

**LEGAL NOTICE NO 38/1998**  
**THE FOREIGN FISHING VESSEL REGULATIONS**

**PART I**  
**PRELIMINARY**

**Art. 1. Short Title**

These Regulations may be cited as “the Foreign Fishing vessel Regulations-Legal Notice No 38/1998”.

**Art. 2. Definitions**

- 1) For the purposes of these Regulations, unless the context otherwise requires:
  - (a) “agent” in relation to a fishing vessel means an agent appointed under Article 7 hereof;
  - (b) “Department” means the Fisheries Resources Management Department of the Ministry of Fisheries;
  - (c) “Director” means the Head of the Department;
  - (d) “foreign fishing vessel license” means a license issued under Article 18 of the Fisheries Proclamation No. 104/1998;
  - (e) “the Proclamation” means the Fisheries proclamation No 104/1998;
  - (f) “protected species” means any species designated as protected by the Ministry in writing and includes all species of marine turtles;
  - (g) “Support vessel” means any fishing or other vessels used for related activities as defined in Article 3 of the Proclamation;
  - (h) “transship” includes transfer between vessels where aquatic organisms are landed before being shipped aboard the receiving vessel.
- 2) Where these Regulations require any document, thing or action to be approved by the Minister, it shall be deemed to be approved if it conforms to the current guidelines or requirements issued by the Ministry for the purposes of these Regulations.

**PART II**  
**FOREIGN FISHING VESSEL LICENCES**

**Art. 3. Applications**

- 1) A fishing license shall not be granted in respect of any vessel which is not currently registered with the Ministry.
- 2) Every application for registration of a vessel or for a license under these Regulations shall be made in writing by the master in a form approved by the Minister.

**Art. 4. Forms of licenses**

Every foreign fishing vessel license shall be in the form set out in the first schedule to these Regulations and every transshipment license shall be in the form set out in the second schedule to these Regulations.

**Art. 5. Fees**

- 1) The fees payable in respect of a foreign fishing vessel license shall be the fees established by the applicable agreement under Article 15 of the Proclamation, or the fees approved by the Minister.
- 2) Where the fees payable in respect of a foreign fishing vessel license are paid periodically and a payment has not been received by the fifteenth day after the due date, the license shall be automatically suspended.

**Art. 6. License Conditions**

Every foreign fishing vessel license shall be subject to the following general conditions:

- (a) the vessel shall only be used for such fishing and related activities, during such times and in such place as are specified in the license;
- (b) all provision of these Regulations shall be complied with;
- (c) any change in the information set out in the application shall be notified to the Minister within 10 days;

- (d) the licensee shall appoint, and at all times be represented by, an agent in Eritrea with the authority, and the financial and other means necessary to discharge the agent's responsibilities under Art. 7 hereof;
- (e) the master of the vessel shall maintain a logbook recording the nature, time and position of all fishing operations and the quantity of catch by species and such related information as the Minister may require;
- (f) reports of the information required to be recorded under sub-Article (e) hereof shall be transmitted by the master of the vessel to the Department:
  - (i) after each fishing trip;
  - (ii) at any other time required by the Department; and
  - (iii) not later than thirty days after the expiry of the license;
- (g) the master of the vessel shall cause its position and the amount of catch on board to be reported to the Department by radio or other means of communication approved by the Department:
  - i. upon entering or leaving Eritrean waters;
  - ii. at such times as the Department may specify while the vessel is in Eritrean waters;
- (h) the master of the vessel shall cause the estimated time of its entry into port to be notified to the Department and the Port authority at least twenty-four hours prior to such entry;
- (i) the master of the vessel and each member of the crew shall comply with any directions given to them by an authorized officer and, in particular, shall on request of the officer:
  - (i) stop the vessel;
  - (ii) permit boarding and inspection of the vessel; and
  - (iii) bring the vessel into port;
- (j) The vessel shall at all times that it is in Eritrean waters:
  - (i) fly the flag of its flag state and the Eritrean flag;
  - (ii) display identification marking in accordance with the specification set out in the Third schedule to these Regulations;
- (k) no fish may be transshipped from or onto the vessel while in Eritrean waters except with the permission of the Department and in accordance with such conditions as it may specify;
- (l) the master and operator of the vessel shall take all reasonable precautions to avoid causing damage to any national fishing operations;
- (m) the master of the vessel shall permit one or more of the inspectors designated by the Department to go and remain on board the vessel for any or all of the time it is in Eritrean waters and shall:
  - (i) provide the inspectors with suitable food and accommodation while on board;
  - (ii) co-operate fully with the inspectors in the performance of their duties;
  - (iii) arrange for the inspectors to send and receive messages by way of the communication facilities on board the vessel;
- (n) any records, reports or notifications required to be maintained in the English language;
- (o) the license shall be for a maximum period of one year; and
- (p) the license shall automatically terminate if the country registration of the vessel changes.

