

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

**DECREE-LAW No. 6/2004
OF 21 APRIL 2004**

**GENERAL BASES OF THE LEGAL REGIME FOR THE MANAGEMENT AND
REGULATION OF FISHERIES AND AQUACULTURE**

Fishing is an economic activity of great importance for the country during this phase of its development, not only for the revenue that such activity may generate for the Treasury, but also for its relevant role in improving the food diet of the populations. It is also a factor that generates self-employment, particularly for the local fishing communities.

On the other hand, since fishing is a renewable resources activity, it must be regulated in such a way that the exploitation of such resources is carried out in compliance with the principles and rules of conservation and management, of sustainable exploitation of resources and of protection of the aquatic environment.

Thus, the present decree-law responds to the need of regulating fishing activities so as to contribute to the attainment of objectives on the economic and social development policies of the country while simultaneously ensuring the protection and conservation of species, as well as their continuous and sustainable exploitation.

Furthermore, aquaculture is a promising area for the economic development of the country, whose activity may play an important complementary economic role to that of fishing. Since aquaculture is an activity related to fishing, whose economic and social potential, if exploited appropriately, may bring an additional plus-value to the national development, the present decree-law also includes ground rules on aquacultural activities in Timor-Leste.

Therefore, since it is appropriate to endow the country with legislation that will regulate the respective activities in the fishing and aquacultural domains and that will create a legal, managerial and regulatory framework for the administration of such activities, pursuant to Section 115.1 of the Constitution of the Republic, the Government enacts the following that shall have the force of law:

TITLE I
General Provisions

Article 1
(Definitions)

For the purposes of the present decree-law, the following terms shall have the following meanings:

- a) **“Abandonment of fishing gear”** means every fishing gear in the water that is not properly identified and signaled or over which the vessel skipper or the shipowner have lost control;
- b) **“Access agreement”** means the agreement concluded with other countries or with international inter-governmental organisations that allows foreigners to have access to fishing in national maritime waters;
- c) **“National maritime waters”** means the sea areas of the country including its interior maritime waters, its territorial sea and its exclusive economic zone, as defined by law;
- d) **“Interior maritime waters”** means the waters situated in the interior of the baselines wherefrom the width of the territorial sea is measured;
- e) **“National waters”** means the waters of the hydrographical basins and the national maritime waters;
- f) **“Aquaculture”** means the activity that has as its main function the reproduction, growth, fattening, maintenance and improvement of aquatic species for production purposes; these operations are carried out in facilities fed by freshwater, brackish water or seawater;
- g) **“High Seas”** means the areas of the sea that are not included in the exclusive economic zone, in the territorial sea or in the interior waters of any State, nor in the archipelagic waters of an archipelagic State;
- h) **“Shipowner”** means any individual or corporate body that owns a fishing vessel, or the freight or operating entity of the fishing vessel;
- i) **“Fishing gear”** means every device, net, utensil, tool or equipment used for fishing;
- j) **“Hydrographical basins”** means the streams, lakes and lagoons that are susceptible to breeding aquatic species;
- k) **“Vessel skipper”** means the crewmember whose name is inscribed in the registration record as the person responsible for the fishing vessel, the boatswain, the coxswain or the person in charge of fishing operations;
- l) **“Incidental by-catches”** means the accompanying fauna;
- m) **“Aquaculture concession”** means the administrative act through which the Minister shall confer upon an individual or corporate body the rights of use of certain public goods to the realisation of aquacultural activities in return for the payment of an instalment;
- n) **“Fishing logbook”** means the logbook supplied and signed by the National Directorate of Fisheries and Aquaculture to record authorised fishing activities;
- o) **“Fishing vessels”** means any vessel that is equipped or used for fishing or for fishing-related activities;
- p) **“Fishing effort”** means the activity exerted by a fishing vessel unit over a certain period of time and over a certain species;

- q) **“Target species”** means the species for which a fishing permit is granted;
- r) **“Aquatic species”** means any organism that finds its normal habitat, or its most frequent habitat, in the water;
- s) **“Fishing products processing plant”** means any site or installation wherein fishing products are canned, dried, smoked, cured in brine, put on ice, frozen or treated in any other way in order to be sold in bulk or in retail;
- t) **“FAO”** means the Food and Agriculture Organisation of the United Nations;
- u) **“Accompanying fauna”** means the living aquatic resources which, due to the technology of the fishing gear, are unintentionally caught when the vessels catch target species;
- v) **“Fishing officer”** means the Ministry civil servant, or any other civil servant accredited to carry out the inspection in compliance with the fisheries legislation, who has a professional category of inspector;
- w) **“Fishing inspector”** means the fishing officer or the fishing monitor;
- x) **“Ministry”** means the Ministry of Agriculture, Forestry and Fisheries or the Ministry responsible for fisheries and aquaculture;
- y) **“The minister”** means the Minister of Agriculture, Forestry and Fisheries or the Minister responsible for fishing and aquaculture;
- z) **“The vice-minister”** means the vice-minister of Agriculture, Forestry and Fisheries;
- aa) **“Fishing-related operations”** means the operations or the attempt to carry out vessel operations during the course of the productive fishing process and that compete for fishing profits as such, including, namely, the transshipment of catches or of fish products from one vessel to another and the storing or the processing of such products aboard, as well as the maritime transportation of any marine species caught in national maritime waters until the first port of disembarkation, the maritime transport from/to fishing sites or the supply of provisions, fuel and other products to fishing vessels or any other logistical activity of support to such vessels when they take place at sea;
- bb) **“Fishing”** means the attempt, the preparation or the actual activity of catching, harvesting, removing and gathering of biological species, including corals, by using any means, gear, method or equipment;
- cc) **“Commercial fishing”** means fishing by an individual or corporate body for profit;
- dd) **“Sport fishing”** means non-profit fishing by an amateur fisherman for an organised competition and for the achievement of sporting performances;
- ee) **“Experimental fishing”** means fishing for the purpose of experimenting the gear, methods and fishing vessels, as well as for exploring new resources or fishing areas;
- ff) **“Fishing for purposes of scientific investigation”** means fishing carried out for scientific purposes;
- gg) **“Small-scale fishing”** means subsistence, artisanal and semi-industrial national fishing;
- hh) **“Coral fishing”** means the extraction of coral from its natural habitat with fishing gear or with any other tool or equipment or their gathering by any means or method, be it through diving, trawling or any other means;
- ii) **“Recreational angling”** means non-profit fishing by an amateur fisherman for recreational, entertainment or touristic purposes;
- jj) **“Seine fishing”** means fishing with a net held up by floaters and sustained in a vertical position by sinkers; the net is then cast overboard from the main vessel, with

- or without an auxiliary vessel, and maneuvered in a way as to catch the shoal of fish and enclose it in a baglike shape intended to catch them;
- kk) **“Gill-net fishing”** means fishing with rectangular-shape nets, held up vertically in water by means of lead weights or sinkers placed in the lower edge of the net and floaters placed on the upper edge, intended to ensnare and entangle the shoal of fish, which can be guided towards the direction of the net;
 - ll) **“Dive fishing”** means fishing by persons who are immersed, in apnea or with the aid of a breathing equipment, with or without the assistance of a vessel;
 - mm) **“Trawling”** means fishing with nets that are dragged directly at the bottom of the sea (deep-sea or demersal) or between the bottom of the sea and the surface (pelagic and semi-pelagic);
 - nn) **“Subsistence fishing”** means fishing with basic fishing gear, with or without a vessel, as a secondary activity for those who practice it; it essentially provides them with food for self-consumption and enables them to make some tradable surplus of little significance;
 - oo) **“Underwater fishing”** means dive fishing;
 - pp) **“Gamefishing”** means recreational angling practiced by vessels for tourist activities at sea and licensed for such purpose;
 - qq) **“Fisherman”** means any person, whether individual or a corporate body, engaged in fishing for whatever purpose;
 - rr) **“Fisheries”** means the set of biological species treated unitarily for management, conservation, and economic exploitation purposes;
 - ss) **“Corporate bodies”** means companies acting as such;
 - tt) **“Individuals”** means persons not organised in companies and acting on their own behalf;
 - uu) **“Fishing preparations”** means the act of anchoring, mooring, docking or stopping in fishing sites, as well as navigating in these sites with fishing gear ready to be used;
 - vv) **“Port of base”** means the port wherein national or foreign fishing vessels based in the country carry out the majority of their fishing activities and market their catches; as regards foreign fishing vessels, the port of base means the port with which they have a dominant economic position;
 - ww) **“Fishing port”** means a port with areas reserved for activities such as the handling, display, sale, ice-preservation, freezing storage, shipping of fishing products and unloading of fishing vessels;
 - xx) **“Fisheries products”** means any aquatic biological species, or part of it, that are caught, gathered or harvested during fishing activities;
 - yy) **“Allocated fishing quotas”** means the maximum quantity of fish that can be caught per vessel or per set of vessels belonging to the same shipowner or to a group of fishermen for a certain period of time;
 - zz) **“Recidivism”** means the commission of a new and identical offence, by an individual or corporate body, to whom a sanction was applied, as pursuant to the provisions of the present decree-law and relevant regulations;
 - aaa) **“Aquatic biological resources”** means the living resources of the public maritime waters of the hydrographical basins;
 - bbb) **“Fishing resources”** means the aquatic, animal or vegetable species, as well as parts and products of the referred aquatic species, whose normal or most frequent habitat is the water and which are subject to fishing activity;
 - ccc) **“Fishing resources”** means the fishing resources;

- ddd) **“Applicable regulations”** means the regulations or regulatory measures adopted by government decree, ministerial order or any other decision, instruction or measure taken by the competent authorities for the implementation and enforcement of the present decree-law;
- eee) **“Natural aquatic reserves”** means the maritime areas, such as the bays and estuaries that serve as a nursery for the reproduction and growth of younger species due to their particular characteristics;
- fff) **“Sector”** means the fisheries and aquaculture sectors;
- ggg) **“Vessel Monitoring System” (VMS)** means a system that uses technological and satellite communications to locate fishing vessels, and through which automatic information can be obtained on the positioning, speed, direction and other data relating to a fishing vessel that allows for a better monitoring, control and surveillance of fishing activities;
- hhh) **“Tariffs”** means the due monetary contributions for the provision of services, namely, the concession tariffs, which are tariffs due for fishing-related operations, inspection permits and others;
- iii) **“Total allowable catches,”** hereafter TAC, means the maximum quantity of fishing resources of a certain species or fishing or of a totality of fish that can be caught during a given period of time without undermining the preservation, renewal and sustainability of such resources;
- jjj) **“Scientific marine researcher”** means the expert or scientific researcher representing a national fisheries research institute or any other person appointed as such by the competent authority;
- kkk) **“Prohibition”** means the act of banning the capture or extraction of living aquatic resources from a certain area or during a specific period of time with the aim of protecting the reproduction and restocking cycles;
- lll) **“Marine restocking zones”** means the maritime areas where fishing for certain types of species is banned or limited to minimal landing sizes during a specific period of time, with the aim of protecting the reproduction and restocking cycles.

