

Regulates fishing, with a view to the rational use and conservation of the living resources of the Brazilian territorial sea.

The President of the Republic, by virtue of constitutional powers, as per article 81, item III, and considering the provisions of Decree-law nº 221 of February 28, 1967 and article 4 of Decree nº 1,098 of March 25, 1970, hereby decrees:

CHAPTER I
On Fishing Zones

Art. 1. The following fishing zones are established in the Brazilian territorial sea:

I. A zone contained within 100 (one hundred) nautical miles, measured from the low water mark at the continental and island coast of Brazil, used as reference on Brazilian nautical charts.

II. Beyond the zone specified under item I, up to a limit of two hundred nautical miles.

§ 1. In the zone referred to in item I of this article, fishing activities shall be conducted by Brazilian fishing vessels.

§ 2. In the zone referred to in item II of this article, fishing activities may be conducted by Brazilian and foreign fishing vessels.

§ 3. The exploitation of crustacea and other living resources, which are closely dependent on the seabed under the Brazilian territorial sea, is reserved to Brazilian fishing vessels.

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§ 4. Under the terms of this Decree, foreign fishing vessels leased by Brazilian legal entities headquartered in Brazil shall be considered equal to Brazilian fishing vessels, subject to the provisions of this Decree, of the Regulations on Maritime Traffic and of the Brazilian Maritime Legislation.

§ 5. Under special circumstances, the Ministry of Agriculture, through SUDEPE, after consulting with the Navy Ministry, may allow foreign vessels to conduct fishing activities in areas within the zone referred to in item I of this article, subject to compensation in all cases.

Art. 2. Fishing vessels will be considered those which, properly registered, enrolled and authorized in accordance with this Decree and further legislation in force, are exclusively and permanently involved in capture, processing or research of fauna and flora whose natural or most frequent habitat is the sea or the seabed.

Paragraph. When engaged in research activities, fishing vessels shall be subject to the requirements put forth in special legislation on such matters.

CHAPTER II On Activities of Fishing Vessels

Art. 3. Brazilian or leased foreign vessels engaged in fishing shall:

I. In the case of Brazilian vessels over twenty (20) gross tons, have their ownership registry issued by the Maritime Court.

II. Be registered in the General Fishing Register of the Superintendency for Development of Fisheries, if they exceed two (2) gross tons.

III. Be registered with the Port Authority.

Paragraph. Ownership registration of Brazilian fishing vessels shall be granted by the Maritime Court exclusively to Brazilian citizens by birth or naturalization or to companies set up in Brazil, pursuant to article 8 of Decree-law 221 of February 28, 1967.

Art. 4. Authorizations for leasing foreign fishing vessels or renewing such leases shall be granted by the Ministry of Agriculture, after consulting with the Navy Ministry, once the interested parties have submitted proof to SUDEPE to the effect that:

I. Brazilian-born citizens hold most of the capital in the fishing industry holding the lease.

II. As regards crews, the proportion of Brazilian citizens set forth in the Brazilian Labour Legislation shall be observed.

III. The vessel has all up-to-date certificates required under International Conventions in force in Brazil.

IV. The vessel is in perfect operating conditions for the type-of fishing intended, this fact to be established by means of the inspections foreseen in the Regulations on Maritime Traffic.

§ 1. Leasing may under no condition create a privileged situation for foreign vessels and shall be authorized only when there is evidence that the vessel operation brings about an actual and indispensable increase in exports or in supplies to regions of insufficient production, and shall be granted initially for a period up to one (1) year, renewable in each case for two (2) further periods of equal length.

§ 2. The Ministers of the Navy and Agriculture shall annually submit to the President of the Republic conditions for appraisal of applications for the extension of leasing contracts, in the light of prevailing circumstances and the needs of the Brazilian fishing vessel industry.

§ 3. At the end of the lease and unless it is renewed, the vessel may only continue in operation if nationalized; such nationalization shall be initiated during the life of the lease.

§ 4. Nationalization . may not be requested in the case of vessels built more than 5(five) years before the date of such application.

§ 5. Once leasing is authorized, the vessel shall be registered with the Port Authority in order to be entitled to engage in fishing operations.

Art. 5. Foreign fishing vessels, not leased by Brazilian legal entities, may engage in fishing operations in the Brazilian territorial sea, in the zone set forth in item II of article 1 of this Decree, when authorized by the Minister of Agriculture after consultation with the Navy Ministry.

§ 1. Fishing authorizations shall be granted for a maximum period of one (1) year, and may be renewed subject to the provisions of articles 6 and 7 of this Decree.

§ 2. Authorizations granted shall specify fishing methods and gear to be employed.

§ 3. Authorizations shall be valid only after payment of the registration and operation fees set forth in article 7.

Art. 6. Applications for authorization referred to above shall be addressed to the Ministry of Agriculture and presented to SUDEPE through a Brazilian legal entity of established integrity which undertakes legal and financial responsibility for the activities to be carried out, and shall contain:

I. Name, nationality and other useful information on the foreign citizen or company requesting authorization.

II. Technical data on the vessels to be used and their respective equipment, including photographs, copies of the original registry documents, certified and with official translation attached, crew list and respective functions on board and proof that the vessel carries all up-to-date certificates required by International Conventions in force in Brazil.

III. Planned fishing routes, also mapped on a nautical chart of appropriate scale, indicating fishing plans and purposes as well as methods and techniques to be employed.

IV. Commitment to reserve room on board of each vessel so that representatives appointed by the Navy Ministry or the Ministry of Agriculture (SUDEPE) may observe fishing operations, partially or in full.