**Art. 7. Agents**

- 1) For the purposes of these Regulations “principal” in relation to an agent of a vessel means any one or more of the master, owner(s), charterer(s), operator(s) or crew of the vessel.

- 2) Every person who applies for Regulations of a foreign fishing vessel or for any license for a vessel under these Regulations shall appoint an agent for the vessel and shall warrant that the agent has authority to accept and respond to service of any legal process and to communicate with Ministry and Department on behalf of each principal.
- 3) The agent shall:
  - (a) ensure that at all times the agent is authorized to accept and respond to service of any legal process on behalf of each principal;
  - (b) maintain an office in Eritrea at which the agent shall accept service of any such legal process and shall give prior written notice to the Ministry of any change in the address of the office or other contact details;
  - (c) ensure that any reports required by Article 6(f), (g) and (h) hereof are delivered to the Ministry by the due date; and
  - (d) be liable under Article 35(2) (i) of the Proclamation if any such report is not received by the required time or is incomplete or contains false or misleading information.
- 4) Any document, notice or other communication under these Regulations made or served on the agent shall be deemed to have been served or given to the principal to whom it was addressed at the time it was delivered or communicated to the agent.
- 5) Every document or communication received by the Ministry from an agent shall be deemed to have been made with the knowledge and authority of the relevant principal(s) unless the Ministry has been informed in advance by the principal (s) that this is not the case.

### **PART III OTHER LICENCES**

#### **Art. 8. Support Vessels**

No person may operate or use a support vessel in relation to fishing activities carried out by a foreign fishing vessel without the prior written approval of the Minister and in accordance with such terms and conditions as the Minister may prescribe.

#### **Art. 9. Transshipment**

- 1) No person may transship fish or other aquatic organisms in Eritrean waters except in accordance with a transshipment license and at the ports of Massawa or Assab or at a place designated in the license.
- 2) The master of any vessel intending to transship fish or other aquatic organisms shall give the Ministry at least 48 hours' notice of the transshipment and on completion of the transshipment shall complete and certify a transshipment logsheet in a form approved by the Minister and present it to a designated officer of the Department. If the officer is satisfied that the transshipment has been carried out in accordance with these Regulations and that to the best of the officer's knowledge and belief the information on the transshipment logsheet is correct, the officer shall certify the log sheet.

#### **Art. 10. Export**

- 1) Subject to sub-Article (2) hereof, no person shall export any fish or other aquatic organism without an export license issued by the Ministry.
- 2) The Minister may in writing dispense with the requirement for an export license if the Minister is satisfied that this will not prejudice the attainment of the objectives of these Regulations and that there are adequate means of ensuring that the volume and nature of the fish or other aquatic organisms exported can be verified.

#### **Art 11. Import of live Fish**

- 1) No person shall import any live fish or other aquatic organisms into Eritrea except pursuant to a license issued under these Regulations.
- 2) A licensing officer may issue a license for the import of live fish or other aquatic organisms if the officer finds that the import does not pose a threat to the natural environment of Eritrea.