Article 2 (Purpose)

The present decree-law shall establish the principles and ground rules for the exploitation and regulation of fishing resources in national waters and high seas, as well as the principles and rules for the establishment and exercise of aquacultural activities.

Article 3 (Substantive Scope)

The present decree-law shall apply:

- (a) To fishing:
 - (i) In national maritime waters;
 - (ii) In high seas, as regards national fishing vessels;
 - (iii) In the hydrographical basins of the country.
- (b) To aquaculture:
 - (i) Of freshwater;

- (ii) Of brackish water;
- (iii) Of seawater.

Article 4
(Subjective Scope)

The present decree-law shall apply to individual or corporate bodies, whether national or foreign.

TITLE II
(Management and Regulation of Fisheries and Aquaculture)

Chapter I
(Management of Fisheries)

Section I
(General Provisions)

Article 5
(Property of the State)

Aquatic biological resources are the property of the State and their exploitation shall be conducted in accordance with the present decree-law and applicable regulations.

Article 6
(Fisheries Plan)

1. In consultation with the social, professional and, economic partners associated with the fishing sector and on the basis of scientific and technical data available, the minister shall promote the adoption of a fisheries management plan as a main instrument of utilisation and sustainable development of the sector and shall ensure its implementation.
2. The plan referred to in item 1 above shall mark out, namely, the main fisheries, establish the total allowable catches, and include restrictions imposed on fishing vessels or on certain activities.
3. During the preparation of the fisheries management plan referred to in this Article, one shall observe, namely, the following:
 - (a) Consult the fishing communities, the fishing associations and the various other social, professional and economic partners associated with the sector;
 - (b) Manage the economic exploitation of fishing resources in a sustainable manner, respect the principle of precaution and only authorise measures, methods and fishing gear that do not cause harm or damage to the preservation of species, to the ecosystems or to the protection of the marine and aquatic habitats;
 - (c) Bear in mind the policies and practices of countries in the region as well as the relevant international and regional recommendations;

- (d) Involve other services, public institutions and private entities, whose function or activity is associated with or affects the sector.
4. The plan referred to in this Article shall be disseminated as widely as possible, particularly among the partners of the sector.
 5. Matters pertaining to competence and basis for the preparation of the plan, its duration, content, co-ordination with other plans, prior consultations with other organs or public services, as well as its approval or amendment, shall be defined by applicable regulations.

Article 7
(Exploitation of Fishing Resources)

1. Fishing activities in national maritime waters and hydrographical basins of the country shall comply with and conform to the purposes, restrictions, conditions and methods provided for in the fisheries management plan.
2. Until such a time as the fisheries management plan is adopted, the licensing of fishing vessels shall be guided by the principle of precaution and by applicable regulations, which shall define the criteria to be followed to this end.

Article 8
(Support to Small-Scale Fishing)

The minister shall promote and support measures that encourage the development of small-scale fishing, bearing in mind its important social, economic and professional roles, particularly to the lives of the fishing communities.

Article 9
(Commercial Fishing)

1. For the purposes of the present decree-law, fishing may be commercial or non-commercial.
2. Commercial fishing is any type of fishing exercised for lucrative purposes.
3. Non-commercial fishing is every type of fishing not included in Article 8 above.

Section II
(General Licensing Conditions)

Article 10
(Subjection)

1. Fishing resources, their exploitation and utilisation for commercial or non-commercial purposes referred to in Article 9 above, shall be subject to a fishing permit.
2. Fishing on the basis of an access agreement on fisheries concluded with another State or with an international intergovernmental organisation or on the basis of contracts concluded with foreign fishermen's associations or of individual contracts with foreigners, shall require a fishing permit.

3. Subsistence fishing shall be exempt from licensing, but it may only be undertaken in maritime areas where fishing is not prohibited or in relation to fishing resources whose capture has not been prohibited, or in the periods during which fishing has not been temporarily banned.
4. Notwithstanding item 3 above, subsistence fishing may be subject to monitoring, surveillance and access in accordance with local customs or internal rules of functioning and management of fishing communities and their associations, as long as such customs or rules do not impinge upon the general principles and rules of the present decree-law and those of applicable regulations.
5. Only individuals may practice subsistence fishing, both in hydrographical basins and national maritime waters.

Article 11
(Permit for the Extraction of Algae)

1. Without prejudice to the provisions of Article 10 above, any person, fisherman or fishing vessel requires a fishing permit to extract, remove or collect algae or any other marine flora species from the seabed, national maritime waters or hydrographical basins for commercial purposes.
2. Upon scientific opinion from competent authorities and following consultation with the National Consultative Council of the Ministry, the permit referred to in item 1 above may only be granted pursuant to applicable regulations and where no harm, or consequences thereof, may be caused to the marine environment, to the aquatic ecosystems and to the preservation of species.

Article 12
(Compensation Tariff)

1. All licensed fishing in national maritime waters or in high seas, whether commercial or non-commercial, shall be subject to the payment of a compensation tariff on fishing.
2. Without prejudice to the tariff referred to in item 1 above, the issuance of a fishing permit shall give rise to the payment of a service tariff for its administrative processing to be paid at the moment when the respective request is submitted, the amount of which shall be established by the Minister.
3. Subsistence fishing shall be exempt from the payment of any tariffs.

Article 13
(Permit Application and Procedure)

1. The application for semi-industrial and industrial fishing permits, as well as for high seas fishing and for fishing-related operations shall be addressed to the Minister and filed with the National Directorate of Fisheries and Aquaculture.
2. The application for small-scale fishing permit or for any type of non-commercial fishing shall be addressed to the National Directorate of Fisheries and Aquaculture.
3. The final decision on the application for a fishing permit may not exceed the deadline established in applicable regulations.

4. Once the deadline referred to in item 3 above has elapsed without a final decision having been made on the application, the latter, for all purposes, shall be considered as having been dismissed.

Article 14
(Competence to Grant, Suspend and Revoke Permits)

1. The granting, suspension or revocation of semi-industrial or industrial fishing permits, whether in national maritime waters or in high seas, as well as permits for fishing-related operations shall be the exclusive competence of the Minister and shall be exercised pursuant to the provisions of the present decree-law, of applicable regulations and of other provisions of the law in force.
2. The granting, suspension or revocation of artisanal and non-commercial fishing permits shall be the competence of the National Director of Fisheries and Aquaculture.

Article 15
(Rejection of Permit Application)

An application for a fishing permit or for its renewal shall be declined in the following circumstances:

- (a) When, on the basis of assessment or scientific information available, the fishing of species mentioned in the application may result in damage to the preservation and management of such species, and of fishing resources in general, as well as of the marine environment or the aquatic ecosystems;
- (b) When the applicant is administratively or judicially recognised as an offender of two or more serious offences to the present decree-law and applicable regulations during the course of two years, to be counted from the date of the application;
- (c) When the other requirements and conditions for the issuance or renewal of a fishing permit, provided for in the present decree-law and applicable regulations, have not been fulfilled;
- (d) When the type of fishing involves the capture of accompanying fauna belonging to a fishing whose access is temporarily closed to economic exploitation and utilisation or when the fishing is in the process of restocking;
- (e) When the type of fish to be caught with the permit requested is temporarily banned, when the entrance to a fishing area is temporarily closed, when the maritime area or species mentioned in the fishing permit are in the process of restocking, or when the envisaged maritime area is closed to fishing activities;
- (f) When the beneficiary of a valid fishing permit, for whom a fishing permit has been applied for, is a person other than the applicant;
- (g) When the shipowner proves not to have a fishing vessel in operational conditions during the period of validity of the permit or when he or she intends to use the permit to make illegal transactions with other shipowners or their representatives.

Article 16
(Revocation and Suspension of Permits)

1. Semi-industrial or industrial fishing permits may only be revoked or suspended in the following circumstances by a decision of the Minister:
 - (a) To protect and preserve fishing resources, upon scientific opinion of competent national or international institutions and following consultation with the National Consultative Council of the Ministry, or as a result of a recommendation by international or regional organisations of which the country is a member;
 - (b) As a penalty imposed for an offence committed, in accordance with the provisions of the present decree-law;
 - (c) For the non-use of the fishing permit without a just cause for a period longer than six months.

Article 17
(Fishing Permit Conditions)

1. Fishing permits shall be issued in the manner established by regulation.
2. In addition to the general conditions provided for in the present decree-law, fishing permits shall include specific conditions defined by applicable regulations.
3. The conditions set out in the fishing permits referred to in item 2 above may be amended by a ministerial order of the Minister during its period of validity on the basis of scientific opinion or recommendation from international or regional organisations, and the respective permit holders, authorities and services with competence to report offences to the present decree-law and applicable regulations must be notified of any amendments.

Article 18
(General Obligation of Permit Holder)

Holders of fishing permits shall have the duty to observe the fulfillment of the present decree-law and applicable regulations.

Section III
(Commercial Fishing)

Sub-Section I
(General Provisions)

Article 19
(Artisanal, Semi-Industrial and Industrial Fishing)

1. Artisanal, semi-industrial or industrial fishing shall constitute commercial fishing.
2. The criteria to distinguish between the different types of fishing referred to in item 1 above shall be defined in applicable regulations.

Article 20
(General Obligations of Commercial Fishing Permit Holders)

Holders of commercial fishing permits shall have the following obligations:

- (a) To implement the provisions of the present decree-law and regulations;
- (b) To pay the fishing tariff due for the fishing permit within the deadlines defined by applicable regulations;
- (c) To provide information required by law, permit, agreement or contract within the deadlines and manner in which they are established;
- (d) To co-operate with the competent authorities in their monitoring and surveillance activities in accordance with the provisions of the present decree-law;
- (e) To trade the catches in the national market, in full or in part, whenever the law, permit, agreement or contract so provides.

Article 21
(General Rights of Permit Holders)

1. The granting of a fishing permit for commercial purposes shall vest the person, whether an individual or a corporate body, with the ownership of rights to commercial fishing throughout the period of validity of the fishing permit.
2. The validity of fishing rights granted to foreign persons shall be determined by the contract, access agreement or by the fishing permit.
3. Commercial fishing shall comprise, among others, the following rights:
 - (a) The right to obtain fishing quotas for species in fisheries in respect of which rights have been granted, where the total allowable catches are defined;
 - (b) The right to fish in the national maritime waters referred to in the permit and under the conditions set out therein;
 - (c) The right to property and to trade catches, including any incidental by-catches, if there are any;
 - (d) The right to access national fishing ports in accordance with the law in force;
 - (e) The right to navigate in the fishing areas provided for in the fishing permit, without prejudice to the restrictions imposed by the present decree-law and applicable regulations;
 - (f) The right to import equipment and materials deemed necessary for the effective exercise of the rights provided for in the present Article, in accordance with the relevant legislation;
 - (g) The right to export temporarily imported equipment, as well as resources captured, in accordance with the provisions of the applicable legislation, without prejudice to the obligation imposed for the trading, in full or in part, of such resources in the country, under the terms of and in accordance with the fishing permit;
 - (h) The right to access information on the fisheries management and regulation plan, on total allowable catches, on registration of fishing vessels, as well as the right to access any public information that is relevant to effectively exercise one's fishing rights;
 - (i) The right to confidential information, whether it constitutes an industrial or trade secret, without prejudice to the exceptions provided for by law;

- (j) The right to the timely notification and to prior agreement with the holder of a fishing permit, in whose fishing vessel(s) the temporary presence of scientific or fishing observers is required, in accordance with the terms provided for in applicable regulations, with the aim of solving practical matters arising from their presence in a timely manner.

