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OFFICE OF THE SECRETARY

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BFAR ADMINISTRATIVE)
CIRCULAR NO. 252 :
Series of 2014)

**SUBJECT : RULES AND REGULATIONS GOVERNING DISTANT-WATER
FISHING BY PHILIPPINE-FLAGGED FISHING VESSELS**

Whereas, Section 32 of R. A. 8550 allows fishing vessels of Philippine registry to operate in international waters or waters of other countries which allow such fishing operations;

Whereas, Executive Order No. 154, series of 2013 adopting the "*National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*" requires the implementation of Flag State responsibilities such as ensuring that Philippine flagged fishing vessels do not engage in illegal, unreported and unregulated fishing and undertaking comprehensive and effective monitoring, control and surveillance (MCS) of fishing from its commencement, through the point of landing, to final destination;

Whereas, the Philippines signed the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean and its Annexes on September 05, 2000, which was subsequently ratified by the Senate in 2005;

Whereas, the Philippines is a member of good standing of the Western and Central Pacific Fisheries Commission (WCPFC), Indian Ocean Tuna Commission (IOTC) and the International Convention on the Conservation of Atlantic Tuna (ICCAT);

Wherefore, in view of these premises, the Department of Agriculture, through the Bureau of Fisheries and Aquatic Resources (BFAR), hereby adopts and promulgates the following rules and regulations on distant water fishing by Philippine-flagged fishing vessels for the information, guidance and compliance of all concerned:

Section 1. Definition of Terms. – For purposes of this Circular, the following terms and acronyms shall mean and shall be construed as follows:

- a. ALC or MTU – Automatic Location Communicator or Mobile Tracking Transceiver Unit which is an approved-type one-way or two-way automatic tracking device utilizing a satellite navigation and communication system for the purpose of transmitting information concerning the Philippine-flagged fishing vessels' positions, fishing activities, and any other activity as may be required;
- b. Carrier – a type of fishing vessel designed for the purpose of carrying and transporting fish and other supplies to and from the fishing ground;
- c. Catcher – a type of fishing vessel solely used to catch or harvest fish from the marine environment;

- d. Coastal State – the country or State where a fishing vessel conducts its fishing operations;
- e. Distant-Water fishing – fishing in the high seas, areas managed by Regional Fisheries Management Organizations and waters of other Coastal States;
- f. High Seas – the area beyond Philippine waters which does not belong to the jurisdiction of any other State;
- g. ICCAT – International Commission for the Conservation of Atlantic Tuna;
- h. IOTC – Indian Ocean Tuna Commission;
- i. Fishing Vessel – any boat, ship or other watercraft equipped to be used for taking fishery species or aiding or assisting one (1) or more vessels in the performance of any activity relating to fishing, including, but not limited to, preservation, supply, storage, transportation and/or processing;
- j. FAD – Fish Aggregating Device;
- k. Flag State – the country or State which entitles the fishing vessel to fly its flag and records that fishing vessel in its register of ships;
- l. GHP – Good Handling Practices;
- m. HSP1 – High Seas Pocket No. 1 as referred to in WCFPC CMM 2013-01;
- n. Purse seine or ring net – a form of encircling net having a line at the bottom passing through rings attached to the net, which can be drawn or pursed. In general, the net is set from the boat or a pair of boats around the school of fish. The bottom of the net is pulled close with the purse line. The net is then pulled aboard the fishing boat or boats until the fish are concentrated in the bunt or fish bag;
- o. PCG – Philippine Coast Guard;
- p. PFDA – Philippine Fisheries Development Authority;
- q. PNA – refers to the Parties to the Nauru Agreement which is an international organization composed of the Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands and Tuvalu;
- r. Regional Fisheries Observer – an RFMO accredited Fisheries Observer;
- s. RFMO – Regional Fisheries Management Organization; and,
- t. WCPFC – Western and Central Pacific Fisheries Commission.

