regulating the import and export of live fish and other aquatic organisms;
  - d) further providing for the control of aquaculture;
  - e) regulating the quality of fish and other aquatic organisms that may be sold or exported, including-
    - i. Providing for inspection and for the issue of certificates of inspection;
    - ii. prescribing methods of handling and processing;
    - iii. prescribing standards for product quality;
  - f) prohibition or restricting or otherwise regulating fishing for any aquatic organism; and
  - g) prescribing any other matter which is required or authorised to be prescribed.
- 2) Regulations issued under this Article may provide that their contravention shall constitute an offence and may prescribe fines not exceeding One Hundred Thousand (100,000) Nakfa for any offence.

**Article 50. Delegation of powers**

The Minister may delegate any of his powers under this Proclamation, except the power to issue regulations and the power to declare protected areas.

**Article 51. Entry Into Force**

This Proclamation shall enter into force as of the date of its publication in the Gazette of Eritrean Laws.

Done at Asmara, this 13<sup>th</sup> day of October, 2014  
Government of Eritrea