Sub-Section II (Commercial Fishing Permit)

Article 22 (Permit)

1. Without prejudice to the general permit conditions provided for in Section II of the present Chapter, commercial fishing in national maritime waters shall be subject to the prior obtention of a permit for such purpose, which shall be granted in accordance with and under the conditions established in the present decree-law and applicable regulations.
2. Fishing vessels engaged in fishing-related operations shall be equally subject to a fishing-related operations permit in accordance with the provisions of applicable regulations.
3. In the case of the granting of the permits referred to in the previous items, they shall be issued to the shipowner for a specific fishing vessel.
4. In granting permits, the Minister shall give priority to requests that offer more added value guarantees, such as those that contribute to the development of a national fishing industry, to the creation of jobs for East Timorese nationals, to the promotion and facilitation of technology and know-how transfer in the fishing domain, to the creation of onshore fishing support structures and facilities, to those intended to develop a fish processing industry in the country or that have the potential to establish a fish export base.

Article 23 (Beneficiary Entities)

1. Commercial fishing permits shall be granted:
 - (a) In artisanal fishing, only to national individuals or national corporate bodies;
 - (b) In semi-industrial or industrial fishing in national maritime waters, to foreign or national corporate bodies;
 - (c) In high seas fishing, only to national corporate bodies operating in fishing vessels that carry the national flag.
2. Permits for fishing-related operations shall be granted to national as well as to foreign corporate bodies.

Article 24 (Requirements for the Issuance of Permits)

1. The issuance of a commercial fishing permit referred to in Article 23.1 above, shall be subject to the fulfillment of the following requirements:
 - (a) Submission of the fishing vessel to inspection in a designated port;

- (b) Prior payment of all overdue fines and compensation tariffs, if any;
 - (c) Submission of a document proving enrolment in businesses and in fishing vessels registries, in accordance with applicable regulations.
2. The conditions and terms for the fulfillment of the requirements referred to in item 1 above shall be established by regulation.

Article 25
(Validity)

Commercial fishing permits shall be granted for a one-year period, renewable, and the Minister may grant multiannual permits whenever such decision conforms to the promotion and development of the fishing industry.

Article 26
(Setting a Compensation Tariff)

1. The compensation tariff on commercial fishing shall be paid on an annual basis and the amount shall be fixed by a decision of the Council of Ministers, upon proposal by the Minister.
2. The tariff amount referred to in item 1 above shall be set, by bearing in mind, namely, the market value of authorised catches of species, the allocated fishing quotas or the volume of authorised catches, the gross tonnage of the fishing vessel, as well as the fishing tariff policies of other countries, especially those of the region.
3. Without prejudice to the payment of a compensation tariff, the issuance of any fishing permit may be equally subject to additional, non-monetary compensations.
4. Where investments have been duly verified, national holders of artisanal and semi-industrial fishing permits, who have a direct impact on the fishing development may, upon favourable recommendation by the National Consultative Council of the Ministry, enjoy a reduction in or a complete exemption from the fishing compensation tariff, for a period of up to three years, in accordance with the terms and conditions established in applicable regulations.

Article 27
(Duty of Permit Recipient and of Vessel Skippers)

The recipient of the fishing permit and the skipper of the fishing vessel to whom the permit was issued, shall provide data on catches, report the maritime areas that he or she went to and always keep the following documents aboard:

- (a) The permit;
- (b) The fishing logbook;
- (c) A copy of the present decree-law and applicable regulations for possible consultation.

Article 28
(Non-Use of a Permit)

The non-use of a permit without a just cause during its period of validity shall be considered as having been waived by the respective holder and shall produce the same effects as the expiration of a fishing permit, and such permit shall be written off at the fishing or at the fishing area for which it was granted.

Article 29
(Non-Transferrability of Permits)

1. Commercial fishing permits shall be non-transferrable from one fishing vessel to another of the same shipowner, or from one shipowner to another, except where:
 - (a) A contrary specification by a regulation aimed at implementing restricted-access schemes in certain fisheries;
 - (b) The transferrability of property by inheritance;
 - (c) The transferrability of property by the merging of companies;
 - (d) The disposal of a national fishing vessel in favour of a national individual or corporate body, in accordance with applicable regulations;
 - (e) The transferrability of a fishing permit, upon authorisation by the Minister, from one national fishing vessel to another belonging to, chartered, or operated by the same shipowner, where a breakdown for a period longer than two months has been duly proved, or in cases of permanent breakdown of the licensed fishing vessel.
2. In the cases provided for in paragraphs a) to d) of item 1 above, the new owner shall request from the Minister, showing his or her title deed, the acknowledgement of the transfer of the fishing permit, whereupon the new owner shall assume the same rights and be subjected to the same obligations, duties and conditions as the transferor.

Article 30
(Non-Disposal of Permits)

Without prejudice to the provisions of Article 29 above, commercial fishing permits may not be disposed of in any way, nor may they be rented, nor shall any obligations be impinged upon them, nor shall they give rise to other rights in benefit of third parties.

Article 31
(Additional Requests for National Fishing Vessels)

Without prejudice to the requirements and conditions provided for in the present decree-law and applicable regulations, the granting or renewal of a commercial fishing permit to a national fishing vessel shall be subject to the fulfillment of the following additional requirements:

- (a) Prove to be duly registered in the national maritime authority and in the registry of fishing vessels, in accordance with the law;

- (b) Have been allocated a fishing quota in the fishing or area for which the permit was requested;
- (c) The fishing vessel must be prepared to engage directly in the fishing operations mentioned in the fishing permit;
- (d) Fulfill all the obligations, requirements and conditions provided for in the present decree-law and applicable regulations for the granting of fishing permits.

Article 32
(Foreign Fishing Vessels Permits)

1. Fishing permits granted to foreign fishing vessels for national maritime waters shall primarily be in line with international access agreements concluded with other States or with international organisations, as well as with contracts made with foreign fishing associations.
2. The access agreements referred to in item 1 above shall include the obligation of the State, or of the contracting international organisation, to co-operate with the competent national authorities in the planning and carrying out of marine scientific investigation, aimed at the conservation and sustainable utilisation of the fishing resources, by providing the country with all the statistical and scientific data collected during the investigation mentioned above, as well as the obligation to adopt effective and efficient measures aimed at ensuring that the respective fishing vessels operating within the framework of the access agreement comply with:
 - (a) The licensing terms and conditions as well as the national fisheries legislation;
 - (b) The customs formalities on fishing export.
3. The access agreements and contracts referred to in item 1 above shall, namely and without prejudice to item 2 above, set out the number of fishing vessels authorised to operate in national maritime waters, the species and volumes of authorised catches, the sea area and the fishing system to be used, the number of local workers to be possibly employed, the transshipment of catches as well as other authorised fishing-related operations.
4. Contracts with fishing associations shall include the obligations referred to in paragraphs a) and b) of item 2 above and shall comply with item 3 of the present Article.

Article 33
(Registration in the Member State)

1. Foreign fishing vessels licensed to fish, in accordance with the provisions of Article 32 above, shall have the nationality of and shall be registered in the State with which the access agreement was made.
2. Where the access agreement has been concluded with an international organisation, the licensed fishing vessel may have the nationality of and be registered in any member country of the referred organisation.

**Article 34
(Notices)**

Maritime authorities of the country as well as every authority or public service empowered to report offences against the present decree-law and applicable regulations, as well as to national fishermen's associations and regional fishing organisations, shall be notified of the data and identification of the fishing vessels licensed to operate in national maritime waters and engaged in fishing-related operations.

**Article 35
(Bond)**

1. The licensing of a foreign fishing vessel to operate in national maritime waters may be subject to a bond or to a sufficient bank guarantee, aimed at ensuring the payment of possible fines, as well as the obligations provided for in the fishing permit, in the present decree-law and other applicable regulations or in the general law.
2. The amount shall be established by the Minister upon the granting of the permit and shall be either restituted or, in the case of a bank guarantee, terminated within the period defined by applicable regulations, upon the production of the acquittance issued by the National Directorate of Fisheries and Aquaculture, in accordance with the provisions of applicable regulations.

**Article 36
(Acquittance)**

Once the fishing permit has expired, the National Directorate of Fisheries and Aquaculture shall issue, in accordance with the provisions of applicable regulations, an acquittance to its holder indicating that the latter does not have any outstanding tariffs, fines, penalties or tax charges towards the administration resulting from activities covered by the expired fishing permit.

**Sub-Section III
(Fishing Quotas)**

**Article 37
(Allocation of Quotas)**

1. The granting of a fishing permit shall give rise to a fishing quota in the fishing or area defined in the permit, where the species to be caught are subject to quotas.
2. The fishing quota shall be stated in the fishing permit and shall be valid throughout its period of validity.
3. Once the fisheries management plan has been adopted, the Minister shall allocate fishing quotas for a period of up to five years, which shall coincide with the duration of the plan referred to above.

4. The allocation of multiannual fishing quotas shall not authorise the respective holder to undertake fishing operations without the respective annual fishing permit.

**Sub-Section IV
(Fishing Vessels)**

**Article 38
(Artisanal, Semi-Industrial and Industrial Fishing Vessels)**

1. Fishing vessels shall be classified into artisanal, semi-industrial and industrial fishing vessels.
2. The distinction between the different types of vessels referred to in item 1 above shall be defined by regulation.

**Article 39
(National and Foreign Vessels)**

1. Fishing vessels may be:
 - (a) National;
 - (b) Foreign;
 - (c) Foreign, based in the country.

**Article 40
(National Fishing Vessels)**

The following shall be considered national fishing vessels:

- (a) Those that are State-owned or that belong to a public corporate body;
- (b) Those that are the exclusive property of national individuals or national corporate bodies;
- (c) Those that belong to national citizens, in at least 51% of its value;
- (d) Those that belong to corporate bodies whose equity capital has been underwritten to at least 51% of national individuals or national corporate bodies, when these, cumulatively, fulfill the following requirements:
 - (i) Have their registered office in the country;
 - (ii) The respective president of the Board of Directors is of East Timorese nationality.
- (e) Those that are chartered to national individuals or national corporate bodies as long as they are registered in the maritime registry of the country and enrolled in the registry of fishing businesses and vessels of the Ministry.