Section 2. Scope and Application. –This Circular covers all Philippine-flagged fishing vessels, regardless of type, engaged in distant water fishing as defined in Section 1 hereof.

Section 3. Fishing on the High Seas or International Waters or waters of Other Coastal States. –Fishing vessels of Philippine registry with valid Commercial Fishing Vessel License may engage in distant water fishing provided:

- 3.1. That the fishing vessel is registered with the RFMO or the Coastal State that allows fishing by foreign-flagged fishing vessels;
- 3.2. That the fishing vessel will comply with the rules and regulations of the RFMO which has jurisdiction over the high seas pocket or the Coastal State which has jurisdiction over the waters where they operate;
- 3.3. That the fishing vessel shall comply with the safety, manning and other requirements of MARINA and other requirements of concerned agencies;
- 3.4. That the fishing vessel shall secure an International Fishing Permit (IFP) Special Fishing Permit (SFP), Certificate of Clearance from the Bureau or license or authorization from the Coastal State and that the fish caught by such vessels shall be considered as caught in Philippine waters and are not subject to all import duties and taxes only when the same are landed in duly designated fish landings and fish ports in the Philippines;
- 3.5. That the owner of the fishing vessel shall provide to the BFAR Director and BFAR officials authorized to monitor the fishing effort, information on its fishing access conditions, which shall be kept confidential.

The International Fishing Permit (IFP) and Special Fishing Permit shall be issued by the BFAR National Director. The IFP shall be valid for a period of three (3) years to commence from the date of payment of permit fees unless suspended, revoked, terminated or cancelled sooner for cause.

Section 4. Requirements for Distant Water/International Fishing. – All Philippine-flagged distant-water fishing vessel must comply with the following:

- 4.1. Accreditation as a Distant Water Fishing Vessel by the BFAR Director;
- 4.2. A valid CFVGL;
- 4.3. Duly accomplished IFP application form;
- 4.4. Copy of the fishing permit/license from the Coastal State (for fishing vessels operating in waters of other Coastal States);
- 4.5. Ship Station License;
- 4.6. Payment of application fee of P1,000.00;
- 4.7. Payment of permit fee of P1,500.00 for the IFP;
- 4.8. Payment of authorization fee of \$1,500 for the SFP;

- 4.9. Affidavit of Undertaking that the vessel shall not, except when otherwise authorized by BFAR, operate in Philippine waters, including the Exclusive Economic Zone during the duration of the IFP and SFP.

Section 5. Vessel Marking and Specifications. – Fishing vessels operating in the high seas or international waters shall comply with the vessel marking and specification requirements of the RFMO that governs that area. Fishing vessels operating in the waters of other Coastal States shall comply with the vessel marking and specification requirements of that Coastal State. However, the International Radio Call Sign as stated in the Ship Station License issued by the Philippine competent authority shall be marked on the fishing vessel in accordance with the standards of the Food and Agriculture Organization.

Section 6. Observer Coverage. – All catcher vessels shall have fisheries observer coverage in accordance with the conservation and management measures of the RFMO which has jurisdiction over the area. Fisheries observers shall be deployed from the Philippine Fisheries Observer Program. Fishing vessels operating in waters of other Coastal States shall comply with the observer coverage requirement of that Coastal State.

Section 7. Vessel Monitoring System. – All catcher and carrier vessels shall be equipped with a two-way ALC in accordance with the conservation and management measures of the RFMO which has jurisdiction over the area where these vessels operate. Lightboats shall also be equipped with a one-way ALC.

Section 8. Timely Reporting of Catch, Vessel Entry and Exit. – The Master of catcher vessel shall record its catches in the prescribed logsheet and shall submit it to BFAR on a monthly basis. The owner shall report to BFAR in a timely manner the following:

- 8.1. Notice of entry of vessels to the high seas twenty four (24) hours prior to entry in accordance with the following format: VID Entry to (RFMO Name) high seas; Date & Time; Latitude/Longitude;
- 8.2. Notice of exit of vessels from the high seas six (6) hours prior to exit in accordance with the following format: VID Exit from (RFMO Name) high seas; Date & Time; Latitude/Longitude.