#### **Art 12. Ornamental Fish**

- 1) Subject to sub-Article (2) hereof no person shall fish for, buy, keep, or export ornamental fish except under a license issued by the Minister and in accordance with the Ministry's guidelines.
- 2) Any person may, without a license, fish for, buy and keep such quantities of ornamental fish as are reasonable in proportion to that person's personal aquarium facilities.

#### **PART IV OPERATIONS OF FOREIGN FISHING VESSELS**

**Art 13. Seaworthiness**

Every foreign fishing vessel shall be seaworthy and shall comply both with international standards relating to seaworthiness and the safety of life at sea and with Eritrean laws.

**Art 14. Equipment**

Every foreign fishing vessel shall be equipped with and maintain in good working order a satellite location finder, radio-communication equipment enabling it to communicate with the Department and depth sounding equipment.

**Art. 15 Stowage of Gear**

While any foreign fishing vessel is not authorized to fish in Eritrean waters or is passing through a closed or protected area, it shall keep its fishing gear stowed in the following manner:

- (a) in the case of trawlers, all nets, trawl boards and weights shall be disconnected from their towing or hauling wires, ropes or rigid frames and lashed to the deck or superstructure;
- (b) in the case of purse seiners:
  - (i) the boom shall be lowered;
  - (ii) all nets and ropes shall be carried wholly inboard and lashed to the deck or superstructure;
  - (iii) all boats belonging to the purse seiner shall be carried wholly inboard; and
  - (iv) any aircraft shall be lashed down.

**Art 16. Protection of Environment**

- 1) The operator and master of each foreign fishing or support vessel shall ensure that:
  - (a) all fishing gear is deployed in a manner that only targets those species specified in the license and avoids or minimizes the catching or damage to other species of fish or living organisms, including coral and seagrass; and
  - (b) fishing nets are not used in waters which is less than 30 meters in depth.
- 2) No person shall pollute Eritrean waters or dispose of any fishing gear, garbage or waste in Eritrean waters.
- 3) Unwanted and spoilt fish and other aquatic organisms (including processing
- 4) byproducts), shall be disposed of on land in accordance with the Department's instructions.

#### **PART V SCIENTIFIC RESEARCH**

**Art 17. Conditions**

- 1) An authorization to conduct scientific research under article 11 of the Proclamation shall be subject to the following conditions:
  - (a) no operations may take place until a research plan has been approved by the Minister and the researchers have entered into research agreement with the Ministry;
  - (b) copies of all data derived from the research and any analysis, report or other result of the research shall be communicated in full and in the format required by the Ministry, to the Ministry as soon as they are produced; and
  - (c) at the request of the Research and Training Division of the Ministry, the research vessel shall take on board the researchers designated by the Research and Training Division and facilitate their participation in the research program.

- 2) Scientific research authorized under these Regulations shall be conducted in accordance with guideline approved by the Minister.

