

**Article Content**

Title : Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels CH

Amended Date : 2016-07-20

Category : Council of Agriculture, Executive Yuan (行政院農業委員會)

Article 1 This Act is enacted to regulate persons with the nationality of the Republic of China who engage in the business of fishery by investing in or operating foreign flag vessels, for the purpose of conserving marine fisheries resources, whereby contributing to good governance of international fisheries.

Article 2 The competent authority of this Act shall be the Council of Agriculture, Executive Yuan

Article 3 Terms used in this Act shall be defined as follows:

- (1) “ sea areas beyond national jurisdiction ” means sea areas beyond the territorial sea and the exclusive economic zone of the Republic of China;
- (2) “ investment in the business of fishery ” means using of capital funding, fishing equipments or facilities and rights of a certain amount or equity, solely or jointly in the operation of the business of fishery;
- (3) “ operation of the business of fishery ” means operating, with fishing vessel(s) of one ’ s own or by lease, the business of fishing, trading, transporting, import and export of catches or fisheries products;
- (4) “ conducting the business of fishery ” means the conducting, with fishing vessels of one ’ s own or by lease, activities of fishing, trading, transporting, import and export of catches or fisheries products;
- (5) “ fish laundering ” means activities that constitute any of the following:
 - i. selling or transacting in, under the name of a national fishing vessel, catches or fisheries products of species regulated by international fisheries organizations and caught by foreign flag fishing vessels;
 - ii. selling or transacting in, under the name of a foreign flag fishing vessel that is invested or operated by a person with the nationality of the Republic of China, catches or fisheries products of species regulated by international fisheries organizations and caught by any other fishing vessels;
- (6) “ interested party ” means a person who holds or maintains

information relating to the catch amount, fishing periods, fishing gears, fishing methods, investment and operation of the fishing vessels.

The amount or sharing as referred to in subparagraph (2) of the preceding paragraph shall be accordingly publicized by the competent authority.

Article 4 No person with the nationality of the Republic of China is permitted to conduct the business of fishery in sea areas beyond national jurisdiction by investing in or operating foreign flag fishing vessels, without prior authorization of the competent authority.

In case of any of the following circumstances, the conduct of the business of fishery by investing in or operating the foreign flag fishing vessel concerned shall not be authorized, and the competent authority shall revoke the authorization that has already been granted

(1) The flag State of the foreign flag fishing vessel concerned is incapable of controlling and managing its fishing vessels;

(2) The flag State of the foreign flag fishing vessel is listed on the IUU fishing non-cooperating countries list or is subject to a letter of identification for more than 2 years by other countries, international fisheries organizations, or other economic integrated organizations;

(3) The fishery type and fishing area of the foreign flag fishing vessel concerned are under the management of the international fisheries organization and the flag State of the foreign flag fishing vessel concerned is not a party or cooperating non-party to that international fisheries organization;

(4) The foreign flag fishing vessel concerned is listed on the IUU fishing vessel list(s) of the international fisheries organization(s).

Conditions for authorization, application procedures, review, conditions for revocation of the authorization as referred to in paragraph 1, and other requirements, shall be prescribed by the competent authority.

Article 5 A person who obtains the authorization in accordance with Article 4 shall make regular reports of the data relating to the fishing operation to the competent authority.

The period, types, content, manner and other matters related to the reporting in the above paragraph shall be prescribed by the competent authority.

Article 6 A person with the nationality of the Republic of China who conducts the business of fishery in sea areas beyond national jurisdiction by investing in or operating foreign flag fishing

vessels shall comply with the regulations prescribed by the competent authority, taking into account the conservation measures adopted by international fisheries organizations, and relevant regulations on fishing prescribed by the flag or coastal State.

The regulations referred to in the preceding paragraph include management measures relating to authorization to fish, permitted fishing areas, fishing periods, vessel position reporting, fishing gears, fishing methods, catch quota and other requirements.