Paragraph. Applications received and examined by SUDEPE shall be sent by the Ministry of Agriculture to the Navy Ministry for evaluation, final decision to grant or deny the request being in the hands of the Ministry of Agriculture.

Art. 7. After the request for authorization under article 6 has been granted, foreign fishing vessels not under lease shall undertake the following:

I. In order to be included in the General Fishing Register, pay a registration fee, in Brazilian currency, equivalent to US\$ 500 00 (five hundred dollars).

II. In order to conduct fishing operations, pay an operation fee, in Brazilian currency, equivalent to US\$ 20 00 (twenty dollars) per net registered ton of vessel.

Art. 8. The captains of foreign vessels operating in Brazilian territorial waters under the terms of articles 4 and 5 and § 5 of article 1 of this Decree shall be bound to:

I. Use fishing logs adopted by SUDEPE and send them, duly filled out, to that agency at a time to be indicated.

II. Be familiar and comply with Brazilian laws and regulations, especially as regards fishing and prevention of sea pollution.

III. Use only methods and gear authorized by SUDEPE.

IV. Inform the Navy Ministry, for purposes of Maritime Traffic Control, Coast Patrol, Naval Police and Search and Rescue Service, of the day and hour of entry and exit of the vessel into and from waters of the Brazilian territorial sea, as well as of the position of the vessel in said waters, daily. Such information shall be transmitted, through SUDEPE radiotelephone stations or through the nearest Coast Station, to the Naval District Command of

the fishing area.

Art. 9. Foreign fishing vessels not under lease shall only land their catch at Brazilian ports under special circumstances and if duly authorized by SUDEPE.

Art. 10. Transshipment of catch between any vessels in the territorial sea is subject to authorization and shall be made under the terms of said authorization, which shall be granted by the Ministry of Agriculture, after consulting with the Navy Ministry in each instance.

CHAPTER III

On Control

Art. 11. Control of fishing activities in the Brazilian territorial sea shall be exercised by the Navy Ministry and the Ministry of Agriculture, through SUDEPE.

§ 1. Control by the Navy Ministry shall normally be entrusted to the Coast Patrol Service, according to Law nº 2,419 of February 10, 1955, and its regulation, and may also be carried out by their ships or vessels of the Navy.

§ 2. Control by SUDEPE shall be exercised by duly accredited officials, under the terms of articles 53 and 54 of Decree-law 221 of February 28, 1967.

§ 3. The captains of Navy ships and vessels, who in the course of control operations specified in § 1 make arrests, shall deliver those arrested to the Port Authorities for the necessary steps.

§ 4. Infringements or irregularities observed or repressed by captains of Navy ships and vessels shall be reported to the Port Authorities for due recording and legal action.

§ 5. Any foreign vessel that engages in the exploitation of the living resources of the Brazilian territorial sea without government authorization or in infringement of restrictions set forth in said authorization, is acting in infringement of articles 4 and 5 of this Decree. Such infringement shall be considered as contraband pursuant to the sole paragraph of article 9 of Decree-law 221 of February 28, 1967. Under such conditions, Government authorities may order seizure of the vessel, its equipment and cargo and hold the captain liable under the terms of criminal legislation in force.

§ 6. Naval District Commandants may, in joint action with SUDEPE and its agencies and whenever deemed convenient, place onboard of the vessels of the Coast Patrol Service, of the Port Authorities used by the Naval Police or of any other vessels used in control operations, specially accredited federal or civil servants, qualified to advise the captains of the vessels carrying out fishing control operations.

Art. 12. Notwithstanding other legal sanctions under the terms of Brazilian law, fishing vessels shall be subject to fines as set forth in chapters VI and VII of Decree-law 221 of February 28, 1967.

Art. 13. Authorizations referred to under articles 4 and 5 of this Decree shall be definitely cancelled in case of infringement of any one of articles 1, 2, 3, 4, 5, 6, 8, 10 and 16 of this Decree.

Art. 14. Captains of Brazilian fishing vessels and ships of the Brazilian merchant fleet, when sighting foreign fishing vessels in the Brazilian territorial sea, shall

report them to the Naval Authorities, specifying quantity, name and nationality of said vessels as well as day, hour and geographic position of same when sighted.

Art. 15. The Navy Ministry will arrange with the Air Ministry as regards air assistance required for control of fishing in the Brazilian territorial sea.

CHAPTER IV

General Provisions

Art. 16. SUDEPE shall periodically set forth the maximum tonnage, per species and fishing zone, to be captured by Brazilian or foreign vessels.

Paragraph. On the basis of the maximum tonnages established, SUDEPE shall take all measures deemed necessary for conservation of the living resources of the sea and have them duly publicized.

Art. 17. SUDEPE shall periodically publish lists of fishing gear authorized for each type of fishing operation.

Art. 18. Funds resulting from payments of fees and fines related to fishing operation under the terms of this Decree shall be deposited in the Banco do Brasil S.A., to the order of SUDEPE, under the heading "Recursos da Pesca", pursuant to article 72 of Decree-law 221 of February 28, 1967.

Art. 19. The Ministry of Agriculture, through SUDEPE, may enter into agreement with the Navy Ministry for the purpose of authorizing transfer to the Naval Fund of income resulting from payment of fines set forth in article 12 of this Decree.

Art. 20. The provisions of this Decree

may be derogated by international fishing agreements signed by Brazil, pursuant to § 3 of article 4 of Decree-law 1,098 of March 25, 1970.

Art. 21. This Decree shall enter into force on the date of its publication, and Decree nºs 58,696 of June 22, 1966 and 65,005 of August 18, 1969, as well as other provisions to the contrary, are hereby revoked.

Brasília, April 1, 1971.

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