## **PART VI OFFENCES AND PENALTIES**

### **Art 18. Offences**

- 1) The operator (s) and master of a foreign fishing vessel each commit an offence where the vessel:
  - (a) fishes in Eritrean waters without an agent appointed under Article 7 hereof;
  - (b) does not fly the flag of its flag State or the Eritrean flag, or does not display identification marking in accordance with these Regulations;
  - (c) leaves port without complying with the requirements of the Department or the Port Authority or while in an unseaworthy condition or without a satellite location finder, radio-communications equipment and depth sounding equipment in good working order;
  - (d) transships fish or other aquatic organisms to or from it:
    - i. without a valid transshipment license; or
    - ii. in contravention of any term or condition of the license;
  - (e) deploys fishing gear in a manner that does not target only those species specified in the license, or does not avoid or minimize the catching or damage to other species of fish or living organisms, including coral and seagrass;
  - (f) uses fishing nets in water which is less than 30 meters deep.
- 2) It is an offence for any person:
  - (a) to obstruct or hinder an inspector in the performance of the inspector's duties;
  - (b) to operate a support vessel in relation to fishing activities carried out by a foreign fishing vessel:
    - (i) without authorization under Article 9(1) hereof; or
    - (ii) in contravention of the terms and conditions of such authority;
  - (c) to export any fish or other aquatic organisms from Eritrea:
    - (i) without either an export license or the written authority of Minister; or
    - (ii) in contravention of the terms and condition of such license or authority;
  - (d) to import any live fish or other aquatic organisms into Eritrea:
    - (i) without an import license under Article 11(1) hereof; or
    - (ii) in contravention of the terms and condition of such license;
  - (e) to fish for, buy, keep, sell or export ornamental fish in other than for personal use in accordance with Article 12(2) hereof;
    - (i) without a license under Article 12(1) hereof; or
    - (ii) in contravention of the terms and condition of such license or of the Ministry's guidelines;
  - (f) to use a vessel other than a licensed foreign fishing vessel, to conduct scientific research related to living resources in Eritrean waters in contravention of the terms and condition of such license or authority or of guidelines approved by the Ministry;
  - (g) to pollute Eritrean waters, dispose of any fishing gear, garbage, waste, unwanted aquatic organisms or processing byproducts in Eritrean waters in contravention of Article 16 hereof;
  - (h) to fail to dispose of unwanted or spoilt fish and other aquatic organisms (including processing byproducts) on land and in accordance with Department's instructions; and
  - (i) to contravene the terms and conditions of any other license, authorization issued by the Minister under these Regulations.

### **Art 19. Penalties**

A person who is convicted of an offence:

- (a) referred to in Article 18 (1) (a),(b)or(c), Article 18 (1)(d)(i), Article 18(1)(e)or(f) or Article 18(2)(a), (b)(i), (c)(i), (d)(i), (e)(i), (g) or (h) is liable to a fine not exceeding 50,000 Nakfa,

- (b) referred to in Art 18 (1) (d) (ii), or Art 18(2) (b) (ii), (c) (ii), (d) (ii), or (e) (ii), (f) or (i) is liable to a fine not exceeding 20,000 Nakfa.

**Art 20. Administrative penalties**

- 1) If the Director has reason to believe that a person has committed an offence under these Regulations which the Director believes could appropriately be dealt with by way of administrative penalty, the Director may cause a written notice in accordance with sub-Article (2) hereof to be served on that person (the defendant).
- 2) A notice under sub-Article (1) hereof shall be substantially in the form of the fourth schedule to these Regulations and shall:
  - (a) specify the nature of the alleged offence and when and where it is alleged to have been committed;
  - (b) specify the principal allegations;
  - (c) contain a summary of the facts on which the principal allegations are based and which gave the Director reasonable cause to believe that the defendant had committed the offence;
  - (d) specify the maximum penalty to which the person would be liable if convicted of the offence by a court and any other matters which the Director considers relevant to the imposition of a penalty; and
  - (e) set out the provision of a penalty.
- 3) The defendant shall within 28 days, by notice in writing to the Director in the prescribed form set out in the Fourth schedule to these Regulations, either:
  - (a) deny the offence and set out a summary of the defendant's defense; or
  - (b) admit the offence and may make written representations setting out matters which the defendant wishes the Director to make into account in imposing a penalty, failing which the defendant shall be deemed to have admitted the offence.
- 4) If a defendant requests to be allowed to make representations in person to the Director, the Director shall afford the defendant an opportunity to make such representations at a mutually convenient time after receipt of the defendant's reply under sub-Article (3) hereof and before deciding the matter.
- 5) After considering any representations made by the defendant within the time prescribed in the notice, the Director shall within 30 days, cause a notice in the form of the seventh schedule to these Regulations to be served on the defendant stating:
  - (a) that no further proceeding will be taken in respect of the alleged offence;
  - (b) that legal proceedings will be instituted to bring the matter before a court; or
  - (c) the penalty imposed.
- 6) In dealing with any matter under this Article, the Director may
  - (a) impose a fine not exceeding the maximum fine specified for the offence;
  - (b) amend the conditions of any license to prevent a repetition of the offence; and
  - (c) order the release of any vessel or other thing seized in connection with the offence on payment of the fine.
- 7) Any fine imposed under sub-Article (6) hereof shall be paid within 30 days and shall be dealt with as though it were a fine imposed by a court.