**Article 41
(Foreign Fishing Vessels)**

In accordance with the provisions of Article 40 above, all non-national fishing vessels shall be considered foreign.

Article 42
(Foreign Fishing Vessels Based in the Country)

The fishing vessels referred to in Article 41 above that exercise their activities from national ports and that disembark therein or that through them trade at least 50% of the catches undertaken in the country, shall include at least 50% of national citizens as their onboard crew and shall fulfill other conditions and requirements, in accordance with applicable regulations.

Article 43
(Manufacture or Import of Fishing Vessels)

1. The manufacture or import of fishing vessels shall be subject to prior authorisation from the Minister.
2. The Minister may condition his or her authorisation to the existence of certain features or equipment that the vessel must have.
3. Failure to comply with items 1 and 2 above shall make it impossible to obtain a fishing permit to operate in national maritime waters.
4. Fishing vessels under construction at the moment of the entry into force of the present decree-law shall not be covered by the provisions of the present Article, if the construction is concluded during the six (6) months that follow.

Article 44
(Chartering of Vessels)

In case of a breakdown or inoperability of a licensed fishing vessel for a long period of time, the Minister may authorise, for a period to be defined by applicable regulations, the chartering of a fishing vessel by the respective shipowner, in replacement of the one broken down or inoperable.

Article 45
(Exclusion Areas of Operation to National Fishing Vessels)

1. National fishing vessels may only engage in fishing activities starting from:
 - (a) 200 meters from the coastline, for small-scale fishing vessels;
 - (b) 3 miles from the coastline, for artisanal fishing vessels;
 - (c) 12 miles from the coastline, for industrial fishing vessels.
2. Fishing permits shall not be granted to industrial fishing vessels, whether national or foreign, to operate in the northern coast of the country.
3. As long as the issue of maritime border demarcation with neighbouring countries is not settled, the maritime areas covered by the fishing permits shall not include the areas beyond the median or equidistant line from the overlapping areas.

Article 46
(Operation Areas to Foreign Fishing Vessels Based in the Country)

The provisions of Article 45 above shall apply to foreign fishing vessels based in the country.

Article 47
(Exclusion Areas of Operation to Foreign Fishing Vessels)

Foreign fishing vessels licensed to fish in national maritime waters may only engage in fishing activities starting from:

- (a) 6 miles from the coastline, for semi-industrial fishing;
- (b) 18 miles from the coastline, for industrial fishing.

Article 48
(Notifying Positioning)

Vessel skippers of foreign fishing vessels licensed to operate in national maritime waters shall notify the National Directorate of Fisheries and Aquaculture:

- (a) Within the deadline provided for in applicable regulations of their departure or entry into the above-mentioned waters;
- (b) Of the details of the catches aboard and of its location in national maritime waters on a regular basis.

Article 49
(Periodical Inspection)

1. Fishing vessels shall be subjected to inspections on a periodical basis aimed at ensuring continued compliance with specifications established in the law in force.
2. The frequency of the inspections referred to in item 1 above, as well as the procedures and requirements for such inspections shall be defined in applicable regulations.

Article 50
(Notifying the Flag State)

The Ministry shall approach, the Ministry of Foreign Affairs and Co-operation in order that the latter promptly notify the following through the appropriate channels:

- (a) The flag State, where a foreign fishing vessel is detained or seized by the national authorities for having violated any of the provisions of the present decree-law or applicable regulations;
- (b) The crewmembers' State(s) of nationality where foreign crewmembers of a fishing vessel are detained for having violated any of the provisions of the present decree-law.

Article 51
(Crews)

1. The crews of artisanal and semi-industrial fishing vessels shall be composed, in its entirety, of East Timorese nationals.
2. The crews of national semi-industrial fishing vessels that are the property of a joint enterprise or operated by it, shall be composed of at least two-thirds of East Timorese nationals.

3. The crews of national industrial fishing vessels shall not be composed of a percentage of national workers below two-thirds.
4. The crews of foreign fishing vessels based in the country shall be composed of at least 50% of East Timorese nationals.
5. Foreign fishing vessels, other than those mentioned in item 4 above, shall not be obliged to have East Timorese nationals in their crews.

**Section IV
(High Seas Fishing)**

**Article 52
(General Provisions)**

High seas fishing shall follow specific licensing requirements, in accordance with the international measures and principles incorporated in the present decree-law and applicable regulations.

**Article 53
(Licensing)**

1. To fishing permits for high seas fishing by vessels of East Timorese nationality the general licensing requirements of fishing provided for in the present decree-law and applicable regulations shall apply, with the necessary adaptations.
2. The granting of a high seas fishing permit to a foreign-flag fishing vessel shall be forbidden.

**Article 54
(Requirements)**

Fishing permits may only be granted to fishing vessels that meet the following additional requirements:

- (a) The fishing vessel must be of East Timorese nationality;
- (b) The vessel must have the necessary identifying marks in accordance with the present decree-law and applicable regulations;
- (c) Be registered at the Ministry, with the fishing vessels registry for high seas operations;
- (d) Not have violated fishing conservation and management measures on the high seas.

**Article 55
(Validity)**

1. High seas fishing permits shall have a maximum validity of one (01) year, renewable for an equal period.
2. Fishing permits shall be kept onboard the respective fishing vessels.

Article 56
(Fishing Tariff)

The granting of a fishing permit shall give rise to the payment of a fishing tariff, the amount of which, to be defined by the Council of Ministers upon proposal by the Minister, shall take into account the specific situation that biological resources on the high seas are not State-owned.

Article 57
(Protection of Resources)

1. The Minister shall adopt measures that he or she shall deem appropriate so as to ensure that national-flag vessels contribute towards the conservation and management of fishing resources on the high seas.
2. In assessing fishing permit applications, the Minister shall take into account recommendations or measures from international, regional or sub-regional organisations regarding the conservation and management of fishing on the high seas.
3. The request for the granting of a fishing permit shall be declined where the recommendations or measures referred to in item 2 above are in favour of the suspension or prohibition of fishing certain species or fishing in areas mentioned in the fishing permit application.

Article 58
(Duties of the Minister)

1. The Minister shall ensure that the fishing vessels licensed to fish in high seas:
 - (a) Do not develop activities that are detrimental to the efficacy of international conservation and management measures;
 - (b) Develop fishing activities in accordance with the conditions set out in the fishing permit.
2. Prior to granting a fishing permit, the Minister shall ensure that he or she may exercise effective control over the fishing vessel, namely, by imposing as a condition, that the fishing vessel calls from time to time a designated national port.
3. The Minister, through the respective services, shall ensure:
 - (a) The collection of statistical data regarding the species and catches on the high seas;
 - (b) The monitoring, control and examination of licensed fishing vessels.

Article 59
(Registration of Fishing Vessels)

1. The competent Ministry shall keep an updated registry of fishing vessels licensed to fish on the high seas.
2. The data to be entered in the registry referred to in item 1 above shall be defined in applicable regulations.

Article 60
(Transmission of Information)

The Ministry shall transmit to the FAO and relevant regional organisations information on:

- (a) Fishing vessels that are in violation of the conservation and management measures on the high seas, as well as any sanctions imposed;
- (b) Operations of licensed fishing vessels on the high seas;
- (c) Permits granted to fishing vessels for high seas fishing that were previously sanctioned upon the revocation of the permit in the previous State of registration.

Article 61
(Identifying Marks of Vessels and Fishing Gear)

Fishing vessels licensed to fish on the high seas and the respective fishing gear shall be marked in accordance with the Normative Specifications for Markings and Identification of Fishing Vessels of the FAO.

Article 62
(Transshipment)

The transshipment of catches shall only take place in the designated national ports or wharfs.

Article 63
(Regulation)

The Minister shall promote the adoption of regulatory norms on high seas fishing, namely those regarding the implementation of international measures on conservation and management, monitoring, control and surveillance of fishing operations, the positioning of fishing vessels, the catches of target species and incidental by-catches, the identifying marks of fishing vessels and fishing gear, the permit application and the registration elements of fishing vessels.

Section V
(Non-Commercial Fishing)

Sub-Section I
(General Provisions)

Article 64
(Types of Fishing)

The Minister may, in accordance with the provisions of the present decree-law and applicable regulations, grant fishing permits to the following non-commercial fishing activities:

- (a) Fishing for scientific investigation purposes;
- (b) Experimental fishing;

- (c) Sport fishing;
- (d) Recreational angling;
- (e) Game fishing.

Article 65
(Conditions of Permits)

Without prejudice to the general conditions provided for in the present decree-law, fishing permits granted for fishing activities, provided for in the present Section, shall set out, namely, the identification of species, whose capture and fishing areas have been authorised, as well as the fishing gear, equipment and fishing methods permitted, the maximum period of fishing or maximum authorised catches per person or per fishing vessel.

Article 66
(Prohibition)

The fishing activities referred to in the present Section may be temporarily prohibited by ministerial order, following consultation with the National Consultative Council of the Ministry, in order to preserve and protect the species and the marine environment, public health and safety, navigational safety and others.

Article 67
(Prohibition on the Sale of Catches)

1. The sale, the display for sale, or any other form of profitable transaction of any marine or aquatic species, or the sale or the display for sale of their parts or by-products thereof, captured within the scope of any type of non-commercial fishing provided for in the present Section, shall be prohibited.
2. Without prejudice to the provisions of item 1 above, catches undertaken within the scope of any type of non-commercial fishing may be used for self- or household consumption of the practitioner or donated to benefactor institutions or to scientific investigation institutions.

Article 68
(Legal Regime)

Without prejudice to the general conditions, requirements, and restrictions on fishing provided for in the present decree-law, applicable regulations shall take into account the following requirements to be followed in any type of non-commercial fishing referred to in the present Section, namely:

- (a) The indication of authorised fishing gear and equipment;
- (b) The determination of the maximum periods of fishing and the total allowable catches per person or per vessel or the total allowable catches per species;
- (c) The determination of minimum distances for commercial fishing vessels;
- (d) The obligation to declare the landing of catches regarding certain species, as well as the maritime areas wherein the fishing activity was exercised and the fishing periods;

- (e) The definition of fishing areas and species whose capture is prohibited.

Article 69
(Fishing Tariff)

1. In establishing the fishing tariff referred to in Article 12 of the present decree-law, when granting a non-commercial fishing permit, it must be taken into account the non-profitable character of activities, the policy of promoting these activities and the practice of countries in the region.
2. Fishing for scientific purposes by institutions, organs or public services shall be exempt from paying the tariff referred to in item 1 above.

Sub-Section II
(Fishing for Scientific Purposes and Experimental Fishing)

The Minister may, following consultation with national bodies of scientific fishing investigation and with the National Consultative Council of the Ministry, grant experimental fishing permits or fishing permits for scientific investigation purposes in national maritime waters, in accordance with applicable regulations.