Section 9. Inspection and Monitoring of Port Landings. – All landings of catches of distant water fishing vessels shall be done only in authorized fishports controlled by PFDA, provided that landings may be allowed in private wharves or landing sites recognized by BFAR as GHP-compliant, provided further that unloading of catches shall only be made in the presence of a Fish Inspector who shall verify the weight of fish landed. To ensure traceability of fish, landings shall be inspected and monitored by BFAR, in coordination with PFDA and PCG.

Section 10. Declaration of Landing in Foreign Ports. –Philippine-flagged fishing vessels authorized to engage in distant water fishing may land their catch in ports of other states subject to the following conditions:

10.1 Fishing companies shall request in writing either BFAR or the competent authority of the port State, copy furnished BFAR, for authorized personnel to monitor and document landing in the foreign port within seven (7) working days before the scheduled landing and shall submit the following information:

- a. Name, registration number, and other identification of the landing fishing vessel;
- b. Specific name of port;
- c. Port State (if landing in foreign ports);
- d. Scheduled date of landing;
- e. Estimated quantity/volume of fish to be landed; and,
- f. Buyer/Destination

10.2 All landings of catches in foreign ports must be covered by a “Landing Declaration” duly attested to by the competent authority of that port and shall be submitted to BFAR within thirty (30) days from such landing.

Section 11. Catch Allocation. – BFAR shall closely monitor the catch quota allocated by the concerned RFMO and/or vessel days allocated by PNA-member countries and ensure that allocation is not exceeded. For this purpose, BFAR shall require owners to provide information to the BFAR Director and BFAR personnel authorized to monitor the catch allocation, who shall keep the information confidential.

Section 12. Advance Notice for Monitoring of Transshipment of Catch. –Fishing companies shall request BFAR for authorized personnel to monitor and document transshipment, either at port or at sea, seven (7) working days or more before the scheduled transshipment activity and shall submit the following important information:

1. Name, registration number and other identification of the transshipping or landing vessel;
2. Name, registration number and other identification of the receiving vessel (if transshipment-at-port);
3. Proposed transshipment date;
4. Specific name of transshipment port and Port State; and
5. Estimated quantity/volume of fish to be transshipped.

Section 13. Group Seining Operation. – Group seining operation which involves the transfer of fish from the fishing net of a catcher vessel directly to the hatch/hold of the carrier vessel, either on the high seas or inside Philippine waters, is not considered transshipment. However, for purposes of traceability, group seining operations shall be properly documented by the master of the catcher and carrier vessel and, whenever applicable, verified by an authorized fisheries observer on board.

Section 14. Documentation. – For purposes of traceability and catch certification, all BFAR-monitored transshipment operations, landings or group seining operations shall be recorded or documented in the following documents:

1. Transshipment Certificate for transshipment of catches, either at sea under the jurisdiction of other Coastal States or at port under the jurisdiction of other Port States;
2. Landing Declaration; and,
3. Captain/Mate's Certificate for catches obtained by fishing vessels involved in group seining operations.

Section 15. Bilateral Cooperation with Other Coastal or Port State. –To ensure effective monitoring of landing and transshipment at sea or at port, BFAR shall coordinate and cooperate with other Coastal or Port State in sharing information and documents related to landing and transshipment of catch by Philippine-flagged fishing vessels in waters or ports of that Coastal or Port State.

BFAR shall ensure that a bilateral agreement between the Philippines and the other Coastal or Port State is in place before any document on landing or transshipment is recognized and used in catch certification in the Philippines.

Section 16. Prohibitions and Sanctions. – Fishing vessels found to have committed the following prohibited acts shall be penalized with the following sanctions.