**Art 21. Suspension of Licenses**

- 1) If the Director has reason to believe that an offence under these Regulations has been committed, the Director may detain any vessel suspected of being involved in the commission of the offence and suspend any relevant license for a period of not more than 10 days while the matter is investigated and if a notice under Article 20 (2) hereof is served, the period of suspension may be extended until the Director has served a notice of this decision under Article 20(5) hereof and any fine imposed has been paid.

- 2) If the Director suspends a license and after consideration of representations made by the defendant concerning the alleged offence, decides not to take any further action, the Director shall extend the license in order to minimize the prejudice to the defendant caused by the suspension.

**Article 22. Entry into Force**

These Regulations shall enter into force as of the date of their publication in the Gazette of Eritrea Laws.

Done at Asmara, this 25<sup>th</sup> day of May, 998  
Petros Solomon,  
Minister of Fisheries.

State of Eritrea - Ministry of Fisheries

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**FOREIGN FISHING VESSEL LICENSE**

Issued By The Minister For Fisheries

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I Hereby authorize the owner(s)charterer (s) of fishing vessel \_\_\_\_\_  
(MOF Registration Number \_\_\_\_\_ to use that vessel to fish within Eritrean waters subject to Eritrean law  
and in accordance with terms and conditions set out in this license.

Fishing vessel License Number:

Type of target fish:

Gear types Allowed:

Period of validity of the License:  From: \_\_\_\_\_ To: \_\_\_\_\_

**Warning:-**

- Failure to notify the Minister timously of any change to the information furnished in the relevant applications forms or comply with any of the terms and conditions in this license or as prescribed by law may result in a fine and/or suspension or cancellation of this license.
- This license will terminate automatically if the country of registration (flag state) of the vessel changes.
- This license will be suspended automatically if payment of the license fee is more than 7 days overdue.

**Special Conditions:**

This License entitles the licensee to fish for the target species indicated below subject to the restriction on quantity, fishing period area and gear type indicated.

Target species	Quota (if applicable)	Period	Area	Gear Type

The licensee shall also comply with the following conditions:

Signature ..... Date:

**Official stamp**

## **GENERAL TERMS AND CONDITIONS OF LICENSING**

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The following general terms and conditions of licensing apply to all foreign fishing vessels and fish transport vessels (hereinafter referred to as “vessels”) operating within Eritrean waters; prior to entering Eritrean waters for the purpose of fishing or fish transportation and while vessels are operating in Eritrean waters the ship's master (captain), owners and charterers of all fishing vessels must:

### **COMPLIANCE WITH LEGISLATION AND GUIDLINES:**

- comply with the fisheries laws and regulations and with the current guidelines and administrative procedures of the Ministry and with all immigration laws.

### **VESSEL REPORTING**

- maintain logbooks recording all fishing operations and complete fishing, landing and transshipment log sheets clearly in English, for the relevant time periods in the prescribed manner and shall certify that this information is complete and accurate.
- provide any other information required by the Minister from time to time:
- provide biological and other information on the fish taken on board and discarded during fishing operations and fish transporting operations when required to do so by the Minister:

### **INSPECTORS:**

- allow any person designated by the Ministry as an inspector to:
  - board the vessels for scientific, biological or monitoring functions;
  - embark and disembark any vessel at a place and time agreed;
  - have full access to information facilities and equipment on board which the inspector may determine is necessary to carry out his or her duties, including to the fish on board, the measurements and removal of samples vessel record and logs reasonable access to navigation equipment charts and communication equipment, and any other information related to fishing operations;
- not assault or obstruct the inspector in the performance of his or her duties;
- provide the inspector while on board of the vessel, with food, accommodation and medical facilities at no cost to the inspector or the Eritrean Government:

### **AGENTS**

- appoint and maintain an agent who shall have authority to receive and respond to any legal process, including the management of the vessel when in port. Any communication, information, document, request or response to or from that Agent shall be deemed to have the full knowledge and approval of the owners and operators of the vessel:

### **TRANSIT:**

- ensure that while the vessel is navigating through Eritrean waters during periods when the vessel is not licensed to fish, or through closed areas, that all fishing gear on board is stowed and secured in such a manner that is not readily available to use for fishing;

### **NATIONAL FISHING OPERATIONS:**

- avoid damage to national fishing operations.