Sub-Section III
(Sport, Recreational or Game Fishing)

Article 71
(Sport Fishing)

Sport fishing may be practiced by individuals or corporate bodies, whether national or foreign.

Article 72
(Recreational Angling)

1. Recreational angling may be practiced by:
 - (a) Persons or vessels, whether national or foreign;
 - (b) Tourist businesses, headquartered in the country.
2. Dive fishing or underwater fishing may be practiced in recreational angling, in accordance with the Sub-Section that follows and under the conditions indicated in the respective permit.

Article 73
(Commercial Exploitation)

Vessels engaged in recreational angling or game fishing, operating within the scope of or as a tourist business shall, in addition to the recreational angling permit or game fishing permit, be holders of a special permit for such purpose, issued to the shipowning company.

Article 74
(Authorised Fishing Gear and Tools)

The fishing gear and fishing tools authorised in fishing activities referred to in the present Sub-Section shall be defined by applicable regulations.

Sub-Section IV
(Dive or Underwater Fishing)

Article 75
(Dive Fishing or Recreational Underwater Fishing)

Dive fishing or recreational underwater fishing shall require an individual permit or a special permit from the tourist business, whenever such fishing is undertaken within the scope of maritime-touristic activities.

Article 76
(Prohibition)

The use of any fishing gear or fishing tool in dive fishing, or underwater fishing whose propulsive force results from the explosive power of a chemical substance or from artificially compressed gas, shall be prohibited.

Article 77
(Conditions and Requirements)

The specific conditions, requirements and restrictions on dive fishing or recreational underwater fishing shall be defined by regulation.

Section VI
(Conservation Measures)

Sub-Section I
(General Measures)

Article 78
(Sustainable Exploitation of Resources)

1. The exploitation of fisheries resources shall be guided by the principles of their sustainable utilisation and precaution.
2. The principles referred to in item 1 above shall be translated into conservation measures to be adopted in applicable regulations, which may include the following:
 - (a) The definition of dimensions and minimum weight of species, periods of prohibition, areas of prohibited or restricted access, minimum mesh sizes, regulation on fishing gear, maximum amount of authorised catches per vessel or per person in a certain fishing or fishing area, fishing methods prohibited and schemes to restrict access and fishing effort;

- (b) The prohibition to fish internationally protected species, such as marine mammals;
- (c) The prohibition to fish rare species or species in danger of extinction.

Article 79
(Regulatory Measures)

For reasons of conservation and sustainable exploitation of fishing resources, the Minister may take the following measures:

- (a) Restrict the number of fishing vessels or the volume of catches, depending on the frequency of the fishing effort;
- (b) Restrict the period of fishing activity;
- (c) Decide on the temporary closure of a certain fishing;
- (d) Establish the periods of prohibition, prohibiting fishing operations or the capture of certain species;
- (e) Declare certain areas or fisheries as recovery or restocking areas;
- (f) Prohibit, in a definitive manner, the fishing of certain species or fishing in certain maritime areas, in accordance with the present decree-law.

Article 80
(Return of Catches to Sea)

1. Any fisherman or fishing vessel that captures any marine or aquatic species, whose size or weight is below the level permitted, or that does not belong to a target species, or that is included in the list of protected species the fishing of which is prohibited, shall, if such specimen is still alive, immediately return it back to the sea.
2. The sale, the display for sale or the consumption of fingerlings referred to in item 1 above shall be prohibited.

Article 81
(Protection of Aquatic Environment)

1. The introduction into national maritime waters and hydrographical basin of the country of any substances or toxic objects susceptible to infection, which poisons and destroys fishing resources, algae or any aquatic flora species, shall be prohibited.
2. Factories or companies, as well as any person or entity established along the coastline or hydrographical basins shall be prohibited from throwing used water originating from industrial or commercial activities into national waters if these are susceptible to stun, poison or provoke the destruction of fishing resources or any other aquatic species.
3. Any facility aimed at or which may result in the evacuation of residual waters into maritime waters or hydrographical basins shall require a prior opinion from the Minister.

Article 82
(Marine Facilities)

The following shall require a prior opinion from the Minister:

- (a) Any work or installation intended to be carried out in national maritime waters, in the seafront up until 100 meters from the coastline, on in hydrographical basins subjected to fishing or aquaculture activities, as well as the extraction or utilisation of any material or still-life resource from the continental shelf of the country or from the hydrographical basins;
- (b) Activities that, though not involving works or installations, may have an adverse impact on the marine and aquatic ecosystems.

Sub-Section II
(Prohibitions and Restrictions)

Article 83
(Use of Explosives and Toxic Substances)

It shall be prohibited:

- (a) To use or to attempt to use, while fishing, explosive or toxic products or substances to weaken, stun, excite, or kill species or to render it easier, in any other way, to capture or to use any tool for fishing by electrocution.
- (b) To possess or to carry aboard fishing vessels, products, substances or tools referred to in the paragraph (a) above, where such possession or transport involves people who are not law-enforcement agents in the exercise of their functions.

Article 84
(Juveniles and Prohibition)

1. The following acts shall be prohibited:
 - (a) The possession, transport, storage, processing, display and sale of fishing products from any provenance whose size or weight is below those allowed by the present decree-law and applicable regulations;
 - (b) The fishing, purchase or sale of female crustaceans during their spawning season, irrespective of their weight or size;
 - (c) The catching of lobsters during periods and in areas defined in applicable regulations.
2. Subsistence fishing of species that are at the root of the traditional practice of *Balichao* and *Ipo* shall be exempted from the prohibitions on item 1 above, though the Minister may decide to prohibit, on a temporary basis, the fishing of such species whenever protection and preservation measures so advise, in accordance with applicable regulations and following consultation with the National Consultative Council of the Ministry.
3. Notwithstanding item 1 of the present Article, the Minister may allow the fishing of juveniles for aquaculture or other specific purposes, without prejudice to the rules on conservation and preservation and following consultation with the National Consultative Council of the Ministry.

Article 85
(Coral Fishing)

The following acts shall be prohibited:

- (a) The fishing, collection and removal of corals, or the attempt thereof, irrespective of their species and purposes;
- (b) Any act aimed at or resulting in the death, destruction or damage to any coral species, in any manner whatsoever;
- (c) The purchasing or sale, the display for sale, the export or import of any coral species or parts thereof;
- (d) The manufacturing or confection in the country of any coral product or parts thereof.

Article 86
(Extraordinary Prohibition)

The Minister may also declare a temporary ban on the fishing of certain species in a maritime area whenever such species have been affected by oceanographic phenomena.

Article 87
(Banned Fishing Gear)

1. The import and sale of fishing nets in the country whose meshes are smaller in size than one inch as well as their use in river basins and national maritime waters shall be prohibited.
2. The following acts shall be prohibited:
 - (a) Trawling inland
 - (b) Trawling with a double purse seine;
 - (c) The use of any type of driftnet fishing;
 - (d) The use of any fishing gear that adversely affects the seabed in national maritime waters.
3. The use of any device susceptible of obstructing or that in any manner reduces the dimension of the mesh size shall, for all purposes, be considered as the use of fishing gear that does not correspond to the authorised specification.

Article 88
(Fishing in Bays, Estuaries and Ports)

1. Fishing in bays, estuaries and ports shall only be permitted to subsistence and artisanal fishing as defined in regulations.
2. Based on the technical-scientific opinion of competent national or international institutions, the Minister may ban trawling in bays, estuaries and ports as a measure of protection and preservation.

Article 89
(Abandonment of Fishing Gear)

1. The abandonment of fishing gear in national maritime waters shall be prohibited.
2. Skippers of fishing vessels shall take reasonable measures to recover any lost fishing gear.
3. In case of abandonment of fishing gear due to bad weather, breakdown, accident or any other circumstance of *force majeure*, and without prejudice to item 2 above, the National Directorate of Fisheries and Aquaculture and the competent national authorities in charge of navigational security shall be immediately informed.

Article 90
(Length of Time in Water)

The maximum length of time permitted for fishing gear to remain in the water shall be defined in applicable regulations.

Article 91
(Fishing in Coral Reefs)

Fishing in coral reefs shall be prohibited.

Article 92
(Transit of Non-Licensed Foreign Fishing Vessels)

Foreign fishing vessels that do not hold a valid fishing permit authorising them to fish in national maritime waters or foreign fishing vessels which, though holding a valid fishing permit, are found navigating in a maritime area not covered by the respective permit shall, when in transit in the said maritime waters, keep the fishing gear and equipment trimmed and stowed onboard so as to render their use during the said transit impossible.

Article 93
(Restrictions to Dive Fishing for Commercial Purposes)

1. Dive or underwater fishing for commercial purposes may only be permitted to artisanal fishing of crustaceans and molluscs in accordance with applicable regulations.
2. The use of any fishing gear or tool in dive or underwater fishing, whose propulsive force is a result of a detonating power, chemical substance, or artificially compressed gas, shall be prohibited.

Article 94
(Incidental By-Catches)

1. Individuals or corporate bodies engaged in fishing activities shall use the best fishing methods, practices, gear and equipment so as to reduce the capture of

incidental by-catches to a minimum possible, in accordance with applicable regulations.

2. Limits on incidental by-catches permitted per trip shall be established in applicable regulations.
3. The occurrence of incidental by-catches up to the limit established in accordance with item 2 above may be traded and the Minister may, in this case, establish an additional fishing tariff as a means of discouraging incidental by-catches.
4. Incidental by-catches that exceed the limits established in the present Article shall be delivered to the Ministry, which shall, in accordance with applicable regulations, decide on their appropriate disposal without prejudice to the sanctions applied for offences against the present decree-law and applicable regulations.
5. The percentage of incidental by-catches permitted under applicable regulations shall be calculated on the basis of the weight of every fish, crustaceans and molluscs caught, chosen or unloaded and the quantities that may have been transhipped to other fishing vessels shall also be taken into account, the percentages of which may be calculated on the basis of one or several representative samples.

Article 95 (Fishing Areas)

The Minister shall establish by ministerial order the areas authorised for fishing activities.

Sub-Section III (Protected Areas)

Article 96 (Classification of Protected Areas)

1. The Minister may, by ministerial order, declare as protected areas certain areas of the national waters in order to preserve or facilitate the recovery of fishing resources.
2. Depending on the expected objectives and on the special characteristics, the areas referred to in item 1 above may be classified as follows:
 - (a) Aquatic natural reserves, adapted for the recovery of fishing resources;
 - (b) National marine parks;
 - (c) Marine restocking areas.
3. The banning of aquatic areas, in full or in part, considered to be sanitarly unfit shall be effected by a joint ministerial order of the Minister and the Health Minister.

Article 97 (Aquatic Reserves and Restocking Areas)

Aquatic natural reserves and restocking areas shall be established and regulated by a ministerial order of the Minister.

Article 98
(Marine Parks)

National marine parks shall be established by Decree-Law upon a joint proposal of the Minister of Agriculture, Forestry and Fisheries and the Minister for Environment and any fishing activity in the national parks shall, in principle, be prohibited.