- Article 7** For the fisheries management, the competent authority may request the interested party to submit reports on catch amount, fishing period, fishing gears and fishing methods. If deems necessary, the competent authority may designate officers to visit the interested party, interested organizations or institutions and conduct an investigation. The officers may also request provision of or handing over information relating to the investment and operation of foreign flag fishing vessels in question.
- In case of urgency in provision of report or conducting the investigation provided for in paragraph 1 and 2 above, the competent authority may designate officers to the relevant sites to conduct inspection, and question the interested party. In carrying out investigation or inspection provided for in paragraph 1 to 3 above, the designated officers shall present documents evidencing their authorization, or such badge that may show their identification.
- The interested party, organizations and institutions concerned shall not evade, obstruct, or refuse the investigation, inspection, or request for submission of reports and for provision or handing over of information provided in paragraph 1 to 3 above.

- Article 8** A person with the nationality of the Republic of China who conducts the business of fishery in sea areas beyond national jurisdiction by investing in or operating foreign flag fishing vessels shall not commit any of the following serious infringements:
- (1) Investment in or operation of fishing vessel(s) referred to in Article 4, paragraph 2;
 - (2) Fishing without permission from the flag State;
 - (3) Conducting transshipment at-sea, in-port or landing in-port without the authorization of the flag State;
 - (4) Fishing in waters under national jurisdictions of coastal State(s) without the authorization from coastal State(s);
 - (5) Falsifying, altering or concealing vessel name, names of registry port, or international radio call sign;

- (6) Not installing on board vessel monitoring system (VMS) pursuant to the regulations of the flag State(s), intentionally causing the VMS to misreport vessels positions, or rendering VMS non-functional when fishing;
- (7) Continuing catching species with catch limit when the total catch of such species of the fishing vessel has exceeded the catch limit allowed by the flag State;
- (8) Fishing in prohibited fishing areas or periods established by the international fisheries organizations;
- (9) Using fishing gears prohibited by the international fisheries organizations;
- (10) Fishing for, retaining, transshipping, landing or selling species prohibited by the international fisheries organizations;
- (11) Not submitting or filling in logbooks or catch reports, in violation of the regulations of the flag States, or misreporting logbooks or catch reports;
- (12) Failing to file reports in accordance with Article 5, or filing false reports;
- (13) Refusing, evading, or obstructing any observer dispatched by the flag States or international fisheries organizations for carrying out his/her observing duties;
- (14) Refusing, evading, or obstructing the investigation conducted by the competent authority pursuant to Article 7, paragraph 2, or the inspection conducted by the competent authority pursuant to Article 7, paragraph 3;
- (15) Concealing, altering, or destroying evidence related to violation of this Act;
- (16) Providing catch certificate documents of a fishing vessel for the use of other fishing vessel(s), or using catch certificate documents of other fishing vessel(s) for selling catches caught by itself;
- (17) Falsification or alteration of catch certificate documents, using catch certificate documents not issued to the catch concerned, or intentionally using catch certificate documents that are falsified or altered to sell catches or fisheries products;
- (18) Participating in joint fishing with, transshipping with or supplying any fishing vessel listed on the IUU fishing vessel lists of the international fisheries organizations or stateless vessel.

The prohibited fishing periods and areas referred to in subparagraph (8), the prohibited fishing gears referred to in subparagraph (9), the prohibited species referred to in subparagraph (10) and the IUU fishing vessel lists referred to in subparagraph (18) of the preceding paragraph shall be promulgated by the competent authority.

Article 9 Any person with the nationality of the Republic of China that invests in or operate foreign flag fishing vessels and commits fish laundering shall be liable to imprisonment for a period between six (6) months and three (3) years, and may be liable to an additional criminal fine between six (6) million and thirty (30) million New Taiwan Dollars.