### **FISHERIES INSPECTION**

- ensure that the master and the crew immediately comply with every instruction and direction given by an authorized Fisheries officer, including to stop, to move to a specified location to facilitate safe boarding and inspection of the vessel, its license, fishing gear and equipment, records, fish and fish products;
- assist any action by a Fisheries officer and ensure that no officer is assaulted, intimidated or hindered in the performance of his or her duties;

- ensure the continuous monitoring of the international maritime distress and calling frequency 2182 KHZ (HF) and the international safety and calling frequency 156.8 MHz (VHF - channel 16);
- ensure that a current copy of the international code of signals is on board at all times;
- ensure that the vessel has identification marks in accordance with the FAO approved standard specifications for the Marking and Identification of Fishing vessels;

**LICENCE:**

- ensure that the fishing license for the current period of licensed operations is prominently displayed in the bridge of the vessel and is available for inspection at any time;

**CLOSED AREAS:**

- ensure that the vessel does not operate within fishing areas that are closed to its operation, nor that the fishing gear when deployed is allowed to drift within the boundary of any closed area;

**FISH SPECIES AND QUANTITIES:**

- ensure that all fishing gear is deployed in a manner that targets only those species in the license and those species that are generally caught incidentally to them; and that avoid or minimizes the catching or damage to other species of fish or living organisms;
- ensure that fishing operations cease immediately when allocations of fish species quantities specified in the license have been taken, or when instructed to do so by the Ministry.

**LICENSED GEAR**

- ensure that only the types of fishing gear authorized in the license are to be carried on any vessel intending to fish.

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**WARNING:** Failure to comply with these terms and conditions of licensing may result in penalty.

State of Eritrea - Ministry of Fisheries

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**TRANSSHIPMENT LICNCE**

Issued by the Minister for Fisheries

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I, hereby authorize the fishing vessel/support vessel \_\_\_\_\_  
(MoF Registration Number, \_\_\_\_\_) to transship fish and other aquatic organisms in Eritrean waters  
under the terms and conditions of the license.

Transshipment License Number:

Place of Transshipment

Period of Validity of the License:

From	To
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Special Conditions:

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Official stamp:**

**SPECIFICATIONS FOR THE MARKING OF FISHING VESSELS**

**1. CONTENT OF IDENTIFICATION MARKS**

- (a) Any vessel that has been assigned an International Telecommunications Union Radio Call Sign shall display that Radio Call Sign as its identification mark.
- (b) Any vessel that has not been assigned an International Telecommunication union radio Call Sign, other than a vessel referred to in paragraph 1(c) of this Schedule, shall display an identification mark consisting of the characters allocated by the International Telecommunication Union to the flag state of vessel, followed by a hyphen and the registration number assigned to that vessel by the Ministry.
- (c) Any vessel that has been assigned an International Telecommunication Union Radio Call sign, but is normally carried on board another vessel for use in fishing operations shall display the identification mark assigned to that other vessel.

**2. LOCATION OF MARKING**

- (a) Identification marks shall be prominently displayed:
  - (i) on the vessel's port and starboard side or superstructure, high above the waterline, but not on the flare of the bow or on the stern, in such a way as to be clearly visible both from the sea and from the air; and
  - (ii) for vessels other than undecked vessels, on a horizontal surface of the vessel, athwartships, with the top of the letters and numbers towards the bow of the vessel: where an awning or other temporary cover is placed so as to obscure the marking, the awning or other cover shall bear the same identification mark.
- (b) Identification marks shall be so placed that they:
  - (i) are not obscured at any time by fishing gear whether stowed or in use
  - (ii) are clear of flow from scuppers or overboard discharges and of areas that might be prone to damage or discoloration occurring during or as a result of catching operations; and
  - (iii) do not extend below the water waterline.