Article 99
(Scientific Fishing)

Without prejudice to the rules on protection and preservation of species and following consultation with the National Consultative Council of the Ministry, the Minister may authorise scientific investigation of fisheries in protected areas, in accordance with applicable regulations.

Article 100
(Pollution Damage to Resources)

Without prejudice to fines and other applicable penalties in accordance with the law, any fishing vessel or any other vessel that causes damage or that prompts the death of marine biological resources due to oil spill or to other pollutants originating from the vessel shall be obliged to compensate the State for such damage.

Article 101
(Regulation)

The management and exploitation of resources in protected areas shall be defined by applicable regulations.

Section VII
(Fishing-Related Operations)

Article 102
(Fishing-Related Operations)

Any fishing-related operation that requires a permit shall be subject, with the necessary adaptations, to the provisions of the present decree-law.

Article 103
(Transshipment of Catches)

1. The transshipment of catches in national maritime waters or on the high seas by fishing vessels or fishing-related vessels, whether national or foreign, shall be prohibited.
2. Transshipments shall only be permitted in wharfs or ports designated by the National Directorate of Fisheries and Aquaculture and they shall require a permit.
3. The transshipment of catches provided for in item 2 above may only take place in the presence of designated fishing officers.

4. The transshipment of catches shall give rise to a tariff, the amount of which shall be established by a ministerial order of the Minister.

CHAPTER II (Classification)

Section I (General Measures)

Sub-Section I (Training)

Article 104 (Training of Fishing Professionals)

The Minister shall promote the training and capacity building of professional fishing technicians, particularly by sponsoring fishing courses and utilising professional training possibilities offered by international co-operation.

Article 105 (Training of Fishing Officers)

The Minister shall promote the training and capacity building of fishing officers and inspectors through specific training courses that take into account the prevailing practice in the countries of the region and that take advantage of the training possibilities that exist in these and other countries.

Sub-Section II (Fleet, Joint Enterprises and Port of Base)

Article 106 (Modernisation of Fishing Fleet)

The Minister shall promote construction, modernisation, or reconversion measures of fishing vessels with a view to creating a modern and competitive fishing fleet that is adapted to the fishing conditions in the country and that ensure efficiency in the activity, acceptable working conditions on board, and improvement in the quality of fishing products.

Article 107 (Joint Enterprises)

The Minister shall promote the establishment of fishing companies of foreign and national capital in accordance with the law, and shall define their respective incentives.

Article 108
(Fishing Ports and Fishing Terminals)

1. The Government shall ensure the construction and functioning of fishing ports and fishing terminals within the framework and with the objective of developing the fisheries industry.
2. Fishing ports and fishing terminals shall be classified and supplied with technical as well as hygienic-sanitary conditions for the unloading, conservation and trading of fish, in accordance with applicable regulations.
3. Fishing ports and fishing terminals shall be under the supervision of the Minister, without prejudice to the competencies proper of other Ministers, with whom the Minister must cooperate in the exercise of his responsibilities.

Article 109
(Port of Base)

1. In order to better ensure the control and monitoring of fishing vessels, the unloading of catches, as well as the volume and species caught, the competent Ministry shall assign to each and every national fishing vessel engaged in commercial fishing in the national waters of Timor-Leste, a port of base which shall be the port of reference wherein the fishing vessel shall carry out the majority of its fishing and trading activities.
2. Foreign fishing vessels undertaking commercial fishing activities in the national waters of Timor-Leste shall also be assigned a port of base with which they shall maintain a dominant economic position.
3. No fishing vessel may use a different port to engage in activities referred to in the present Article unless it is so authorised in writing by the competent service of the Ministry, in accordance with applicable regulations.

Article 110
(Organisation of Fish Trading Outlets)

The Minister shall encourage the adoption of a specific regulation on the establishment, functioning and management of fish trading outlets.

Sub-Section III
(Registration and Identification of Fishing Vessels)

Article 111
(National Registration of Fishing Professionals)

Any person, whether self-employed or not, who fishes in national maritime waters or in hydrographical basins as his or her main means of living or profession shall be registered at the national registry of fishing professionals in accordance with applicable regulations.

Article 112
(Registration of Fishing Vessels)

1. Without prejudice to the registration provided for in relevant legislation, the Minister shall establish and maintain an updated administrative registry of all fishing companies and vessels operating in the national maritime waters and hydrographical basins of the country, as well as of national fishing vessels authorised to operate on the high seas.
2. The requirements, conditions and data to be set out in the registry referred to in item 1 above shall be established by regulation.

Article 113
(Marking of Fishing Vessels and Fishing Gear)

Holders of fishing permits shall be obliged to mark fishing vessels and the respective fishing gear in accordance with applicable regulations.

Sub-Section IV
(Partners)

Article 114
(Participation by Partners)

1. In order to ensure a better management of the fishing resources, co-management committees or similar bodies shall be created and the functions, composition, functioning and jurisdiction of which shall be established by specific regulation.
2. In defining functions, composition, areas of activity and functioning, the regulation referred to in item 1 above shall take into account the positive aspects of the experiences already gone through or developed in this respect, namely in small-scale fishing communities.
3. The regulation shall comprise the means of support, in particular, including financial support to small-scale fishing.
4. The functions of small-scale fishing co-management committees or of similar bodies shall include, namely those related to compliance with conservation and management measures of fishing resources, protection of the marine environment, assistance in controlling illegal fishing and compliance with the present decree-law on fishing and applicable regulations.
5. In defining policies as well as in managing and monitoring the fishing sector, the Ministry shall consult co-management committees, similar bodies, or other types of partnership in the sector.
6. Representatives of the partnerships referred to in item 5 above shall be invited to participate in the meetings of the National Consultative Commission of the Ministry whenever the agenda deals with fundamental issues of the fishing policy or activities.

**Sub-Section V
(Agreements)**

**Article 115
(Co-operation Agreements)**

The Minister shall, in coordination with the Minister for Foreign Affairs and Co-operation, encourage the conclusion of co-operation agreements with other countries in the region in the field of fisheries with the specific objective of:

- (a) Exchanging information on conservation and management measures, whether in national maritime areas and hydrographical basins or on the high seas;
- (b) Co-ordinating and integrating monitoring measures and promptly exchanging information on illegal fishing by foreign fishing vessels in the region;
- (c) Standardising the VMS equipment at the regional level or joining a regional VMS integrated service;
- (d) Harmonising the criteria, conditions, terms and requirements for the granting of fishing permits as much as possible;
- (e) Harmonising the management of fisheries and exchanging information on catches of shared stocks.

**Article 116
(Access Agreements)**

The Minister may, in cooperation with the Minister for Foreign Affairs and Co-operation, conclude access agreements with other countries thereby authorising national fishing vessels to fish in the maritime waters of those countries.

**Article 117
(Membership in Fisheries Organisations)**

The Minister shall, in cooperation with the Minister for Foreign Affairs and Co-operation, encourage the conclusion of agreements or take the necessary measures to secure membership for the country into international and regional organisations whose activities focus on or relates to fisheries or aquaculture.

**Section II
(Transmission of Data)**

**Article 118
(Transmission of Data on Positioning and Catches)**

1. Licensed fishing vessels operating in national maritime waters shall inform the National Directorate of Fisheries and Aquaculture, by radio or other means and at intervals to be defined by applicable regulations, about their positioning at sea, the catches realised, the species and maritime areas visited, as well as departure from and arrival at the port and the duration of the fishing operation.
2. Item 1 above shall not apply to subsistence or artisanal fishing.

Article 119
(Statistical Data on Catches)

Skippers of fishing vessels shall be obliged to:

- (a) Fill out statistical forms;
- (b) Provide information on catches realised;
- (c) Keep the fishing logbook, fishing permit and other documents required by the present decree-law, applicable regulations and the general law onboard at all times.

Section III
(National Consultative Council)

Article 120
(Fishing and Aquacultural Functions)

The National Consultative Council of the Ministry shall have consultative functions on all matters relating to fisheries and aquaculture.

Section IV
(Promoting Small-Scale Fishing)

Article 121
(Marine Development Fund)

1. A Marine and Aquacultural Development Fund is hereby established within the Ministry of Planning and Finance with a view to supporting actions aimed at promoting the exploitation of marine and aquacultural resources.
2. The Fund referred to in item 1 above shall operate within the Ministry of Planning and Finance; it shall be managed by the Minister, in accordance with specific regulation, and shall be composed as follows:
 - (a) Contributions granted for that purpose within the framework of international cooperation;
 - (b) Deposit of funds deriving from:
 - (i) 20% of compensations and tariffs paid for the granting or issuance of fishing permits;
 - (ii) 30% of fines imposed;
 - (iii) 50% of the value of catches, fishing gears or fishing vessels confiscated by judicial decision in favour of the State.
3. The functions, functioning and management of the Fund shall be defined in specific regulation.

Section V
(Promoting Scientific Research on Fisheries)

Article 122
(Promoting Scientific Research on Fisheries)

The Minister shall, in accordance with applicable regulations, promote measures for marine scientific research in the fields of scientific research fishing and aquaculture with the objective of assessing the status of the fisheries resources, harmonising the sustainable exploitation of fisheries resources or aquacultural products with the marine and aquatic environment, namely ensuring the obtention of knowledge on environmental conditions, biological knowledge of species as well as their inter-relationship and the impact of fishing and aquaculture on the ecosystems.

Article 123
(International Co-operation)

For as long as the country does not possess adequate human and material resources, the Minister shall co-operate with third countries or with foreign scientific institutions with a view to acquiring the scientific information and data referred to in Article 122 above.

Article 124
(Request for Marine Scientific Research in the Fisheries Domain)

Following consultation with the National Consultative Council of the Ministry, the Minister may authorise requests for marine scientific research in the field of fisheries in compliance with the conditions and requirements provided for in applicable regulations.

CHAPTER III
(Marketing, Processing and Quality of Fisheries)

Article 125
(Marketing)

The Minister shall cooperate with the holder of the internal trade portfolio in establishing measures to improve the quality and marketing of fisheries and aquacultural products in the entire food chain, enabling the consumer to have appropriate information, particularly as regards the nature, origin as well as the hygienic and sanitary conditions of such products.

Article 126
(Processing)

The Minister shall promote, in collaboration with the holder of the industry portfolio, measures for the processing of fisheries and aquacultural products, ensuring the diversification of products, a reduction in adverse environmental impact, the utilisation of by-products, the quality improvement, technological innovation and an increase in exports.

Article 127
(Quality Standards)

1. The Ministry is the government department responsible for taking and ensuring measures that guarantee the quality of fish for export, without prejudice to the competence of other public services.
2. The quality standards of the fish referred to in item 1 above shall be the object of specific regulation, which shall take into account, namely, regional and international standards and recommendations.