A. Serious violations. For the following serious violations the sanction shall include payment of fine in the amount equivalent to five times the value of the catch or the amounts specified below, whichever is higher:

- (1) Two hundred fifty thousand pesos (P250,000.00) to five hundred thousand pesos (P500,000.00) for small-scale commercial fishing;
- (2) Seven hundred fifty thousand pesos (P750,000.00) to one million pesos (P1,000,000.00) for medium-scale commercial fishing; and,
- (3) One million two hundred thousand pesos (P1,200,000.00) to three million pesos (P3,000,000.00) for large-scale commercial fishing.

16.1 Engaging in distant water fishing without International Fishing Permit (IFP) and/or Special Fishing Permit (SFP) from BFAR or authorization from the Coastal State;

16.2 Engaging in distant water fishing without Fisheries Observer onboard as required by the RFMO or the Coastal State;

16.3 Engaging in distant water fishing with noALC or without being enrolled in the Vessel Monitoring System, or intentionally switching off, disabling or tampering the ALC;

16.4 Transshipment in the High Seas, except for group seining operation, or transshipment in violation of the laws or regulation of the Coastal State;

16.5 Fishing during Fad Closure Period;

16.6 Fishing with the use of prohibited Gears such as Drift Gill Net;

16.7 Fishing without reporting the catch or misreporting the catch;

16.8 Setting on Whale Shark;

16.9 Assaulting, resisting, intimidating, harassing, seriously interfering with, or unduly obstructing or delaying a fisheries law enforcer, authorized inspector or observer or other duly authorized government officer;

16.10 For fishing vessels operating in the IOTC managed area, non-recording of catch data in accordance with IOTC resolution 13/3 and longline fishing without the use of at least two (2) mitigation measures to reduce seabird by catch in accordance with IOTC Resolution 12/6;

B. Violations in Section 13 of Fisheries Administrative Order No. 245-2. The following violations in Section 13 of FAO 245-2, series of 2014, which are not considered as serious violations as identified in Paragraph A hereof, shall continue to be governed by the provision of said FAO if committed by fishing vessels authorized to fish in High Seas Pocket 1- Special Management Area of the WCPFC. The offenses and penalties herein shall equally apply to other fishing vessels engaged in distant water fishing;

16.11 Intentionally non-reporting of position manually every four hours after having been notified by BFAR that the ALC is not transmitting, which shall be penalized with an administrative fine of one hundred thousand pesos (P100,000.00)) and suspension of CFVGL and IFP for a period determined by the Director for the first offense, and five hundred thousand pesos (P500,000.00) and revocation of special fishing permit for the second offense;

16.12 Failure to report or notify BFAR as required in Section 8 of this Order, which shall be penalized with an administrative fine of five hundred thousand pesos (P500,000.00) for the first offense and one million pesos (P1,000,000.00) for every succeeding offense;

16.13 Intentional non-submission of logsheets prescribed by BFAR or intentional submission of logsheet with falsified information or misreporting, which shall be penalized with an administrative fine of five hundred thousand pesos (500,000.00) on the first offense and one million pesos (P1,000,000.00) on each succeeding offense;

16.14 Fishing in excess of the catch allocation allowed by the concerned RFMO or Coastal State, which shall be penalized with a fine of one million pesos (P1,000,000.00) and revocation of special fishing permit and/or IFP;

16.15 Fishing in High Seas Pocket 1- Special Management Area using nets which are not compliant with the prescribed mesh size shall be penalized by a fine of one million pesos (P1,000,000.00) for the first offense and two million pesos (PP2,000,000) and revocation of the special fishing permit for the second offense;

16.16 Deployment of FADs in excess of forty (40) for fishing in High Seas Pocket 1- Special Management Area, which shall be penalized with a fine of fifty thousand pesos (P50,000.00) per excess FAD and confiscation of the excess FAD;

16.17 Unauthorized transfer of access right or replacement of vessel, which shall be penalized with a fine of one million pesos (P1,000,000.00) for the first offense and two million pesos (P2,000,000) and revocation of special fishing permit for the second offense.