3 **TECHNICAL SPECIFICATIONS**

- (a) Block lettering and numbering shall be used through out.
- (b) The width of the letters and numbers shall in proportion of the height as set in the annex to this schedule.
- (c) The height of the letters and numbers shall be in proportion to the size of the vessel in accordance with the following criteria:
  - (i) for identification marks in the side or superstructure of the vessel:

<b>Length overall of vessel In meters (m)</b>	<b>Minimum height of letters and numbers in meters</b>
25 m and over	1.0 m
At least 20 m but less than 25 m	0.8 m
At least 15 m but less than 20 m	0.6 m
At least 12 m but less than 15 m	0.4 m
At least 5 m but less than 12 m	0.3 m
Under 5 meter	0.1 m

- (ii) For identification marks to be display on horizontal surface on vessels of 5 meters length overall and over, the height of the letters and numbers shall be not less than 0.3 meters.
- (d) the length of the hyphen shall be half the high of the letters and numbers
- (e) The width of the stroke for all letters, numbers and the hyphen shall be one sixth of the height of the letters and number.
- (f) The space between letters and/or numbers, except in the case referred to in paragraph (g) hereof, shall not exceed one quarter of the height of the letters and numbers nor be less than one sixth of that height.
- (g) The space between adjacent letters having sloping sides shall not exceed one quarter of the height of the letters and numbers nor less than one tenth of that height.
- (h) Identification marks shall be white on black ground or black on a white back ground: the back ground shall extend to provide a border around the letters and number of not less than one sixth of the height of the letters and numbers.
- (i) Good quality marine paints shall be used in the marking of the vessels in accordance with these specification: retroreflective or heat-generation substance may also be used.
- (j) The identification marks, and the back ground shall be maintained in a good condition at all times.

**NOTICE OF AN ALLEGED OFFENCES**

given under Article 20 of the Foreign Fisheries Regulations Legal Notice No. 38/1998 ('the Regulations')  
made under the Fisheries Proclamation 104/1998 ('the Proclamation')

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To: .....  
.....  
.....  
.....

1 TAKE NOTICE that the director:

(a) has reasonable cause to believe that on or about.....  
at.....  
You committed an offence under.....  
In that you.....  
and

(b) considers that it would be appropriate to impose a penalty for the offence under Article 20 of  
the Regulations.

2 The following is a summary of the principal facts which caused the Director to conclude that an  
offence had been committed and on which the allegation is based:

.....  
.....  
.....  
.....  
.....

3 The maximum fine for which you would be liable if convicted by a court of the above offence (s) is:

.....

4. The Director considers the following factors to be relevant to the imposition of a penalty in this matter:  
.....  
.....  
.....  
.....
  
- 5 you must complete the attached form and return it to the office of the Ministry of Fisheries at.....  
by no later than the 28<sup>th</sup> day after the date that this notice was served on you or an agent authorized to represent you under Article 7. Failure to do so will result in your being deemed to have committed the offence(s) alleged in this notice
  
6. should you wish to make representations to the Director concerning the illegal offence, you should immediately contact the licensing Division of the Ministry to arrange an appointment to see the Director within 10 days of completing and returning the attached form.
  
7. Your attention is drawn to the possible consequences of your failing to return the attached document within the time specified and of failing to pay any fine imposed, as indicated in Article 20 of the Regulations and Articles 37(3), 37(4) and 47 of the Proclamation (quoted on the reverse side of the attached document).

Date this.....day of .....199 .....

\_\_\_\_\_  
.....

Director of Fisheries Resources Management.