Article 128
(Certificate of Quality)

The regulation referred to in Article 127 above, shall create the necessary services to ensure the surveillance of the fish for export and shall establish the form, modalities and requirements for the issuance of a certificate of quality for the fish.

Article 129
(Marketing the Fish)

The Ministry shall cooperate with the Ministry responsible for public health in defining measures that ensure the quality of the fish for domestic consumption in the country.

CHAPTER IV
(Aquaculture)

Article 130
(Technical Studies and Development and Management Plan)

1. In co-ordination with the Minister responsible for the environment, the Minister shall promote the necessary technical studies to determine the appropriate areas for the exercise of commercial aquaculture.
2. Bearing in mind the conclusions reached on the technical studies referred to in item 1 above, the Minister shall promote the drafting of a development and management plan of aquaculture by the competent service of the Ministry.
3. The plan referred to in item 2 above shall indicate the requirements and conditions for the realisation of aquaculture and for the cultivation of species in accordance with the ecosystem and the relevant provisions regarding the management plan of fisheries provided for in the present decree-law shall, with the necessary adaptations, apply to such plan.

Article 131
(Authorisation of Establishment)

1. The establishment and functioning of any commercial aquacultural project, establishment or facility for the cultivation of specific species, whether of freshwater, brackish water or seawater, shall be subject to concession and

- authorisation from the Minister, without prejudice to other authorisations or conditions imposed by law.
2. The creation, functioning, requirements and conditions of operation, as well as the sanitary standards, quality of aquicultural products and food for the species cultivated in the commercial establishments and facilities referred to in item 1 above shall be defined by regulation.
 3. The authorisation referred to in item 2 above shall be preceded by an opinion on the environmental impact from the Ministry responsible for the environment, namely on the impact on the ecosystems and on the protection and preservation of natural species in maritime waters and hydrographical basins.
 4. Facilities for subsistence aquaculture shall not need the authorisation referred to in the present Article.

Article 132
(Prohibition)

No concessions or authorisations for the creation of any aquicultural establishment or facility in maritime areas, where there are natural beds of fisheries resources, coral reefs or areas for the natural proliferation of algae, shall be authorised.

Article 133
(Registration)

Concessions and authorisations for the establishment and installation of any aquicultural project shall be subject to the national registry of aquaculture, in accordance with the provisions established by regulations.

Article 134
(Concessionaire)

1. Any individual or corporate body, whether national or foreign, may be a concessionaire or a holder of a permit for of a commercial aquaculture establishment or facility.
2. The concessionaires or holders referred to in item 1 above may carry out improvement and renovation works upon authorisation from the Minister, following consultation with the Ministers responsible for the environment and for public works, and once the conditions and requirements provided for in the present decree-law and applicable regulations have been met.

Article 135
(Rights of Third Parties)

The granting of concessions or permits in accordance with the provisions of this Section shall be without prejudice to the rights of third parties.

Article 136
(Tariffs and Compensations)

1. Concessions and permits for a commercial aquaculture establishment or facility shall give rise to the payment of tariffs and instalments, the total of which shall be established by a joint ministerial order from the Minister of Agriculture, Forestry and Fisheries and the Minister of Planning and Finance.
2. Subsistence aquaculture facilities shall be exempt from the payment of the tariff referred to in item 1 above.

Article 137
(Aquacultural Establishment in Private Property)

Aquacultural establishments or facilities in private property shall not need a concession; they shall, however, need the permit referred to in the present Chapter and shall comply with the conditions, obligations, requirements and responsibilities provided for in the present decree-law, in applicable regulations and in the general law.

Article 138
(Subsistence Aquaculture)

Aquacultural facilities located in stagnated water or in the sea and with an area smaller than 200 m² shall be considered as subsistence aquaculture.

TITLE III
(Control and Sanctions)

CHAPTER I
(Monitoring and Inspection)

Article 139
(Competence)

Responsibility for the effective implementation of the present decree-law and applicable regulations shall be the competence of the Minister.

Article 140
(Reporting of Offences)

1. Officials of the services that follow shall have the competence to report fishing offences:
 - (a) Fishing officers and fishing inspectors and other Ministry officials designated for that purpose;
 - (b) Customs and maritime officials;
 - (c) Border services officials;
 - (d) Quarantine service officials;
 - (e) Military personnel based in State-owned ships or aircraft to conduct inspection operations in national maritime waters;

- (f) The national police;
 - (g) Officials of the environmental protection service;
 - (h) Any other official of the public administration in accordance with the law.
2. Leaders of fishing communities and fishing associations may also report offences to the present decree-law and applicable regulations.

Article 141
(Powers of Inspecting Agents)

1. The powers of officials who have the competence to report offences, in accordance with the provisions of Article 140 above, shall be defined in applicable regulations and shall include, namely, the power to detain the vessel skipper and its crewmembers, the power to seize fishing vessels and to transport the latter to a designated port or maritime area, visiting and examination rights to any part of the fishing vessel, to its load, equipment and onboard documents, as well as the power to seize any load, equipment, fishing gear, onboard documents or any evidence of the offences committed.
2. The applicable regulations referred to in item 1 above shall define the procedures to be followed with regard to the destination of the catches, of the crewmembers detained, of the vessel seized and of other objects seized.

Article 142
(Minimum Interference in Activities)

The exercise of the inspection functions referred to in Articles 140 and 141 shall not unnecessarily interfere with the normal course of fishing operations of the licensed fishing vessel.

Article 143
(Inspection)

1. Fishing vessels may be inspected or examined whenever they are in national maritime waters, ports or quays, or in the high seas in the case of national fishing vessels.
2. Fishing officers may conduct their activity aboard fishing vessels, during a fishing trip or campaign, in accordance with applicable regulations.

Article 144
(Reporting)

The proceedings for reporting and processing a report, as well as the preliminary investigation of offences shall be defined by regulation.

Article 145
(Responsibility of Fishing Inspector)

A fishing inspector shall be answerable for the acts committed in the exercise of his or her functions in accordance with the general law.

**Article 146
(Prohibition)**

1. It shall be prohibited to any fishing officer or inspector or to any employee engaged in the implementation and monitoring of the present decree-law and applicable regulations to demand or to receive any recompense or contribution from fishermen, shipowners, or vessel skippers, whether in cash or in species.
2. It shall be equally prohibited to fishing officers and inspectors to have a direct or indirect interest in fishing companies or vessels or in fishing trade.

**Article 147
(Inspection of Fishing Gear and Catches)**

The inspection of fishing gear or catches may be conducted upon disembarkation or upon the unloading of the catches.

**Article 148
(Presence of Inspectors)**

The disembarkation or the unloading of catches shall be conducted in the presence of fishing officers or inspectors.

**Article 149
(Unloading of Fishing Products by Vessels of Third States)**

The unloading or disembarkation of fishing products by foreign fishing vessels shall need an authorisation from the National Director of Fisheries and Aquaculture, and the respective vessel skipper shall submit the respective unloading request in advance as specified in applicable regulations.

**Article 150
(Establishing the Vessel Monitoring System)**

1. In order to obtain information in real time on the location of fishing vessels as well as other useful information that allow the monitoring and control of industrial and semi-industrial licensed fishing vessels operating in national maritime waters, thus reinforcing the capacity of the State to intervene in monitoring the fulfillment and implementation of the present decree-law and other applicable regulations, the Minister shall take the necessary measures for the establishment and functioning of a vessel monitoring system (VMS) in such vessels.
2. The Minister shall, through a ministerial order, determine in which vessels the vessel monitoring system device shall be installed and kept onboard during the first phase of the implementation of the system referred to in item 1 above.
3. The Ministry shall maintain a record of the vessels wherein the device referred to in item 2 above shall be installed and kept onboard.
4. The conditions for the installation onboard, for the maintenance, for the operation and registration of the device referred to in item 2 above shall be established by regulation.

5. The resulting expenses of the acquisition and installation of the device onboard the fishing vessel referred to in the present Article shall be borne by the respective shipowner.

Article 151
(Membership in a Regional Vessel Monitoring System)

In co-ordination with the Ministers responsible for the environment and maritime transports, the Minister shall promote efforts towards obtaining membership for the fishing vessels of the country into a regional vessel monitoring system or he or she shall take measures towards the standardisation of the VMS equipment with those used by countries in the region.

Article 152
(Right of Pursuit)

1. Inspectors or other services of the State, acting through a warship or through a military aircraft or through a ship or aircraft that are clearly identifiable as ships or aircraft at the service of the State of Timor-Leste and authorised for such, may, in accordance with international law, pursue a foreign fishing vessel whenever there are well-founded reasons to believe that the vessel violated fishing laws and regulations in national maritime waters.
2. The pursuit of a foreign fishing vessel may continue and its seizure may take place outside of the national maritime waters boundaries if the pursuit was initiated in the interior of such waters and if it was continuous, but it shall cease at the moment in which the pursued fishing vessel enters the territorial sea of the Flag State or of a third State.
3. The requirements, procedures, and powers to act in the exercise of the right of pursuit shall be defined by applicable regulations, in accordance with the 1982 United Nations Convention on the Law of the Sea.

Article 153
(Appropriate Use of Force)

Whenever the skipper of a fishing vessel does not follow a stop order, in accordance with the provisions of Article 152 above, the warship or military aircraft, or another State-owned ship referred to in Article 152 above, may use appropriate and proportional force to stop the fishing vessel from escaping.

CHAPTER II
(Offences and Sanctions)

Section I
(Offences)

Article 154
(Liability)

1. Individuals and corporate bodies shall be liable for offences committed to the present decree-law and other applicable regulations.
2. Without prejudice to item 1 above and the penal responsibility that falls the offender in accordance with the provisions of the general law, the skipper of a fishing vessel or the persons in charge of fishing operations at that time as well as the shipowner shall, along with the offender, be jointly and severally liable for fines, penalties and other redresses imposed.
3. Where joint and several liability referred to in item 2 above does not exist or is not granted, only the offender shall be liable.
4. The skipper of a fishing vessel who proves not to have contributed to the commission of the offence shall be exempt from joint and several liability.
5. The shipowner of a fishing vessel involved in a fishing offence shall always be jointly and solidarily liable to pay fines, penalties or other redresses imposed, without prejudice to the right of redress against the offender.

Article 155
(Concurrence of Liability)

There shall be no sanctions for violations that have already been sanctioned administratively or judicially.

Article 156
(Limitation)

Without prejudice to the limitation periods for criminal acts in accordance with the law, serious fishing offences provided for in the present decree-law shall be limited to a period of two (02) years to be counted from the date of their commission or from the date the competent institutions have become acquainted therewith, and the commission of simple offences shall be limited to a period of 18 months.