C. Other violations. The following violations not covered by Paragraphs A or B hereof shall be penalized with suspension of CFVGL and IFP for a period determined by the Director on the second offense, and cancellation or revocation of the same on the third offense and a fine equivalent to twice the value of catch or the following amounts, whichever is higher:

(1) Fifty thousand pesos (P50,000.00) to two hundred thousand pesos (P200,000.00) for small-scale commercial fishing;

(2) Two hundred fifty thousand pesos (P250,000.00) to five hundred thousand pesos (P500,000.00) for medium-scale commercial fishing; and,

(3) Seven hundred thousand pesos (P700,000.00) to one million pesos (P1,000,000.00) for large-scale commercial fishing.

16.18 Fishing vessels found to have engaged in fishing and/or fishing-related activities in unauthorized areas;

16.19 Fishing vessels found to have violated or to have failed to comply with any other recommendation, resolution or conservation and management measure of the RFMO or of the Coastal State;

16.20 Fishing with an expired IFP or SFP;

16.21 Violation of the affidavit of undertaking stated in Section 4.9;

16.22 Violation of prior notification requirements stated in Sections 10 and 12 hereof;

16.23 Failure to submit landing declaration;

16.24 Failure to submit transshipment certificate or captain/mate's certificate;

16.25 Landing in unauthorized ports or landing sites; and,

16.26 Failure to comply with prescribed vessel marking including marking of international call sign per FAO-standards.

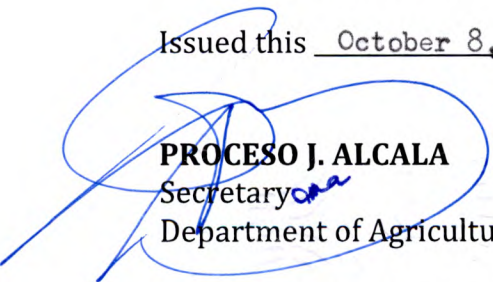
Section 17. Creation of IUUF List of Vessels and Philippine Nationals found to have supported IUUF. – There is hereby created an IUUF List of Vessels and Philippine Nationals, which is a list of fishing vessels and Philippine Nationals found to have engaged in or supported illegal, unreported and unregulated fishing activities. A Philippine national or Philippine flagged fishing vessel found to have committed three prohibited acts under this Circular shall be listed in the IUUF List.

Section 18. Separability Clause. - If any section or provision of this Circular or part thereof is declared unconstitutional or invalid, the other sections or provisions thereof which are not affected shall continue to be in full force and effect.

Section 19. Repealing Clause. – All existing administrative orders, rules and regulations, which are inconsistent with the provisions of this Circular are hereby repealed or modified accordingly, except FAO 245-2, which shall continue to govern Philippine fishing vessels operating in HSP 1-SMA. However, in case of serious violations or other matters not covered by FAO 245-2 such as landing declaration, this Circular shall be applied suppletorily.

Section 20. Effectivity. – This Circular shall take effect fifteen (15) days after publication in any newspaper of general circulation and upon registration with the Office of the National Administrative Register.

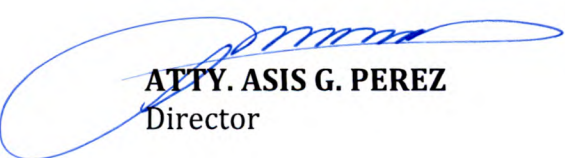
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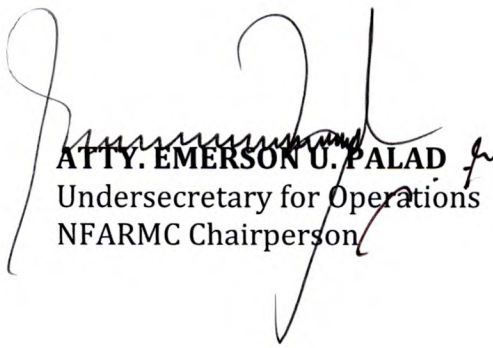

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