## **Art 20. Administrative penalties**

- 1) If the Director has reason to believe that a person has committed an offence under this law which the Director believes could appropriately be dealt with by way of administrative penalty, the Director may cause a written notice in accordance with sub-Article (2) to be served on that person (the defendant).
- 2) A notice under sub-Article (1) shall be substantially in the form of the fourth schedule to these Regulations and shall:
  - (a) specify the nature of the alleged offence and when and where it is alleged to have been committed;
  - (b) specify the principal allegations;
  - (c) contain a summary of the facts on which the principal allegations are based on and which gave the Director reasonable cause to believe that the defendant had committed the offence;
  - (d) specify the maximum penalty to which the person would be liable if convicted of the offence by a court and any other matters which the director considers relevant to imposition of a penalty; and
  - (e) set out the provisions of these Regulations.
- 3) The defendant shall within 28 days, by notice in writing to the Director in the prescribed form set out in the fourth schedule to these Regulations, either:
  - (a) deny the offence and set out a summary of the defendant's defiance; or
  - (b) admit the offence and may make written representations setting out matters which the defendant wishes the directors to take into account in imposing a penalty.  
failing which the defendant shall be deemed to have admitted the offence.
- 4) If defendant requests to be allowed to make representations in person to the Director, the Director shall afford the defendant an opportunity to make such representations at a mutually convenient time after receipt of the defendant's reply under sub-Article (3) and before deciding the matter.
- 5) After considering any representation made by the defendant within the time prescribed in the notice, the Director shall with 30 days cause a notice in the form of the seventh schedule to these Regulations to be served on the defendant stating:
  - (a) that no further proceeding will be taken in respect of the alleged offence or
  - (b) that legal proceeding will be instituted to bring the matter before a court; or
  - (c) the penalty imposed.
- 6) In dealing with any matter under this Article, the Director may:
  - (a) impose a fine not exceeding the maximum fine specified for the offence;
  - (b) amend the conditions of any license to prevent a repetition of the offence; and
  - (c) order the release of any vessel or other thing seized in connection with the offence on payment of the fine.
- 7) Any fine imposed under sub-Article (6) shall be paid within 30 days and shall be dealt with as though it were a fine imposed by a court.

## **"Art 37 Forfeiture**

- 3) Where any thing in the custody of the court is not ordered to be forfeited, it shall be held until all fines imposed for any offences in commission of which the thing was used, caught or processed have been paid, and if within thirty days following a conviction, any part of such fines remains unpaid, such thing may be sold and the proceeds applied toward payment of the fines.
- 4) In the case of any administrative settlement under Article 47, all things ordered by the Minister to be released shall be released forthwith and all other things held shall be forfeited”.

## **“Art 47 security for sums due to the state**

IF any amount is due to the state by the master or any operator of a foreign fishing vessel and the court consider that the state has no insufficient security to ensure payment, the court may order the detention of any vessel or equipment in respect of which the amount became due until the dept is paid in full or security to the satisfaction of the court is lodged”

**To: The Director of Fisheries Resources Management**

**INSTRUCTIONS:** If you deny all the offences listed below, complete part A only. If you admit all the offences listed below complete part B only. If you admit some of the offences and deny other, complete both part A and part B, indicating clearly which offences are admitted and which are denied.

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**PART A**

I refer to the notice No: served on me under Article 20 of the Foreign Fisheries Regulations Legal Notice No 38/1998.

**TAKE NOTICE** that:

- (1) I deny committing: all of the offences referred to in the notice/  
The following offences.....
- (2) My defense to the allegations in the notice is that .....  
.....  
.....
- (3) I wish/do not wish to make representations in person to the director concerning the offences referred to the above.

Dated this \_\_\_\_\_ days of \_\_\_\_\_ 199 \_\_\_\_\_

\_\_\_\_\_  
(Signature of person giving this notice) \_\_\_\_\_  
(Full name printed)

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**PART B**

I refer to the Notice No.....served on me under Article 19 of the Foreign Fisheries Regulations Legal Notice No 38/1998.

**TAKE NOTICE** that:

- (1) I admit committing: all of the offences referred to in the notice/  
the following offences.....
- (2) I wish/do not wish to make representations in person to the Director concerning the offences referred to above
- (3) I wish you to take the following factors into consideration in imposing penalty:  
.....  
.....

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 199 \_\_\_\_\_

(Signature of person giving this notice) (Full name - printed)

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