Article 157
(Serious Fishing Offences)

Without prejudice to other offences provided for by the general law, the following constitutes serious offences under the present decree-law:

- (a) The use of fishing gear that does not correspond to the specific or authorised specifications, namely the use of prohibited fishing gear and the use of fishing nets whose meshes are smaller in size than the minimum authorised mesh size;
- (b) Fishing during prohibited periods or in prohibited areas;
- (c) Fishing of species whose capture is forbidden or whose weight or size is below the minimum authorised weights and sizes;
- (d) Overfishing beyond the total allowable catches or in disregard to the rules concerning the control of the fishing effort;
- (e) Lack of data or the provision of false statistical information on catches and on the fishing effort or on the positioning of the vessel or the falsification of

- records onboard, namely, the fishing logbook or other documents relating to the catches;
- (f) The use in fishing, the onboard possession or the transport of explosives, substances or toxic products without authorisation by the competent authorities;
 - (g) Fishing with a vessel other than the one permitted to the holder or the capture of species different from the ones allowed to the permit holder;
 - (h) The escape or an attempt thereof following questioning by inspecting agents in the exercise of their functions;
 - (i) Failure to comply with the conditions and terms established in the fishing permit;
 - (j) The fraudulent alteration of data set out in the fishing permit;
 - (k) The falsification of a fishing permit;
 - (l) The provision of information or the provision of false data and documents;
 - (m) The manipulation, alteration, or damage or any form of interference with the communications or with the functioning of the vessel monitoring system device;
 - (n) Failure to comply with the obligation to have the fishing permit and the fishing logbook as well as any other document provided for by law onboard the vessel;
 - (o) The removal or alteration of the evidence of the offence committed;
 - (p) Failure to comply with legal provisions and regulations on the movement of the vessel, transshipment, prior notice of its arrival in and departure from the port;
 - (q) The disembarkation or unloading of fishing products in a port different from the one authorised as a way of evading the control and inspection of fishing products that are disembarked or unloaded;
 - (r) Fishing in areas that are unauthorised for the type of fishing vessel used or the unauthorised transfer of quotas or fishing permits, namely from one shipowner to another;
 - (s) The voluntary destruction or damage of vessels, nets and other fishing gear belonging to others;
 - (t) The destruction or concealment of evidence on any of the offences provided for in the present decree-law;
 - (u) The refusal of the skipper to follow orders given to him or her by inspectors conducting inspections or his or her non-cooperation with them or with other officials from competent authorities;
 - (v) The carrying out of unauthorised fishing-related operations;
 - (w) Resisting, by violent means or by threats of violence, a fisheries inspector in the exercise of his or her functions;
 - (x) Failure to comply with the provisions in force regarding the arrangement of the fishing gear;
 - (y) The non-existence of a vessel monitoring system onboard a fishing vessel due to its fault;
 - (z) High seas fishing by a national fishing vessel without authorisation from the competent authority;
 - (aa) Failure to comply with international measures on conservation and management on the high seas by a national fishing vessel;
 - (bb) Failure to comply with obligations and conditions imposed on non-commercial fishing permits;
 - (cc) Non-maintenance onboard of the documents required in the present decree-law and applicable regulations;

- (dd) Failure to comply with the obligation to make onboard records available to the competent authorities;
- (ee) Fishing, or an attempt thereof, in national maritime waters by semi-industrial and industrial fishing vessels not licensed for that purpose;
- (ff) Fishing, or an attempt thereof, in national maritime waters by foreign fishing vessels not licensed for that purpose;
- (gg) Fishing, gathering, collecting, possessing, selling or displaying corals, or an attempt thereof, by any means;
- (hh) The provision of supplies or fuel to fishing vessels in national maritime waters without due authorisation from the Ministry;
- (ii) The use of explosives and toxic substances susceptible to weakening, stunning or killing the species;
- (jj) Oil leakage or the leakage of other pollutants by fishing vessels into national ports and maritime waters when it results in the damage or death of species.

Article 158
(Other Offences)

Offences to the provisions of the present decree-law and applicable regulations not provided for in the present decree-law shall be punishable with a fine.

Article 159
(Offences Provided for in General Law)

Fishing offences provided for in the general law shall be punishable in accordance with the provisions of the present decree-law.

Article 160
(Jurisdiction)

The administrative and judicial authorities shall have the competence in accordance with the law to be informed of all offences committed against the present decree-law and other applicable regulations.

Section II
(Sanctions)

Article 161
(Offences Punishable by Fine, Suspension or Revocation of Permit)

The offences provided for in paragraphs (a) to (w) of Article 157 shall be punishable by fine and, cumulatively, by the suspension of the fishing permit for a period between one (01) to six (06) months. In case of recidivism of the offence within twelve months from the date the previous sanction was imposed, the fishing permit shall be revoked and the offender shall not be eligible for renewal of the fishing permit or for the obtention of a new permit for a period up to twenty-four (24) months.

Article 162

(Offences Punishable by Fines)

The offences provided for in paragraphs (x) to (dd) and in paragraph (jj) of Article 157 shall be punishable by fines.

Article 163

(Offences Punishable by Fine and Seizure of Fishing Gear and Catches)

The offence provided for in paragraph (ee) of Article 157 shall be punishable by fine, the permit shall be revoked and the fishing gear and catches shall be seized.

Article 164

(Offences Punishable by Fine and Seizure of Fishing Vessel)

The offences provided for in paragraphs (ff) to (hh) of Article 156 shall be punishable by fine and the catches, the fishing gear and the fishing vessel shall be seized.

Article 165

(Recidivism)

1. Where there is recidivism of the same or other serious offences before six (06) months have elapsed, to be counted from the date of the previous sanction has been finally imposed, the minimum and maximum ceiling amounts of fines to be imposed shall be doubled and the fishing permit shall be revoked.
2. Where there is recidivism of offences to provisions related to aquaculture, the permit to operate the aquacultural establishment may be revoked depending on the seriousness of the offence, without prejudice to any fines imposed in accordance with item 1 above.

Article 166

(Non-Imposition of Punishment by Confinement)

No administrative or judicial authority shall impose punishment by confinement to foreign citizens for the commission, in the exclusive economic zone, of offences to the fisheries legislation, unless there is an agreement with the country of which they are nationals to that effect, nor shall, under any circumstances, any administrative or judicial authority subject the skipper or crewmembers of any fishing vessel to physical torture or maltreatment.

Article 167

(Loss of Sponsorship and Loss of Authorisation to Fish on High Seas)

1. A shipowner of a national fishing vessel who, under the sponsorship of the country, is licensed to fish in the maritime waters of a third State and who commits a serious offence may lose the supra-mentioned sponsorship.
2. Such shipowner shall be punishable by fine and the authorisation for a national fishing vessel to fish on the high seas shall be withdrawn upon the commission of

a serious offence to the protection and preservation of species or to the marine environment of that maritime area.

**Section III
(Fines)**

**Article 168
(Amount)**

1. The amounts of fines to be imposed shall be established by a joint ministerial order of the Minister of Agriculture, Forestry and Fisheries and the Minister of Justice.
2. In establishing the amounts referred to in item 1 above, one shall take into account, namely, the seriousness of the offence, the deterring role of the fine, the damage caused to management and preservation of resources in the marine environment, as well as the quantity and quality of the illegal catches and incidences of recidivism.

**Article 169
(Currency of Payment)**

The fines to be imposed on any fishing vessel, individual or corporate body shall be paid in American dollars.

**Section IV
(Proceedings for the Imposition of Sanctions)**

**Article 170
(Proceedings)**

The proceedings for the imposition of sanctions shall be defined by regulation.

**Article 171
(Competence to Impose Sanctions)**

1. The following persons shall have the competence to impose sanctions for the commission of offences provided for in the present decree-law and applicable regulations:
 - (a) The Minister, who may delegate it in accordance with the law, where it regards administrative offences committed by artisanal fishing companies and vessels fishing;
 - (b) The National Director of Fisheries and Aquaculture where it regards administrative offences committed by subsistence or artisanal fishermen;
 - (c) The competent judicial courts where it regards a criminal offence, seizure or loss of fishing vessels, fishing gear and equipment, catches or the compensation therefor in cash, tools or other equipment in favour of the State, in accordance with the law.

Article 172
(Non-Appearance of a Presumed Offender)

The non-appearance of a presumed offender in the administrative process of inquiries for the commission of a fishing offence shall not deter the running of the proceeding referred to above nor shall it deter the enforcement of sanctions provided for in the present decree-law, in applicable regulations or in the general law.

Section V
(Release of Vessel and Bond)

Article 173
(Release of Vessels and Crewmembers after Payment of Bond)

1. By a decision of the competent court or, if applicable, of the Minister or of whoever has been given sufficient delegation, the fishing vessel that is detained or seized shall, upon request of its shipowner, skipper or his or her representative once the bank guarantee or proper bond has been furnished, be immediately released pending administrative and judicial proceedings for the offence committed.
2. In setting the amount of the bank guarantee or the bond, the following shall be taken into consideration, namely the maximum amount of fines of which the offender is liable to, the value of the vessel, the value of the fishing gear and the value of the catches found onboard.
3. The decisions mentioned in item 1 above shall be taken within a maximum period of 24 hours after furnishing the bond or the bank guarantee referred to in item 1 above.

Article 174
(Restitution of Bond)

The bond or bank guarantee deposited in accordance with the provisions of the present decree-law shall be promptly restituted:

- (a) Where it has been decided to dismiss the proceeding;
- (b) Where the shipowner, skipper or representative of the fishing vessel pays all due fines, penalties, expenses and emoluments in case of conviction;
- (c) Where there has been an absolatory decision.

TITLE IV
(Transitional and Final Provisions)

Article 175
(Right to Appeal)

Nothing in the present decree-law shall prevent or diminish the right of any individual or corporate body to claim and to appeal administrative and judicial decisions in accordance with the general law.

**Article 176
(Regulations)**

Regulations that shall ensure the implementation of the present decree-law shall be approved by a Governmental Decree or, depending on the case, by a Ministerial Order of the Minister.

**Article 177
(Competence)**

Within the scope of his or her competencies to secure the management and promotion of the fisheries sector, it shall be incumbent upon the Minister to enforce and to have the present decree-law and relevant regulations enforced.

**Article 178
(Delegating Competencies)**

The competencies attributed to the Minister by the present decree-law may be delegated, in full or in part, to the Deputy Minister or, in his or her absence or inability to act, to the National Director of Fisheries and Aquaculture.

**Article 179
(Temporary Suspension of Fishing Activities)**

For security or military reasons, the Minister may temporarily prohibit fishing in certain maritime areas or fishing at night by ministerial order.

**Article 180
(Revocation of Laws)**

All prior fishing legislation in conflict with the present law shall be revoked.

**Article 181
(Entry into Force)**

The present decree-law shall enter into force 30 days after its publication.

Approved by the Council of Ministers on 3 March 2004.

The Prime Minister

[Signed]
(Mari Bin Amude Alkatiri)

The Minister of Agriculture, Forestry and Fisheries

[Signed]
Estanislau Aleixo da Silva

Promulgated on 5 April 2004

To be published.

The President of the Republic

[Signed]

Kay Rala Xanana Gusmão