In case that the representative of the legal person, or agent of the legal or natural person commits the violations stipulated in the preceding paragraph, in addition to punishing the offender(s), a criminal fine as referred to in the preceding paragraph shall also be imposed upon the legal or natural person concerned.

A person with the nationality of the Republic of China who commits offences provided in paragraph 1 outside the territories of the Republic of China shall be punished in accordance with this Act, irrespective of whether her/his act is punishable under the law of the country where the offences are committed.

A person with the nationality of the Republic of China who invests in or operate foreign flag fishing vessels and commits offences provided in paragraph 1 shall be revoked the authorization to invest in or operate foreign flag fishing vessels by the competent authority.

Article 10 Any person with the nationality of the Republic of China that violates Article 8, paragraph 1 shall be punished in accordance with the following provisions, and the competent authority may revoke his/her authorization to invest in or operate foreign flag fishing vessels:

(1) For fishing vessel 500 Gross Tonnage (GT) and above: a fine between 6 million and 30 million New Taiwan Dollars.

(2) For fishing vessel 100 GT and above, and less than 500 GT: a fine between 4 million and 20 million New Taiwan Dollars.

(3) For fishing vessel less than 100 GT: a fine between 2 million and 10 million New Taiwan Dollars.

In case that the value of catches or fisheries products concerned exceeds the fine imposed pursuant to the provisions stipulated in the preceding paragraph, the amount of the fine for up to 5 times of the value of such catches or fisheries products shall be imposed.

Any person with the nationality of the Republic of China who has committed the same provision of the serious infringements as stipulated in Article 8, paragraph 1 for 2 times within 3 years, or different serious infringements as stipulated in Article 8, paragraph 1 for 3 times within 3 years shall be punished in accordance with the following provisions, and the competent authority shall revoke his/her authorization to invest in or operate foreign flag fishing vessels:

(1) For fishing vessel 500 GT and above: a fine between 9 million and 45 million New Taiwan Dollars.

(2) For fishing vessel 100 GT and above, and less than 500 GT: a fine between 6 million and 30 million New Taiwan Dollars.

(3) For fishing vessel less than 100 GT: a fine between 3 million and 15 million New Taiwan Dollars.

In case that the value of catches or fisheries products concerned exceeds the fine imposed pursuant to the provisions stipulated in the preceding paragraph, the amount of the fine for up to 8 times of the value of such catches or fisheries products shall be imposed.

The value of catches or fisheries products as referred to in paragraph 2 and 4 shall be calculated based on the average prices of such catches or fisheries products in domestic fish market in the preceding 3 years.

Article 11 Any person with the nationality of the Republic of China that conducts the business of fishery in sea areas beyond national jurisdiction by investing in or operating foreign flag fishing vessels and commits any of the following violations shall be imposed upon a fine between two (2) million and ten (10) million New Taiwan Dollars, and consecutive punishment may be imposed for repeated violations:

(1) Failing to obtain the authorization to conduct the business of fishery in sea areas beyond national jurisdiction by investing in or operating foreign flag fishing vessels pursuant to Article 4, paragraph 1;

(2) Failing to comply with relevant regulations on fishing stipulated by the flag or coastal State, in violation of Article 6, paragraph 1; or failing to comply with the regulations regarding authorization to fish, permitted fishing areas, fishing periods, vessel position reporting, fishing gears, fishing methods or catch quota, except for those regarding the serious infringements, stipulated by the competent authority pursuant to Article 6, paragraph 2;

(3) Refusing, evading, or obstructing to submit reports requested by the competent authority pursuant to Article 7, paragraph 1.

Article 12 Any person with the nationality of the Republic of China that invests in or operate foreign fishing vessels and commits fish laundering and at the same time invests in or operates fishing vessels under the flag of the Republic of China may be subject to deduction of catch quota from those allocated to the national vessels in question at a level equivalent to the value of the laundered fish.

Article 13 This Act shall come into force 6 months after its promulgation.

Web site : Laws & Regulations Database of The Republic of China (Taiwan)